APPEAL BY NORFOLK HOMES LTD

LAND AT WYNGATES, YARMOUTH ROAD, BLOFIELD, NORFOLK

PINS ref: APP/K2610/A/13/2198950

APPELLANTS' STATEMENT OF CASE
Appeal by Norfolk Homes Ltd : Land at Wyngates, Yarmouth Road, Blofield, Norfolk

1.1 This Statement sets out the submissions that will be made by Norfolk Homes Ltd in support of their appeal against the decision by Broadland District Council on 22nd May 2013 to refuse planning permission for a development of 64 dwellings, vehicular access, provision of open space and associated works on land at Wyngates, Yarmouth Road, Blofield.

1.2. Planning permission was refused by the District Council for the following reasons:

This application has been considered against the Development Plan for the area, this being the Broadland District Local Plan (Replacement) 2006 and the Joint Core Strategy for Broadland, Norwich and South Norfolk 2011. The National Planning Policy Framework (NPPF) is also a material consideration.

The following policies are particularly relevant to the determination of the application:

GS1 and HOU1 of the Broadland District Local Plan (Replacement) and Policies 4, 7, 9, 12, 13 and 14 of the Joint Core Strategy.

The approval of up to 64 further houses in Blofield would, taking account of existing approved estate scale housing development, represent an increase in population of about 33% and would represent a significant increase in the size of the settlement being about 5.2 times the level of 50 dwellings referred to in Policy 14 of the Joint Core Strategy. It is considered that development at this overall scale would undermine the spatial strategy and settlement hierarchy of the Joint Core Strategy and would fundamentally alter the existing character of Blofield as the consequential scale and form of development would not be commensurate with the size of settlement. Therefore, the scale of development, when taking account of existing estate scale housing commitment in Blofield, is excessive and not commensurate with this Key Service Centre – a third order settlement – and is contrary to Policy 14 of the Joint Core Strategy.
The cumulative impact of development of this scale is exacerbated by the speed of delivery (the site must be deliverable if it is to contribute towards the 5 year housing supply). Such a significant influx of growth over a relatively short period of time will be difficult to assimilate into the community and is likely to lead to a disparity between the local population and local facilities and services.

It is considered that further estate scale housing development in the village, in addition to the approval of up to 197 dwellings, would result in a housing commitment commensurate with a higher order settlement such as a Main Town (defined in Policy 13 of the Joint Core Strategy) and would not be suitable for this small third order settlement. This is turn means the proposed development is not commensurate with the social and economic needs of the settlement of Blofield which therefore renders it an unsustainable location being at odds with these two dimensions referred to in para 7 of the NPPF. Adverse impacts on these dimensions should be avoided (para 152 of the NPPF) and the alternative option to reduce or eliminate such impacts should be allowed to take place by allowing the location of further housing growth to be planned and to be determined through the Site Allocations DPD.

The cumulative scale of the proposal is premature in respect of the preparation of the Site Allocations DPD and the overall scale of housing development that would result in this third order settlement if this proposal were to be approved the effect of this would be to predetermine decisions about the scale and location of new development in other third order or higher order settlements which ought properly to be addressed in the emerging Site Allocations DPD.

Approval of the proposal would see a disproportionate amount of the development for the district being undertaken in one area, contrary to the spatial vision of the JCS which seeks to distribute housing growth following a settlement hierarchy. Approval of the proposal, in light of the existing quantum of estate scale housing approvals in Blofield,
would undermine the very core planning principles of both plan making and decision taking at odds with para 17 of the NPPF.

It is considered that approval of this application would prejudice the plan-led system and in doing so the impacts associated with the proposal as outlined above would be both significant and demonstrable and these would not be outweighed by any benefits in the current proposal.

The Local Planning Authority will, where appropriate, discuss amendments to applications to secure an acceptable and sustainable form of development. However, in this instance it is not considered that the scheme could be amended to overcome the 'in principle' concerns of the Authority. The Authority has therefore acted accordingly to refuse this inappropriate development.

1.3 The Reasons for Refusal are unclear and repetitive and do not indicate clearly which policies are said to be breached by the appeal proposal. The Appellants therefore asked the District Council to explain (i) how many reasons for refusal are being advanced, (ii) what the exact nature of each reason for refusal is and (iii) in relation to each specific reason for refusal, which policy the proposed development is alleged to contravene.

1.4 The District Council has responded as follows:

By way of confirming the reasons for refusing the application, I can advise the following:

1. The scale of development, when taking account of the existing estate scale housing commitment in Blofield, is excessive and not commensurate with Blofield as a Key Service Centre. The proposed development is therefore contrary to Policy 14 of the Joint Core Strategy.
2. Policy 9 of the Joint Core Strategy sets out the strategy for growth in the Norwich
Policy Area and that allocations to deliver the smaller sites in Broadland and
South Norfolk will be made in accordance with the settlement hierarchy and local
environmental and servicing consideration. Approval of this proposal will see a
disproportionate amount of the development for the district being carried out in
one area, contrary to the settlement hierarchy and Policy 9 of the Joint Core
Strategy.

3. The first core planning principle in paragraph 17 of the National Planning Policy
Framework (NPPF) explains that planning should be genuinely plan led,
empowering local people to shape their surroundings. The proposal that is the
subject of this appeal seeks to circumvent this plan-led principle and will
undermine it.

4. The application is premature in advance of the adoption of the Site Allocations
Development Plan Document (DPD). The effect of approving this proposal would
be to pre-determine decisions about the scale and location of growth in other Key
Service Centres or settlements higher up the settlement hierarchy, which ought to
be addressed through the Site Allocations DPD.

5. The cumulative impact of approved and proposed development in Blofield will
represent a significant influx of growth over a relatively short period of time. It
will be difficult to assimilate this into the community and is likely to lead to a
disparity between the local population and local facilities and services. The
application is therefore contrary to Policy 7 of the Joint Core Strategy.

1.5 The Appellants' evidence will examine the 'revised' reasons for refusal (which do not
appear to have been endorsed by the appropriate Committee) not in detail. That evidence
will demonstrate that Blofield is a sustainable settlement which is able to accommodate
the level of residential development proposed by the appeal scheme and that the
development of the appeal scheme will not have any adverse impact on the character or sustainability of the settlement.

1.6 The Appellants will refer to the plans and reports which accompanied the planning application, the appeal site and its surroundings, the site’s planning history and recent planning decisions within the Blofield area.

2. The Appellant’s evidence will draw attention to the fact that the appeal site was identified by the District Council in the second round of consultation on the Site Allocations Development Plan Document (2011) as an alternative site for development.

3.1 The Appellants’ evidence will analyse the extent to which the appeal proposal accords with the adopted Development Plan which comprises the following documents:

(i) Greater Norwich Joint Core Strategy (March 2011)
(ii) Broadland District Local Plan Replacement (2006) Saved Policies
(iii) National Planning Policy Framework (March 2012)
(iv) Greater Norwich Joint Core Strategy (March 2011)

3.2 The Appellants’ evidence will deal with the following policy issues on housing distribution and allocations:

(i) Following a legal challenge to the Joint Core Strategy, the remitted parts of the JCS have been re-evaluated and a new assessment has been undertaken of alternatives to meet the JCS growth requirements. A new sustainability appraisal has been prepared which explores alternative options for delivering the Broadland part of the NPA requirement. The outcome of this appraisal was published for consultation in August 2012 in the JCS Proposed Submission Document and, while alternative options were proposed and considered, the Council set out the same strategy for growth as suggested in the pre challenge JCS. The North East
Growth Triangle will accