

# Forest Heath District Council

**DEVELOPMENT  
CONTROL COMMITTEE**

**1 JULY 2015**

**DEV/FH/15/022**

**Report of the Head of Planning and Growth**

**PLANNING APPLICATION DC/14/2219/FUL – LAND AT FENGATE DROVE,  
BRANDON**

## **Synopsis:**

Application under the Town and Country Planning Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990 and associated matters.

## **Recommendation:**

**It is recommended that the Committee determine the attached application and associated matters.**

## **CONTACT OFFICER**

Case Officer: Gareth Durrant  
Telephone: 01284 757345

# Committee Report

<b>Date</b>	28 November	<b>Expiry Date:</b>	30 July 2015 (with agreed extension)
<b>Registered:</b>	2014		
<b>Case Officer:</b>	Gareth Durrant	<b>Recommendation:</b>	Grant Planning Permission, subject to S106 Agreement
<b>Parish:</b>	Brandon	<b>Ward:</b>	Brandon East
<b>Proposal:</b>	Planning Application DC/14/2219/FUL - Construction of 64 no. dwellings with associated external works including new vehicular access (as amended)		
<b>Site:</b>	Land at Fengate Drove, Brandon, Suffolk (and Weeting, Norfolk)		
<b>Applicant:</b>	Emblem Homes Ltd		

## **Background:**

**This application is referred to Planning Committee because it is for 'major development' and objections have been received from Brandon Town Council.**

## **Proposal:**

1. Planning permission is sought for the erection of 64 dwellings comprised of a mixture of detached, semi-detached and terraced houses and blocks of flats.
2. The application has been amended on two occasions since submission to improve the design and layout qualities of the proposals and to address the potential impacts of the development upon the features of interest within the nearby European designated Special Protection Area.
3. The proposals would be served by a single vehicular access to Fengate Drove close to the north-west corner of the site. There is a further pedestrian and cycle access from Brandon road to the south east.
4. Details of the numbers, mix and heights of the dwellings are set out in the table below (noting that a proportion of the dwellings are situated in Forest Heath, a proportion in Breckland and a proportion straddle the District and County boundary).

House type	No. in FHDC	No. in BDC	No. on boundary	Type	No. of beds	Approx. height
A1	4	0	0	Bungalow	1	5.5m
B1	0	3	0	Flat	1	11.6
B2	2	0	0	Flat	2	9.6m
B3	0	4	0	Flat	1	9.1m
B4	0	2	0	Flat	2	9m
B5	0	2	2	Flat	1	8.6m
C1	11	4	1	House	2	8.25m
C2	3	2	8	House	2	8.6m
C3	5	0	0	House	2	8m
C4	2	0	0	House	2	8m
C5	2	0	0	House	2	8.1m
D1	1	1	1	House	3	8.2m
D2	1	0	2	House	3	8.4m
E1	0	1	0	House	3	9m
<b>Total</b>	<b>31</b>	<b>19</b>	<b>14</b>			

5. A limited palette of external building materials has been selected. These are as follows;

- Walls - Red/Brown multi facing brickwork, buff multi facing brickwork, timber cladding.
- Roofs - Dark Grey Concrete pantiles.
- Detailing – Grey uPVC windows and doors. Composite front entrance doors.

#### **Application Supporting Material:**

6. The following documents comprise the planning application (including amendments/additional information received after the application was registered):

- Forms and drawings including layouts and dwelling details (including 3D visuals).
- Design and Access Statement
- Archaeological Report
- Ecology Report
- Transport Statement
- Geoenvironmental Report
- Affordable Housing Statement
- Energy Efficiency Statement
- Archaeological Report
- Flood Risk Assessment
- Noise and Vibration Assessment
- Supporting Evidence for Appropriate Assessment

### **Site Details:**

7. The site straddles the Norfolk and Suffolk border and, consequently, is partly within the administrative boundaries of Forest Heath District Council and partly within Breckland District Council. The planning application has been submitted to both planning authorities and both will need to determine it separately.
8. Fengate Drove provides vehicular access to a number of dwellings to the north (opposite) of the site and other commercial/industrial uses to the west.
9. The site, approximately 1.5 hectares in size, is bounded to the north by the Fengate Drove carriageway and to the east by the Brandon Road carriageway. Former industrial land abuts the site to the west and the Norwich/Cambridge railway line aligns the south boundary.
10. The application site was formerly in use as a timber yard and sawmill but has been cleared of all commercial buildings and above ground infrastructure. A sewage treatment plant has been provided towards the south east corner of the site. The plant was provided as part of an earlier planning permission for a residential development the site.
11. The Breckland Special Protection Area is in close proximity of the site. The site is not within the European designation but is situated within its 1.5km buffer where special regard needs to be given the potential direct and indirect impacts arising from development.
12. The site is outside the Brandon Conservation Area boundaries which terminate at the level crossing to the south east.
13. The site is annotated as 'Employment Land' on the Inset Map for Brandon attached to the 1995 Local Plan.

### **Planning History:**

14. The following applications for development at this site were submitted in identical format to Forest Heath District Council and Breckland District Council. The decisions of both Authorities were the same in each case.
15. In 2002 planning permission was refused for 'residential development and associated uses' (reference F/2001/415). A appeal was made against the decision and, following a public inquiry the appeal was allowed (and planning permission granted) in 2003 (appeal reference APP/H3510/A/02/1090716).
16. In 2005 Reserved Matters were approved for the erection of 63 dwellings granted outline planning permission under F/2001/415 (reference F/2004/0800/RMA).
17. In 2007 planning permission was granted for the variation of condition 9

of planning permission F/2001/415 to reduce the extent of the visibility splays to be provided to the vehicular access from the development onto Fengate Drove (reference F/2007/0797/VAR).

18. In 2011 the Council granted a Certificate of Lawfulness confirming that the development of 63 dwellings granted planning permission under application numbers F/2001/415 and F/2004/0800/RMA (reference F/2011/0269/CLP) had been lawfully commenced.

### **Consultations:**

#### ***i) Scheme submitted with the planning application (November 2014).***

19. Natural England: **objects** to the application given the absence of appropriate information to assist the Local Planning Authorities (Forest Heath and Breckland) to consider the potential impact of the development upon the nearby Breckland Special Protection Area.
20. Environment Agency: **no objections** subject to x3 conditions requiring i) details of surface water drainage to be submitted for approval, ii) submission of a remediation strategy for the decontamination of the site, and iii) strategy for addressing any presently unknown contamination subsequently found at the site (e.g. during construction).
21. Network Rail: **no objections** but requests further information/clarification about how the development (cycle path in particular) will engage with the adjacent highway level crossing of the railway line and sets out its requirements and restrictions regarding development adjacent to a railway line and recommends the developer contacts its Asset Protection Team.
22. Suffolk County Council - Highway Authority: **no objections** and recommends conditions to secure details of estate roads and footpaths, bin storage and means to prevent the discharge of surface water from the development onto the highway. Further conditions are recommended to ensure the parking and manoeuvring areas are provided and retained and the roads and footpaths are provided contemporaneously with the dwellings. The Authority noted the vehicular access to the site is outside its boundaries and suggested the views of Norfolk County Council Highway Authority should be sought.
23. Suffolk County Council (Suffolk Fire and Rescue Service): submits **no objections** and requests adequate provision of fire hydrants (to be secured by condition) and provides advisory comments for the benefit of the applicant/developer (access for fire engines, water supply and use of sprinkler systems in new development).
24. Suffolk County Council (Planning Obligations): The Suffolk County Council has agreed with the Norfolk County Council that all S106 contributions that relate to County Council matters shall be collected

and used by Suffolk County Council. The Authority raised **no objections** to the planning application and provided the following comments (precised)

- Forest Heath is currently undertaking a Single Issue Review looking at housing numbers and distribution across the district. In this connection we will greatly welcome the early conclusion of this review to enable a proper plan-led approach to development with the necessary supporting infrastructure provision.
- **Education (Primary).** The local catchment schools are Brandon The Glade CP School, Brandon Forest Heath Primary School, IES Breckland Free School and Mildenhall College Academy. In terms of primary school provision we are seeking full contributions to provide additional facilities for the 16 pupils arising from this development at a total cost of £194,896 (2014/15 costs).
- **Education (Pre-school provision).** It is the responsibility of SCC to ensure that there is sufficient local provision under the Childcare Act 2006. Section 7 of the Childcare Act sets out a duty to secure free early years provision for pre-school children of a prescribed age. From these development proposals up to 6 pre-school pupils are anticipated at a cost of £6,091 per place. A capital contribution of £36,546 is requested. The Council confirms the contributions will be invested in the local area to improve & enhance local early years provision.
- **Play space provision.** Consideration will need to be given to adequate play space provision.
- **Libraries.** A capital contribution of £13,824 to be used towards libraries is requested. The contribution would be available to spend in Lakenheath.
- **Waste.** A waste minimisation and recycling strategy needs to be agreed and implemented by planning conditions.
- **Supported Housing.** We would also encourage all homes to be built to 'Lifetime Homes' standards.
- **Sustainable Drainage Systems.** Developers are urged to utilise sustainable drainage systems (SuDS) wherever possible, with the aim of reducing flood risk to surrounding areas, improving water quality entering rivers and also providing biodiversity and amenity benefits.
- **Fire Service.** Any fire hydrant issues will need to be covered by appropriate planning conditions. We would strongly recommend the installation of automatic fire sprinklers.
- **High-speed broadband.** SCC would recommend that all development is equipped with high speed broadband (fibre optic).

25. Suffolk County Council – Highways (Travel Planning): **no objections**, and comments that a full Travel Plan is not required for a development of this size. He goes on to confirm that he would still require some upfront travel plan measures to reduce some of the traffic impact this site may generate. This will be in the form of a specific measures to be secured by planning condition.
26. Suffolk County Council – Archaeology: **no objections** and comments as follows;
- The proposed development site lies within an area of archaeological potential, straddling as it does a substantial ditch which formed the boundary between the counties of Norfolk and Suffolk. This ditch is recorded in the Suffolk Historic Environment Record. As such, there is high potential for encountering further archaeological deposits at this location, which may be damaged by any groundworks associated with the present application.
  - The site has already been subjected to a programme of archaeological evaluation and excavation undertaken by the Suffolk County Council Archaeological Service in 2005 and 2006. Trenches revealed that the boundary ditch survives as a below-ground feature across the site, although no dating evidence was obtained for the ditch.
27. The Authority concludes by confirming there are no grounds to refuse planning permission in order to achieve preservation in situ of any important heritage assets. Conditions are recommended to record and advance understanding of the significance of any heritage asset (below ground archaeology) before it is damaged or destroyed.
28. Norfolk County Council - Highways: **no objections** to the proposals, subject to the Local Planning Authority securing technical amendments to the specification of the vehicular access and, subsequent to that, the imposition of conditions to secure the provision and appropriate specification of the access (including its visibility splays), the estate roads and footpaths (including drainage) and the proposed off-site paths and cycleways. The Authority also requests (by condition) that no works are commenced until a Road Traffic Order is confirmed to extend the 30mph limit in Fengate Drove and Brandon Road.
29. FHDC – Strategic Housing: **supports** the application.
30. FHDC – Environmental Health: **no objections**, subject to a condition being imposed to secure remediation of contaminated soils known to be present at the site.
31. FHDC – Public Health and Housing: **no objections**, but recommends conditions are imposed upon any planning permission granted to i) control construction hours, ii) to insulate the dwellings from noise disturbance, and iii) to provide acoustic fencing to gardens alongside the

railway line.

32. FHDC – Leisure, Culture and Communities: **objects** to the planning application and suggests improvements to the public open spaces proposed in the application.

***ii) Amended drawings/details received February 2015***

33. Natural England: having considered the new ecological information submitted **objects** to the planning application and comments that further proposals to mitigate potential impacts upon the Special Protection Area will be required in order to address their concerns.
34. Environment Agency: **no objections** and refers to its earlier comments (paragraph 20 above).
35. Defence Infrastructure Organisation Safeguarding (Ministry of Defence): **no objections**.
36. Network Rail: **no objections** and refer to its earlier comments (paragraph 21 above).
37. Norfolk Constabulary (Architectural Liaison/Crime Prevention): **Objects** to the application and suggests a number of amendments that would serve to reduce the risk of crime and anti-social behaviour.
38. Suffolk County Council (Highways): **no objections** and refers to its earlier comments (paragraph 22 above).
39. Suffolk County Council (Planning Obligations): **no objections**, and refers to its earlier comments (paragraph 24 above).
40. Suffolk County Council (Fire and Rescue Service): **no objections** and refers to its earlier comments (paragraph 23 above).
41. FHDC – Ecology, Tree & Landscape Officer: **objects** to the application. The officer re-inforces the objections of the Leisure officer regarding public open space and Natural England’s objections in the absence of sufficient mitigation proposals to avoid/offset potential impacts upon the nearby Special Protection Area. Comments are also provided in relation to the absence of strategic landscaping and adverse impacts arising from the car dominated layout of the development and other design features.
42. FHDC – Strategic Housing: **supports** the principle of development but notes the high number of car parking spaces at the site which is close to the town centre and rail station and which would affect the appearance of the development.

***iii) Amended drawings/details received May 2015***

43. Natural England: **no objections** (previous holding objection



withdrawn). The following comments were submitted with respect to the Special Protection Area (in full):

44. In our response of 22 December 2014 we noted that the application was under 1km away from Breckland Farmland Site of Special Scientific Interest, a component SSSI of Breckland Special Protection Area, and therefore advised that your authority would need to carry out an appropriate assessment to consider effects to stone curlew.
45. Following review of further information, in our response of 18 March 2015 (our ref 146091) we advised that the habitat within the SPA within 1500m of the proposed development appeared to be unsuitable for nesting stone curlew and we were satisfied that the recorded level of nesting outside the SPA showed no birds nesting within 5 years. However we had concerns regarding recreational effects to Breckland Special Protection Area (SPA), specifically relating to dog walking activities, and therefore requested that mitigation was included to address this issue.
46. Following our advice, we were pleased to have the opportunity to discuss the green infrastructure and access proposals in detail with the development team in March and were able to agree a landscape plan that, in our view, would help take pressure off the designated sites, whilst recognising that further offsite mitigation may be necessary given the relatively limited green infrastructure a site of this size could accommodate. We welcomed the meeting on 8 April with your authority which resulted in agreement that strategic green infrastructure and access would be included in the proposals.
47. The changes to the landscaping plan appear as discussed and agreed with Natural England earlier this year, and we welcome the proposed contributions to off-site green infrastructure and access. Sharon Bland at Norfolk County Council has also been in touch about the Breaking New Ground Project, which we consider will be highly beneficial to the area, and is likely to lessen recreational pressure to the designated sites.
48. Therefore following review of the amended application, Natural England is now able to remove its objection and furthermore advises that in our view an appropriate assessment is not necessary following the amendments.
49. Environment Agency: **no objections** and does not wish to comment on the amended drawings.
50. Suffolk Constabulary: **comment** and support comments made in January 2015 by colleagues at Norfolk Constabulary (paragraph 37 above).
51. Suffolk County Council (Planning Obligations): **no objections**, and refers to its earlier comments (paragraphs 24 and 39 above).

52. Suffolk County Council (Highways): **no objections** and repeats the conditions it requested in earlier correspondence (paragraph 22 above).
53. FHDC – Strategic Housing: **supports** the amended scheme.
54. FHDC – Environmental Health: **no objections** and repeats the conditions it requested in earlier correspondence (paragraph 30 above).
55. FHDC – Public Health and Housing: **No objections**.
56. FHDC – Tree, Ecology and Landscape Officer: **No objections** and withdrawn previous objections to the application. The following comments have been received (precised):
  - The site layout has been amended to amalgamate the open space to provide one central space and one space providing a good connectivity for pedestrians with Brandon Road and Mundford Road.
  - Landscaping to the development is focused on these open areas. The frontage on Fengate Drove has been punctuated with trees which will add to the amenity of the development.
  - The tree species selected are not suitable for confined spaces and gardens in such a development and these trees should be replaced with species more suitable for gardens.
  - The ecological report makes recommendations for ecological enhancements of which some have been incorporated in the plans submitted. However the incorporation of bat and bird boxes as required in the additional recommendations would add value. Integral boxes could be conditioned.
  - The package of SPA mitigation measures will need to be secured to give certainty of no likely significant effects on the SPA.
  - The proposals have been screened under the Habitats Regulations with the following conclusions drawn: *The proposal will not have a likely significant effect on any European site, and can therefore be screened out from any requirement for further assessment.*

### **Representations:**

#### ***i) Scheme submitted with the planning application.***

57. Brandon Town Council: Support the planning application but request S106 contributions towards traffic lights at the Fengate Drove junction and/or towards a bridge over the railway line.
58. Weeting Parish Council: **support** the proposals in principal, with a caveat that there were some concerns over the vehicular access from

the A1065, briefly via Brandon Road and then into Fengate Drove. This junction can get congested at busy times, or when the level crossing barrier is down. Similarly, approaching from Weeting on Brandon Road, cars parked outside the Roman Catholic church can cause an obstruction, and on Sundays the cars of people attending all of the places of worship in the area pose a parking problem in the Fengate Drove area. The Parish Council wished to have these concerns noted, and passed to the Highways Authorities.

***ii) Amended drawings/details received February 2015***

59. No representations were received in response to this consultation.

***iii) Amended drawings/details received May 2015***

60. Brandon Town Council: **Objects** to the amended proposals. They are concerned that the traffic from this development will aggravate already congested roads.

**Policy:**

61. The following policies of the Joint Development Management Policies Document, the Forest Heath Core Strategy (2010) and the saved Policies of the Forest Heath Local Plan have been taken into account in the consideration of this application:

Joint Development Management Policies Document (2015):

- Policy DM1 – Presumption in Favour of Sustainable Development.
- Policy DM2 – Creating Places – Development Principles and Local Distinctiveness.
- Policy DM6 – Flooding and Sustainable Drainage.
- Policy DM7 – Sustainable Design and Construction.
- Policy DM10 – Impact of Development on Sites of Biodiversity and Geodiversity Importance.
- Policy DM11 – Protected Species.
- Policy DM12 – Mitigation, Enhancement, Management and Monitoring of Biodiversity.
- Policy DM13 – Landscape Features.
- Policy DM14 – Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards.
- Policy DM17 – Conservation Areas.
- Policy DM20 – Archaeology.
- Policy DM22 – Residential Design.
- Policy DM30 – Appropriate Employment Uses and Protection of Employment Land and Existing Businesses.
- Policy DM42 – Open Space, Sport and Recreation Facilities.
- Policy DM44 – Rights of Way.
- Policy DM45 – Travel Assessments and Travel Plans.
- Policy DM46 – Parking Standards.

## Forest Heath Core Strategy December (2010).

62. The Core Strategy was the subject of a successful legal challenge following adoption. Various parts of the plan were affected by the High Court decision, with Policies CS1, CS7 and CS13 being partially quashed (sections deleted) and section 3.6 deleted in its entirety. Reference is made to the following Core Strategy policies, in their rationalised form.

### **Visions**

- Vision 1 – Forest Heath

### **Spatial Objectives**

- Spatial Objective H1 – Housing provision.
- Spatial Objective H2 – Housing mix and design standard.
- Spatial Objective H3 – Suitable housing and facilities (life time homes).
- Spatial Objective C2 – Provision and maintenance of open space, play & sports facilities and access to the countryside.
- Spatial Objective ENV1 – Habitats and landscapes and improving biodiversity.
- Spatial Objective ENV2 – Climate change and reduction of carbon emissions.
- Spatial Objective ENV3 – Promotion of renewable energy and energy efficiency.
- Spatial Objective ENV4 – Design and architectural quality respecting local distinctiveness.
- Spatial Objective ENV5 – Designing out crime and anti-social behaviour.
- Spatial Objective ENV7 – Achieve sustainable communities by ensuring services and infrastructure are commensurate with new development.
- Spatial Objective T1 – Location of new development where there are opportunities for sustainable travel.

### **Policies**

- Policy CS1 – Spatial Strategy.
- Policy CS2 – Natural Environment.
- Policy CS3 – Landscape Character and the Historic Environment.
- Policy CS4 – Reduce Emissions, Mitigate and Adapt to future Climate Change.
- Policy CS5 – Design Quality and Local Distinctiveness.
- Policy CS6 – Sustainable Economic and Tourism Development.
- Policy CS7 – Overall Housing Provision (Sub-paragraph 1 only. Sub paragraphs 2, 3, 4 and 5 were quashed by the Court Order).

- Policy CS9 – Affordable Housing Provision.
- Policy CS10 – Sustainable Rural Communities.
- Policy CS12 – Strategic Transport Improvement and Sustainable Transport.
- Policy CS13 – Infrastructure and Developer Contributions.

Forest Heath Local Plan (1995).

63. Details of extant saved policies from the Local Plan are set out at Appendix A of the Core Strategy (2010) and Appendix B of the Joint Development Management Policies Document. The following saved policies are relevant to these proposals:

- Policy 14.1 – Securing Infrastructure and Community Facilities from Major New Developments.
- Inset Map 1 (Brandon Development Boundary)

**Other Planning Policy:**

64. The following Supplementary Planning Documents are relevant to this planning application:

- Joint Affordable Housing Supplementary Planning Document (September 2013).
- Open Space, Sport and Recreation Supplementary Planning Document (August 2011).

65. The National Planning Policy Framework (the Framework) sets out government's planning policies for England and how these are expected to be applied.

66. Paragraph 14 of the Framework identifies the principle objective:

“At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. 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.”

67. This presumption in favour of sustainable development is further reinforced by advice relating to decision-taking. Paragraph 186 of the Framework requires Local Planning Authorities to "approach decision taking in a positive way to foster the delivery of sustainable development". Paragraph 187 states that Local Planning Authorities "should look for solutions rather than problems, and decision takers at every level should seek to approve applications for sustainable development where possible".
68. The relevant policies of the Framework are discussed below in the Officer Comment section of this report.
69. The Government has (March 2014) published National Planning Practice Guidance (NPPG) following a comprehensive exercise to review and consolidate all existing planning guidance into one accessible, web-based resource. The guidance assists with interpretation about various planning issues and advises on best practice and planning process. The Guidance is (where relevant) discussed in the Officer Comment section of this report.

#### **Officer Comment:**

70. This section of the report begins with a summary of the main legal requirements before entering into discussion about whether the development proposed by this planning application can be considered acceptable in principle in the light of its planning history, national planning policy, local plan designations and other local planning policies. It then goes on to analyse other relevant material planning considerations (including site specific considerations) before reaching conclusions on the suitability of the proposals.

#### **Legal Context**

##### *The Conservation of Habitats and Species Regulations 2010*

71. Given the location of the various designated nature sites in the vicinity (including the Breckland Special Protection Area) consideration has been given to the application of these Regulations. If a plan or project is considered likely to give rise to significant effects upon a European site, Regulation 61 requires the decision maker to make an 'appropriate assessment' of the implications for that site before consenting the plan or project.
72. The application site is in the vicinity of a designated (European) site of nature conservation but is not within the formal designation. The application site sits within a 1.5km 'buffer' to the Special Protection Area such that Core Strategy Policy CS2 requires a project level Habitat Regulations Assessment to accompany the planning application.
73. The applicants have submitted a Habitats Regulations Assessment with the planning application which sets out the following key findings:

- There are no records of nesting Stone Curlews in that part of the SPA designation closest to the application site. The closest nest is recorded at a distance of approximately 1,500 metres.
- The elements of the SPA closest to the application site are not considered suitable for nesting stone curlew.
- The site is screened (partially) from the SPA by large commercial buildings and existing vegetation (which could be reinforced by new planting at the application site (the west boundary)).
- Impact from increased recreational pressure arising from the introduction of 64 new households is capable of mitigation. A package of measures are proposed in that respect, including the following measures:
  - i. construction works between April and September limited to daylight hours only.
  - ii. the construction site should not be lit at night.
  - iii. delivery vehicles, between April and September, should not travel any further along Fengate Drove than the site entrance
  - iv. construction compound facilities to be located in the far east of the site
  - v. tall, native, broadleaf hedge or tree-line to be planted along the western side of the development site to improve the existing partial screening between the development site and the SPA
  - vi. residents of the development to be discouraged from walking along Fengate Drove, particularly with dogs. The approach to achieve this will be: to encourage dog-walking elsewhere; and the creation of a circular walk within the site (included on the plans).
  - vii. new signage will be erected and maintained at the end of the paved part of Fengate Drove to advise dogs to be kept on leads
  - viii. residents of the new houses to be provided with an 'Information Pack' to include information on alternative recreational routes promoted as 'nearest suitable dog-walking routes'. Advice on keeping dogs on leads on Fengate Drove to also be included.
  - ix. a commitment to provide these information packs to all new residents in-perpetuity.
  - x. information point is to be erected in the eastern area of public open space to outline alternative dog-walking routes (other than Fengate Drove) which offer longer routes than those within the site.

- xi. commitment to off-site green infrastructure improvements in and around Brandon. In Norfolk this includes a commitment to improve 380 metres of track surface of the Little Ouse path between Brandon and Santon Downham. In Suffolk the improvements will be targeted on the bridleway heading west from The Ram public house, connecting to an Environment Agency weir on the Little Ouse. This will also involve a new footbridge across the river, although part of this improvement will also be in Norfolk. These improved green infrastructure features will also be referenced at the information point within the site, with the aim of encouraging dog-walking and other recreation here rather than along Fengate Drive.
74. Natural England and the Council's Ecologist have both accepted the findings of the report and the mitigation package proposed. Natural England has advised the Council's (FHDC and BDC) that an 'appropriate assessment' under the provisions of the Habitat regulations will not be required in this case and this has been confirmed subsequently via the Council's Habitat Regulations screening. Accordingly, the Council's are able to determine (approve) their respective planning applications, subject to securing the proposed package of mitigation measures.

*The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (EIA Regulations).*

75. The National Planning Practice Guidance sets out indicative thresholds to assist the Local Planning Authority when considering whether a formal Screening Opinion is required under these Regulations. Unless the site in question is within a 'sensitive area' or could affect a 'sensitive area', the indicative threshold for screening planning proposals for residential development is 150 dwellings or more or a site of more than 5 hectares.
76. In this case the application proposes 64 dwellings on a site of approximately 1.5 hectares and is below the national thresholds.
77. The Breckland Special Protection Area is deemed a 'Sensitive Area' by the Regulations. The application site is not positioned within the Special Protection Area but does fall within its 1,500 protective 'buffer'. The development therefore has potential to affect a 'Sensitive Area'. Information submitted with the planning application (in the form of a Habitat Regulations Assessment) confirms that potential impacts upon the Special Protection Area are capable of mitigation. The findings of the report have been accepted by Natural England whom have confirmed an 'Appropriate Assessment' (under the provisions of the Habitats Regulations – see above) is not required in this case.
78. Given the fact that the development proposed by this planning application is below the thresholds set out in the National Planning Practice Guidance and verified evidence demonstrates there would be no significant effects upon any 'Sensitive Areas' (the nearby Breckland



Special Protection Area in particular), officers have concluded there is no requirement to screen the proposals under the EIA Regulations.

*Natural Environment and Rural Communities Act 2006*

79. The Act places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. The potential impact of the application proposals upon biodiversity interests is discussed later in this report.

*Planning and Compulsory Purchase Act 2004 (as amended)*

80. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise. The Forest Heath Development Plan is comprised of the saved policies of the Local Plan, the adopted Core Strategy (as amended by the judgement handed down by the High Court) and the recently adopted Joint Development Management Policies Document. National planning policies set out in the Framework are a key material consideration.

*Planning (Listed Buildings and Conservation Areas) Act 1990*

81. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states;

*In considering whether to grant planning permission for development which affects a listed building or its setting, the Local Planning Authority (LPA)... shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.*

82. Section 72(1) of the same Act states;

*...with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*

83. In this case there are no listed buildings at the site or close to the site (such that their settings would be affected). Similarly the development is not situated in a Conservation Area and the built form would not affect views into or out of the nearby Brandon Conservation Area (the boundaries of which are situated to the south-east of the site). There is likely to be an increase in traffic using the main road through the Conservation Area into the town centre of Brandon following occupation of the proposed dwellings, but this is not considered to lead to significant impacts arising on the character or appearance of the Brandon Conservation Area given the low levels of traffic movements (and low percentage increase of overall traffic flows) involved.

*Crime and Disorder Act 1998*

84. Consideration has been given to the provisions of Section 17 of the Crime and Disorder Act, 1998 (impact of Council functions upon crime and disorder), in the assessment of this application but the proposal does not raise any significant issues. Concerns expressed by the Police Architectural Liaison Officer (Norfolk Constabulary) about the application have been addressed by means of amendment to the design and layout of the development.

### **Principle of the Development**

85. Vision 1 of the Core Strategy confirms development will be focussed in the towns and key service centres. Vision 4 confirms Brandon will become increasingly self-sufficient, meeting the needs of the local community with residential and employment growth.
86. Core Strategy Spatial Objective H1 seeks to provide sufficient homes in the most sustainable locations to meet the needs of communities. Policy CS10 confirms the Towns and Key Service Centres will be the focus of new development (providing service to surrounding rural areas).
87. The surviving elements of Core Strategy policy CS7 provides for 11,100 dwellings and associated infrastructure in the plan period (2001 – 2031) and confirms development will be phased to ensure appropriate infrastructure is provided. Policy CS13 confirms the release of land for development will be dependent on there being sufficient capacity in the existing local infrastructure to meet the additional requirements from development.
88. Policy CS1 confirms Brandon is identified as a market town recognising that housing growth will occur. The policy identifies that the Special Protection Area needs to be protected with projects within the constraint zone requiring a project level Habitats Regulations Assessment.
89. Core Strategy policy CS6 states that land allocated for employment and existing employment sites will only be considered for alternative uses in exceptional circumstances where it is demonstrated they are no longer viable for employment use and specific community and environmental benefits can be achieved.
90. Policy DM1 of the Joint Development Management Policies Document repeats the presumption in favour of Sustainable Development set out in the NPPF. Policy DM30 builds upon the strategic requirements of Core Strategy Policy CS6 to protect employment land in employment use and sets out detailed criteria for how non-employment development proposals of employment sites will be considered.
91. The site was formerly in employment use and is formally allocated as such by the 1995 Local Plan. In these circumstances, Core Strategy Policy CS6 and DM30 of the Joint Development Management Policies Document, which seek to protect and safeguard employment land for employment use, would normally apply.

92. In this case, the planning history of the site is important and, ultimately, determinative with respect to the policy aspiration of protecting employment land. The matter was considered at a public inquiry by an Inspector in 2002 after planning permission had been refused for residential development of the site. The loss of employment land was cited as one of the reasons for refusal. In that case, however, the Inspector disagreed with the Council and considered residential development to be suitable on the site. The appeal was allowed and reserved matters subsequently approved. The planning permission has since been implemented (and a Certificate of Lawful Development issued to formally confirm legal commencement) and the planning permission for 63 dwellings has therefore been saved and can be lawfully completed. The site is therefore now afforded a 'residential' use and its previous employment status has been lost.
93. The site is situated within the settlement boundary and its development for a residential development of 64 dwellings, as an alternative to the scheme originally granted at appeal, is acceptable in principle.
94. In assessing the acceptability of this revised scheme, the key material considerations arise from the detail of proposal in the light of any material changes in circumstances since the scheme was granted planning permission. The development which has been implemented acts as a key material consideration (or benchmark) in this respect.
95. The remainder of this section of the report considers the material changes in circumstances and other material considerations in detail and discusses S106 requirements before reaching conclusions and a recommendation.

### **Planning Policy**

96. The Council has adopted two new Development Plan documents since planning permission was granted on appeal for the residential development of the application site. The Core Strategy was adopted in 2010 and the Joint Development Management Policies Document in 2015. In the light of all of the information submitted with the planning application (including subsequent amendments), these Plans do not contain policies that would prevent the grant of planning permission, in principle, for the current scheme.

### **Natural Heritage**

97. The Framework confirms the planning system should contribute to and enhance the natural environment by (inter alia) minimising impacts on biodiversity and providing net gains where possible. The Framework states that protection of designated sites should be commensurate with the status of the site, recognising the hierarchy of international, national and local designations. The presumption in favour of sustainable development set out at paragraph 14 of the Framework does not apply where development requires appropriate assessment under the Birds or Habitats Directives.

98. Spatial Objective ENV1 of the Core Strategy aims to conserve and enhance the habitats and landscapes of international, national and local importance and improve the rich biodiversity of the District. This objective forms the basis of Core Strategy policy CS2 which sets out in greater detail how this objective will be implemented. The policy states that proposals for development within 1500m of the Breckland SPA will require a project level Habitats Regulation Assessment and development that is likely to lead to an adverse effect on the integrity of the SPA will not be allowed.
99. Policy DM2 of the Joint Development Management Policies Document sets out the Councils requirements and aspirations for achieving design quality. One of these requirements is that development should not adversely affect sites, habitats, species and features of ecological interest. Policy DM10 sets out more detailed requirements relating to potential impacts upon sites of biodiversity and geodiversity interests. Policy DM11 specifically relates to protected species. Policy DM12 seeks to secure (inter alia) biodiversity enhancements from new developments where possible.
100. The Breckland Special Protection Area was designated as such by the European Union on 1<sup>st</sup> April 2005. This is a significant change in circumstances since planning permission was granted at appeal for residential development of the application site in 2003. The designation was followed by the introduction of 1.5km buffers around the SPA boundaries, where development proposals need to include full assessment of potential impacts upon the features of interest of the Special Protection Area. The Special Protection Area designation (and the evidence which supports the introduction of the 1.5km buffers) means the provision of the Habitats Regulations apply to the scheme. This is discussed in more detail in the 'Legal Context' section of this report above.
101. The principal consequence of this material change of circumstances is the requirement to provide additional mitigation to avoid and offset potential adverse impacts of the proposed development upon the Special Protection Area. The package of measures can be secured by means of condition and/or S106 Agreement such that the designation of the Special Protection Area and the application of the Habitats Regulations do not prevent the grant of planning permission for the latest scheme to develop the application site with a residential scheme.
102. The applicant's ecological assessment confirms the application site has been surveyed for a range of rare species. The report concludes the site is suboptimal for protected species because it is being maintained ready for development. The following measures are recommended to protect/enhance the ecological qualities of the site;
  - All clearance works at the site (including tree felling and ground clearance) outside the bird nesting season (outside the period 1<sup>st</sup> March to 1<sup>st</sup> August) unless prior surveys are carried out.

- Any ground excavations should be covered overnight to prevent accidental entrapment of reptiles or, alternatively, egress boards left in any trenches which cannot be covered.
  - In the unlikely event that protected species are encountered during site clearance works, work in the vicinity of the animals should cease and a qualified ecologist contacted to advise further.
  - Materials should be stored on pallets and waste stored in skips in order to avoid providing shelter which might attract protected species.
  - Existing site management should be continued until commencement of development (including the application of weedkillers).
  - Rabbit warrens should be removed using hand tools so as to allow any animals using them to escape (abandoned rabbit warrens can be used by other small mammals, amphibians and invertebrates).
103. No concerns or objections have been raised in response to the proposals, including their potential impact upon the hierarchy of designated nature conservation sites. The potential to secure biodiversity enhancements in the event that planning permission is granted is acknowledged and could be secured by means of appropriately worded conditions.

### **Transport and Highway Safety**

104. The Framework confirms that the transport system needs to be balanced in favour of sustainable transport modes giving people a real choice about how they travel. There is, however, recognition that opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
105. It is Government policy that planning decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable modes of transport can be maximised. However, the Framework confirms this policy needs to take account of other policies in the document, particularly in rural areas.
106. The Framework confirms that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. It goes on to state that planning decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised recognising that this needs to take account of policies set out elsewhere in the Framework, particularly in rural areas.

107. Core Strategy Spatial Policy T1 aims to ensure that new development is located where there are the best opportunities for sustainable travel and the least dependency on car travel. This is reflected in Policies CS12 and CS13 which confirms the District Council will work with partners (including developers) to secure necessary transport infrastructure and sustainable transport measures and ensure that access and safety concerns are resolved in all developments.
108. Policy DM2 of the Joint Development Management Policies Document requires that new development should produce designs that accord with standards and maintain or enhance the safety of the highway network. Policy DM45 sets out criteria for the submission of Transport Assessments and Travel Plans to accompany planning applications whilst Policy DM46 addresses parking standards.
109. The applicants have submitted a Transport Statement with the planning application. The following key conclusions are drawn by the document;
- The proposed development site is located within an existing residential area that is both accessible and sustainable in accordance with national and local planning policy and guidance.
  - The assessment undertaken demonstrates that the vehicular demands arising from the proposed development would have a minimal impact upon the surrounding transport network, both in terms of safety or capacity.
  - It can therefore be concluded that there should be no highways or transport reasons why the development proposals should not be approved.
110. The transportation conditions at and around the site have not changed significantly since the extant planning permission was granted on appeal in 2003. A stretch of the A11 from Barton Mills to Thetford has been dualled since 2003 and this is predicted to reduce the amount of vehicular traffic passing through Brandon. At the present time, however, it is too soon to quantify the full extent of any benefits that may arise in that respect.
111. The Highway Authority at Norfolk County Council requested some design amendments to the proposed access (which sits in Norfolk) these have been addressed via recent amendments.
112. Access to the proposed development is considered safe and suitable and the development would not lead to significant highway safety issues or hazards on approaches to the site, around Brandon and Weeting or further afield. Furthermore, satisfactory evidence has been submitted to demonstrate the proposed development would not lead to congestion of the local highway network, including during am and pm peak hours.

### **Built Heritage**

113. The Framework recognises that heritage assets are an irreplaceable resource which should be conserved in a manner appropriate to their significance. When considering the impact of proposed development upon the significance of a designated heritage asset, great weight should be given to the asset's conservation. The term 'heritage asset' used in the Framework includes designated assets such as Listed buildings, Scheduled Ancient Monuments, Registered Parks and Gardens and Conservation Areas and also various undesignated assets including archaeological sites and unlisted buildings which are of local historic interest.
114. The Framework advises that LPA's should require an applicant to describe the significance of any heritage assets affected, the level of detail being proportionate to the importance of the asset and sufficient to understand the potential impact upon their significance.
115. Core Strategy Spatial Objective C4 aims to protect and enhance the Historic Environment. This objective is implemented via Policy CS3. Policy DM17 of the Joint Development Management Policies Document sets out detailed criteria for considering proposals within, adjacent to or visible from a Conservation Area. Policy DM2 sets out design aspirations and requirements for new developments. The policy confirms new development should (inter alia) preserve or enhance the setting of Conservation Areas. Policy DM20 sets out requirements for proposals that may affect (inter alia) a site of archaeological importance.
116. The development proposals would not impact upon any listed buildings, (including their settings) and as discussed above would have only a negligible impact upon the character and appearance of the Brandon Conservation Area from increased traffic movement on the main road through the heritage designation.
117. An Archaeological Excavation Report has been prepared on behalf of the applicants to establish whether the site might support any important archaeological remains (undesignated heritage assets). This has been submitted with the planning application. The report explains the work carried out to investigate the archaeological potential of the site and confirms that some artefacts of archaeological interest were encountered.
118. The Archaeological Service at Suffolk County Council has been consulted of the planning application and recommends that further archaeological work will need to be undertaken prior to the commencement of any development at the site. The Service are content that the further work does not need to be undertaken prior to the determination of this planning application and there are no grounds to consider refusal of planning permission on archaeological grounds. A condition could be imposed upon any planning permission granted requiring that further archaeological works are carried out and recorded.

119. Officers are satisfied that, subject to the archaeological conditions, the development proposals would have no significant impacts upon heritage assets.

### **Design Considerations**

120. The Framework states the Government attaches great importance to the design of the built environment and confirms good design is a key aspect of sustainable development and is indivisible from good planning. The Framework goes on to reinforce these statements by confirming that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
121. Core Strategy Spatial Objective H2 aims to provide a sufficient and appropriate mix of housing that is ... designed to a high standard. Design aspirations are also included in Spatial Objectives ENV4 (high standard of design) and ENV5 (community safety and crime reduction through design). The Objectives are supported by policies CS5 and CS13 which require high quality designs which reinforce local distinctiveness and take account of the need for stronger and safer communities. Policy CS5 confirms design that does not demonstrate it has had regard to local context and fails to enhance character will not be acceptable.
122. Policy DM2 of the Joint Development Management Policies Document sets out the design aspirations and requirements the Council expects should be provided by developments. Policy DM13 requires (inter alia) the submission of landscaping schemes with development proposals, where appropriate. Policy DM22 sets out detailed design criteria for considering new residential proposals.
123. The planning application is a full application with all details included for consideration this this stage.

### **Relationship to context**

124. The application site is on the north extreme of Brandon and effectively separated from the town by the Norwich to Cambridge railway line. There is a mix of uses, including residential and commercial uses in the vicinity of the site. The village of Weeting (Norfolk) is positioned a short distance to the north. Whilst the railway line acts as a physical barrier, the site is located close to the level crossing and is within walking distance of the railway station and town centre and the facilities it provides. The site has no visual relationship to the high density town centre buildings along High Street. The proposal's organic, informal layout, mixture of standard house types, and materials reflects the character of the existing housing in the local area, albeit with contemporary detailing.



### Connectivity

125. Owing to the location of the site adjacent to the railway line there are limited opportunities for connections to be made back into the town, albeit the site is very close to a level crossing which facilitates vehicular and pedestrian traffic south into the town centre. Pedestrian access from the development to the level crossing is provided by a footpath link (straddled by informal public open space). The development maximises its opportunities to connect back into the Brandon and benefits from good existing connections to Weeting village.

### Existing trees and hedgerows and new planting

126. There are a small number of trees on site boundaries. These are likely to be removed to make way for redevelopment. There are no hedgerows. The development of the site will include a full landscaping scheme that will, in time, serve to soften the visual impact of the hard built form of the dwellings and provide biodiversity benefits.
127. The Council's Tree, Landscape and Ecology Officer has expressed concerns about the details of the landscaping proposals submitted with the planning application and has suggested further information and/or alternative planting strategies should be sought. Details of an amended/refreshed planting scheme, including its implementation and subsequent maintenance could be secured by condition.

### Parking provision

128. The proposals include 113 car parking spaces at an average of 1.76 spaces per dwelling. Car parking is allocated and predominantly on or close to the plot to which it relates. There are some communal parking areas provided for the proposed flats. The scheme contains no covered garage spaces.
129. It is important to ensure car parking provision is well designed and adequate such that it would not lead to on-street parking on the new estate and existing roads. The majority of the dwellings have parking contained within or close to the curtilage. The communal parking courts proposed for the flatted units are not located to the rear of buildings and are not detached from the buildings they intend to serve. Rear or remote communal car parking areas are not popular and can lead to demand for on-street parking in preference to a less-conveniently located parking court. Although parking courts are an undesirable design feature because of the quantity of space they consume, their presence alone cannot merit a refusal of planning permission. The visual impact of the courts must be taken in to the overall balance.
130. There are unlikely to be general parking problems arising from the proposed design and layout of the scheme.

### Efficiency of layout

131. The site is clearly pressured, in terms of the quantity and mix of housing it is expected to accommodate, and in consequence it needs to be laid out efficiently in order to achieve an acceptable result. There is no evidence the applicants have tested the efficiency of the layout proposed to demonstrate that the potential of the site had been optimised in the way sought by the third bullet point of paragraph 58 of the NPPF;

*Planning decisions should aim to ensure that developments ... optimise the potential of the site to accommodate development, create and sustain and appropriate mix of uses and support local facilities and transport networks.*

132. Some inefficiencies of layout are an inevitable result of the aspiration to locate vehicular access away from the principal highways to the east. Others flow from the demands of the local authorities, such as the requirement to provide secondary access for emergency vehicles and for the provision of public open space and the need to provide it with natural surveillance and enclosure. Other inefficiencies are introduced by the inclusion of a small number of bungalows in the scheme (which tend to require larger plot sizes than 2-storey housing). Consequences flow, in terms of place-making, from the efficiency with which the site is used. These are considered in the following paragraphs.

### Placemaking

133. It is perfectly reasonable to use standard house types in new development but essential to configure them to contribute to quality of place. The urban design of the scheme could be improved by designing the configuration of standard house types to contribute to the quality of space.
134. It is possible to discern, from the proposed site layout, that there would be instances of the creation of a sense of place; for example the open spaces and the greater height of some of the flats creating a focal point. Elsewhere, however, there are some areas which would be less successful in place-making terms including the provision of a number of parking courts and the small individual plot sizes which leads to parking spaces being pushed forward and being located more prominently in the public realm. Many of the spaces created in the new street would have little sense of enclosure or of design and appear to be little more than pragmatic arrangements of houses, roads and car parking spaces to fit the site and its shape.
135. Criticism of any proposal on design matters is a matter of judgement and balance; 'missed Opportunities' and matters which could be improved upon rather than matters which actually cause harm. The future residents of the scheme would experience a high quality living environment with well designed modern homes, off-street parking, a

centrally located and accessible area of public open space and private garden spaces.

#### External materials

136. The proposed materials (ref paragraph 5 above) would be appropriate to the location and are typical of what you would expect to find on a new residential development. The materials palette is considered acceptable.

#### Cycle and bin storage provision

137. The conventional dwellings would be able to utilise their own private external spaces to provide for bin and cycle storage. All have access to private rear amenity spaces such that bins and cycles could be stored away from the public realm. Less opportunity would exist for the occupiers of the flats whilst these do have private dedicated amenity spaces, they are communal. The solution is to provide covered bin storage areas close to the car parks, away from the amenity spaces. Communal bin storage is illustrated on the plans but a clear strategy for bin and secure cycle storage for the occupiers of the flats will be required. This could be secured by condition.

#### Conclusions on design matters

138. The relatively hard, urban character of the housing area would be balanced by the open space, landscaped internal spaces and the new boundary planting.
139. Some elements which would contribute to the character of the development are as yet not fully specified or would require to be secured by conditions. These include potential renewable energy provision and public lighting. However, there is no indication that any of these matters would not result in a satisfactory outcome if left to be resolved through conditions.
140. The proposal would be as connected to adjoining development as it could be. The layout takes a varied approach to the question of frontages which is not inherently wrong but in places leads to missed opportunities for place making. Some efforts at place making are evident but there are some instances of a less than desirable outcome.
141. After considering the elements which would contribute to the character of the development itself, it is concluded that the scheme is capable of improvement in a number of elements but which would certainly not, by themselves, amount to a reason for refusal. The proposals have been improved significantly from their inception and the design and layout of the amended scheme is, on balance, considered acceptable by officers.

#### **Impact upon Local Infrastructure (utilities and services)**

142. The 'economic' dimension of the definition of sustainable development set out in the Framework confirms the planning system should (inter

alia) identify and co-ordinate development requirements, including infrastructure. Furthermore, one of the core planning principles set out in the document states that planning should “proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs.”

143. Core Strategy Policy CS13 sets out infrastructure requirements and developer contributions. The policy opens with the following statement:

“The release of land for development will be dependent on there being sufficient capacity in the existing local infrastructure to meet the additional requirements arising from new development”.

144. The policy lists the main areas as health and social care facilities, educational requirements, strategic transport improvements, waste water treatment capacity, energy supply (electricity), access and safety, open space, sport and recreation. The policy confirms arrangements for the provision or improvement of infrastructure will be secured by planning obligation or (where appropriate) conditions attached to planning permission to ensure infrastructure is provided at the appropriate time.

145. The policy concludes that all development will be accompanied by appropriate infrastructure to meet site specific requirements and create sustainable communities.

146. Matters pertaining to highways and open space infrastructure are addressed elsewhere in this report. This particular section assesses the impact of the proposals upon education, health and utilities infrastructure (waste water treatment, water supply and energy supply).

#### *Infrastructure and Environmental Capacity Appraisal*

147. The provision of services and facilities within the District’s settlements has been the subject of investigation and assessment through the 2009 Infrastructure and Environmental Capacity Appraisal (IECA), which has informed preparation of the Development Plan. The IECA report considers the environmental capacity of settlements anticipated to receive growth in the District, and recognises the need for a mechanism to provide social, physical and environmental infrastructure to support growth. The report also considers settlement infrastructure tipping points, which are utilised to evaluate potential impacts on infrastructure.

148. The IECA report is the most up to date evidence base of the infrastructure capacity in the District and was a key document of the 2013 appeal for new housing development at Kentford (reference F/2012/0766/OUT and APP/H3510/A/13/2197077).

### Education and School Places

149. IECA indicates that, at the time of the study in 2009 there was adequate capacity in primary, middle and secondary schools to cater for significant growth in the town. However these findings have been superseded by the Local Education Authority's Schools Organisational Review programme which has resulted in the closure of middle schools with displaced pupil places being allocated into primary and secondary schools. The Education Authorities (Suffolk and Norfolk County Council's) have confirmed there is no capacity at local primary schools to accommodate the pupils emerging from this development and has requested contributions from the development. The contributions would be used towards delivering additional primary school places in the vicinity (Norfolk CC has agreed the contributions should be received in full by Suffolk CC). The applicants have agreed, in principle, to provide the contribution.
150. The Authority has confirmed there is capacity available at existing secondary schools such that no contributions are required from the development.

### Health

151. The IECA study comments that Department of Health suggests standards of 1 GP per (approx.) 1,700 population. At the time of the IECA study, Brandon had 1 GP per 4,720 population confirming the Town was poorly served by GP's at the time. The study confirmed the tipping points for GP services had been reached and 3 or 4 more GP's were required to support the existing population before new housing growth was factored in.
152. It is not clear from IECA whether the shortage of GP's was owing to a shortage of surgery space (i.e. an infrastructure problem) or whether it was owing to a shortage of GP's generally (i.e. a recruitment problem). If it was the former, then a developer contribution to be used towards 'bricks and mortar' provision to mitigate the increased demands of its occupants could be justified under planning law. However, if there is already ample surgery space but a shortage of trained/qualified GP's to populate it, a developer contribution could not be sought to boost the number of GP's practising in the town.
153. The NHS has been consulted at every stage of this planning application (x3 occasions), but is yet to respond. The recommendation at the end of this report allows for their comments to be taken into account after the Committee meeting and (if appropriate) a contribution secured from the scheme to be used towards capital investment in the local health infrastructure.

### Waste water treatment infrastructure

154. Details submitted with the planning application confirms the proposed development would connect to existing mains sewer systems in the town. A new pumping station has already been provided on site ready to assist with new development approved at the site.
155. The development would be served by the Brandon Water Recycling Centre. IECA comments that the Strategic Flood Risk Assessment and Water Cycle Study identifies that the location of the Recycling Centre makes western sites (for development) preferable otherwise upgrades to the network may be required. The Recycling Centre itself has reasonable headroom with the tipping point stated at 1,354 new homes. The application proposals are well within this headroom and there are no other small/medium scale projects which, cumulatively, would exceed the identified tipping point.

### Water and energy supplies

156. IECA confirms that water supply should not be a constraint on development at Brandon and confirms that 2,500 new homes could be accommodated within the headroom of the Brandon substation.

### **Flood Risk, Drainage and Pollution**

157. Policies for flood risk set out in the Framework aim to steer new development to areas with the lowest probability of flooding. The Framework policies also seek to ensure that new development does not increase the risk of flooding elsewhere.
158. The Framework states that to prevent unacceptable risks from pollution and land instability, planning decisions should ensure that new development is appropriate for its location. It also confirms that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
159. Core Strategy Policy CS4 states the Council will support development proposals that avoid areas of current and future flood risk and which do not increase the risk of flooding elsewhere. The policy confirms sites for new development will be allocated in locations with the lowest risk of flooding (Environment Agency Zone 1 flood category) and will seek the implementation of Sustainable Urban Drainage Systems (SUDS) into all new development proposals, where technically feasible.
160. Policy DM6 of the Joint Development Management Policies Document sets out surface water information requirements for planning applications. Policy DM14 addresses proposals for sites which are or are suspected to be (inter alia) contaminated.

161. The application site is not in an area at a risk of flooding (i.e. Environment Agency flood risk Zones 2 or 3) and it is therefore unlikely that the proposed dwellings would be at risk of flooding from existing watercourses.
162. The flood risk assessment submitted with the planning application confirms that surface water will be managed via sustainable drainage systems, predominantly soakaways (including the use of permeable paving where possible, and highway drainage to soakaways). Resolution of the management of the soakaways could be secured by means of a suitably worded planning condition.
163. The planning application is accompanied by a Geoenvironmental report. The report confirms that potential contaminants have previously been encountered at the site and are documented in third party reports and whilst some remediation works have apparently been undertaken it is unknown whether the remediation was completed to an acceptable standard. Hydrocarbon contamination associated with the former use of the site as a saw mill and timber yard (creosote treatment areas) were identified in two areas, with further contamination identified in association with underground storage tanks. No impact was identified within the chalk aquifer. Following removal of soil and ground water from the site, without improvement in groundwater quality, it was concluded that contaminants were leeching into the site from adjacent land (to the west). No further remediation was proposed and the concentrations of contaminants identified were not deemed to pose a significant risk to human health.
164. The southwest corner of the site is subject to contamination, suspected to be leeching from the adjacent site to the west (also formerly part of the timber treatment/sawmill use). This part of the site falls outside the county boundary (within Breckland District Council's area). The applicants solution is to provide the flats with hard surfaced (paved) amenity spaces with raised planters. This is an acceptable solution in principle and would serve to protect the future occupiers, subject to the paving being retained.
165. The Environment Agency (risk of flooding, contamination and pollution control and drainage), Anglian Water Services (drainage and pollution control) and the Council's Environmental Health Team (contamination and pollution control) have not objected to or raised concerns about the application proposals. All have recommended the imposition of reasonable conditions upon any potential planning permission to secure appropriate further investigation of contamination and subsequent mitigation.
166. The proposals are considered acceptable with regard to flood risk, surface water drainage and pollution (contaminated land and potential contamination of water supply) considerations.

## **Residential amenity**

167. The protection of residential amenity is a key component of 'good design'. The Framework states (as part of its design policies) good planning should contribute positively to making places better for people. The Framework also states that planning decisions should aim to (inter alia) avoid noise from giving rise to significant adverse effects on health and quality of life as a result of new development.
168. Vision 1 of the Core Strategy seeks to provide 'a higher quality of life' for residents. Policy DM2 of the Joint Development Management Policies Document seeks to safeguard (inter alia) residential amenity from potentially adverse effects of new development.

### *Impact upon residents of the proposed development*

169. The application site is situated adjacent to the Norwich to Cambridge railway line such that there is potential for the occupants of the proposed development to be adversely affected by intermittent noise from trains passing by their properties. None of the proposed houses and flats have been positioned closer than 10 metres to the railway line (which reflects the separation of the previously approved and implemented scheme). The Council's Environmental Health Officers have not raised concerns with respect to noise disturbance and have requested conditions are imposed upon any planning permission granted to provide acoustic protection in the construction of the dwellings and to secure acoustic fencing along any garden boundaries adjacent to the railway line. These measures are considered reasonable and would serve to safeguard the potential residents of the scheme from significantly adverse noise impacts.

### *Impact upon existing residents*

170. The occupants of some existing dwellings may be affected by the proposed development. In particular there are some existing dwellings which front the application site on the opposite side of Fengate Drove and will front towards some of the dwellings proposed by this planning application. The degree of separation between the frontages of existing and proposed dwellings is such that there are no concerns arising about potential overlooking, dominance or loss of light to the existing dwellings.
171. There is likely to be an increase locally in the noise environment whilst the proposed development is constructed. Such impacts are common to developments of this type where large sites are developed adjacent to existing settlements. The impacts, although potentially adverse would not be significant such that the occupiers enjoyment of their property would be compromised. Accordingly the proposals are considered acceptable with respect to their potential impact upon existing residents.



## **Sustainable construction and operation**

172. Section 19 (1A) of the Planning and Compulsory Purchase Act 2004 requires local planning authorities to include in their Local Plans “policies designed to secure that the development and use of land in the local planning authority’s area contribute to the mitigation of, and adaptation to, climate change”.
173. The Framework confirms planning has a key role in helping shape places, to (inter alia) secure radical reductions in greenhouse gas emissions and supporting the delivery of renewable and low carbon energy. The Government places this central to the economic, social and environmental dimensions of sustainable development.
174. The document expands on this role with the following policy:
- In determining planning applications, local planning authorities should expect new development to:*
- *comply with adopted Local Plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and*
  - *take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.*
175. Core Strategy policy CS2 seeks to secure high quality, sustainable development by (inter alia) incorporating principles of sustainable design and construction in accordance with recognised appropriate national standards and codes of practice covering various themes.
176. Policy DM7 of the Joint Development Management Policies Document sets out requirements for achieving sustainable design and construction. The policy expects information to accompany planning applications setting out how Building Control standards will be met with respect to energy standards and sets out particular requirements to achieve efficiency of water use. The policy is also supported by the provisions of Policy DM2 of the same plan.
177. The planning application was submitted three months in advance of the adoption of the Joint Development Management Policies Document and is therefore not accompanied by a statement confirming how Building Control requirements for energy efficiency will be achieved. The Design and Access Statement does, however, confirm the dwellings will be provided with either roof mounted solar panels or air source heat pumps. The elevational drawings accompanying the amended planning application illustrate solar panels on roof spaces. This level of detail is considered sufficient in this case and the requirements of the Building Regulations will secure appropriate measures such that there is no need to impose conditions in this respect.

178. The planning application does not address water efficiency measures and does not presently propose a strategy for minimising water use. The proposals are therefore contrary to policy DM7 of the Joint Development Management Policies Document in this respect. Given that the planning application was submitted in advance of the plan (and policy DM7) being adopted it is, on this occasion, considered reasonable to impose a condition requiring these details to be submitted at a later date.

### **Planning Obligations**

179. The Framework repeats the tests of lawfulness for planning obligations which are derived from Regulation 122 of The Community Infrastructure Levy Regulations 2010. The tests are that planning obligations should:
- be necessary to make the development acceptable in planning terms.
  - be directly related to the development, and
  - be fairly and reasonably related in scale and kind to the development.
180. Core Strategy Spatial Objective ENV7 seeks to achieve more sustainable communities by ensuring facilities, services and infrastructure are commensurate with development. Core Strategy Policy CS13 sets out requirements for securing infrastructure and developer contributions from new developments.
181. The following Heads of Terms are triggered by the development proposals (by policy requirement, evidenced requests or development impacts)
- Affordable Housing
182. The Framework states that local planning authorities should use their evidence base to ensure that their Local Plan meets the full objectively assessed needs for market and affordable housing. It also states that policies should be set for meeting the identified need for affordable housing, although such policies should be sufficiently flexible to take account of changing market conditions.
183. Core Strategy Spatial Objective H2 seeks to provide a sufficient and appropriate mix of housing that is affordable, accessible and designed to a high standard. Core Strategy policy CS9 requires 30% of the proposed dwellings to be 'affordable'. The policy is supported by Supplementary Planning Guidance which sets out the procedures for considering and securing affordable housing provision (including mix, tenure, viability and S106).

184. Core Strategy Policy CS9 requires 19.2 of the 64 dwellings to be secured as 'affordable' (70% (13 no.) for affordable rent and 30% (6no) for shared ownership).
185. In this case the developer is an affordable housing provider and they have offered all of the stock for affordable housing. Whilst this level of affordable housing would exceed the levels required by adopted planning policies, the Local Planning Authority is able to accept the offer of enhanced provision on the proviso the S106 Agreement acknowledges the obligation does not accord with the tests set out a Regulation 122 of the CIL Regulations (paragraph 179 above) and that the Council (in this case Members of the Development Control Committee) do not have regard to the uplift in affordable housing in reaching their decision on the planning permission.

#### Education

186. The Framework states the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. It advises that Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education.
187. Core Strategy Policy CS13 (b) considers educational requirements as a key infrastructure requirement.
188. As discussed above, Suffolk County Council has confirmed there is no capacity in Local Primary Schools to accommodate the pupil yield forecast to emerge from this development. The Authority has forecast that the development proposals would generate 16 primary school pupils (one primary school pupil per four proposed dwellings) and has requested that a proportionate contribution (based on extension build costs) is secured from this development to be used towards provision of places for these pupils.
189. Suffolk County Council has also confirmed a need for the development to provide a contribution to be used towards pre-school provision in the area to cater for the educational needs of pre-school children (aged 2-5) that are forecast to reside at the development. The Authority has confirmed there is no requirement for a contribution to be secured for secondary school provision.

#### Public Open Space

190. The Framework confirms that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.
191. Core Strategy Spatial Objective CS2 seeks to promote an improvement in the health of people in the District by maintaining and providing quality open spaces, play and sports facilities and better access to the

countryside. Policy CS13 (g) considers provision of open space, sport and recreation as a key infrastructure requirement.

192. Policy DM42 of the Joint Development Management Policies Document requires new development proposals to make appropriate provision for new public open space infrastructure.
193. These Development Plan policies are supported via the adopted Supplementary Planning Document for public open space, sport and recreation. This document sets out the requirements for on-site and off-site provision and maintenance. In this case, a policy compliant position would see the delivery of 3,330sqm (0.33ha) of 'open space' on the site. The application proposes 1,680sqm (0.168ha) of 'open space' which falls short of the SPD requirement.
194. The shortfall in public open space is a dis-benefit of the proposals but this is not in its self a sufficient reason to justify a refusal of planning permission, but needs to be considered in the overall balance when considering whether the dis-benefits of the development (as a whole) significantly and demonstrably outweigh the benefits. In considering this 'planning balance', the following matters should also be considered with respect to the public open space;
  - The existing consented and implemented scheme for the site provided a similar level of public open space provision and that scheme could be built out.
  - The SPD has been applied to the whole development, but part of the site (and a proportion of the dwellings) is situated in the administrative area of Breckland District Council where different policies apply.
  - The Parks team has not objected to the application despite the shortfall in public open space provision.
  - Benefits derived from the developer contributions to be used towards mitigating the impact of the development upon the Special Protection Area, including enhancement of public rights of way in the vicinity of the site. This would lead to enhancements of existing local green infrastructure as a direct consequence of the development.

#### Libraries

195. The Suffolk County Council has identified a need to provide library facilities for the occupiers of this development and has requested a capital contribution of £13,824. The County Council is yet to confirm how and where the contribution they have requested would be used, in order to meet the tests set out in at Regulation 122 of the CIL Regulations (paragraph 179 above). The recommendation at the end of the report makes provision to secure this contribution from the development should it subsequently be justified to do so.

## Health

196. As discussed at paragraphs 151 to 153 above, there may be a requirement to secure a health contribution from this development to be used to provide additional local health infrastructure in order to off-set the impacts of these development proposals. The recommendation at the end of this report makes provision for such a contribution to be secured from the developer via a S106 Agreement, should a justified request be received subsequently from the NHS.

## Other obligations

197. Other obligations to be secured as part of a S106 Agreement (on the assumption that Members resolve to grant planning permission) will include the following;
- Package of mitigation measures to off-set the potential direct and indirect impact of development upon the Special Protection Area as discussed in this report, where it is not appropriate to secure these by condition.

## Summary

198. With these provisions in place, the effects of the proposal on local infrastructure, including affordable housing, open space, recreational facilities, education, health, libraries and the Special Protection Area would be acceptable. The proposal would comply with Core Strategy Policy CS13 by which the provision or payment is sought for services, facilities and other improvements directly related to development. The proposed planning obligations are considered to meet the CIL Regulation 122 tests set out at paragraph 202 above, subject to further clarification being received in relation to the libraries contribution.

## **Conclusions:**

199. The proposal is an acceptable alternative development to the scheme granted planning permission at appeal in 2003 and which was subsequently implemented (and saved). The development proposals would have no significant impacts upon interests of acknowledged importance, including the features of interest of nearby European designated sites of nature conservation. Whilst there are opportunities to improve the detailed design and layout of the scheme, the solution included in the proposals is considered acceptable and does not, in itself, justify a refusal of planning permission; there is no evidence to suggest the proposed development would be visually harmful in this respect or adversely affect residential amenity. Furthermore, the development includes a package of mitigation measures to off-set potentially adverse impacts upon its surroundings and local communities. The S106 package is a marked improvement over and above the consented scheme on the site, particularly with regard to mitigating potential harm to the nearby Special Protection Area.

## **Recommendation:**

200. It is recommended that the planning application be **APPROVED** subject to:

The completion of a S106 agreement to secure:

- Policy compliant level and tenure split of affordable housing
- Education contribution (Primary School - £194,896)
- Pre-school contribution (£36,546)
- Libraries Contribution – if subsequently deemed compliant with CIL Regulation 122 (36,546)
- Provision of on-site Public Open Space together with (if appropriate) a commuted sum for future maintenance if transferred to the District Council (or the Town Council if appropriate) to manage and maintain.
- Health contribution, if requested and justified.
- SPA Enhancement measures deemed not appropriate as planning conditions (including the footpath enhancement contribution - £82,200).
- Any additional obligations considered necessary by the Head of Planning and Regulatory Services.

And subject to conditions (to be agreed with Breckland District Council), including:

- Time limit (3 years for commencement)
- Materials
- Strategy for enhancing water use efficiency, post occupation.
- Bin and cycle storage strategy
- Landscaping scheme (hard and soft)
- Ecology i) enhancements at the site
- Ecology ii) Implementation of the recommendations of the ecology report (on-site non-SPA measures)
- Ecology iii) Implementation of the recommended mitigation package of SPA measures from the applicants Habitats Regulations Assessment (note only those matters not secured by the S106 Agreement).
- Construction management plan
- As recommended by LHA's (Norfolk and Suffolk)
- Travel Plan measures.
- Contamination & remediation (further investigations and any remediation necessary and new contamination encountered during development)
- Noise mitigation measures to relevant dwellings and garden spaces.
- Fire Hydrants
- Waste minimisation and re-cycling strategy
- Details of the surface water drainage scheme.
- Any additional conditions considered necessary by the Head of Planning and Regulatory Services.
- Details of informal play equipment to be provided.
- Archaeological investigations and recording.

That, in the event of the Head of Planning and Regulatory Planning Services recommending alternative (reduced, with the exception of the health and libraries contributions) Heads of Terms from those set out above, the planning application be returned to Committee for further consideration.

That in the event the applicant declines to enter into a planning obligation to secure the Heads of Terms set out above for reasons considered unreasonable by the Head of Planning and Regulatory Services, planning permission be refused for the following reasons (as may be appropriate):

i) Unsustainable form of development not mitigating its impact upon, education provision (primary and pre-school), open space, sport and recreation, transport, health and libraries (contrary to the Framework and Core Strategy policy CS13)

ii) Non-compliance with affordable housing policy (contrary to Core Strategy policy CS9 and supporting SPD document).

iii) Adverse impact upon the Special Protection Area, contrary to the Habitats Regulations, to Core Strategy Policy CS2 and to Joint Development Management Policies Document policy DM10, DM11 and DM12.

**Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online:

<http://www.westsuffolk.gov.uk/planning/vieworcommentonplanningapplicationsa n2.cfm?aud=resident>

Alternatively, hard copies are also available to view at Planning, Planning and Regulatory Services, Forest Heath District Council, District Offices, College Heath Road, Mildenhall, Suffolk, IP28 7EY.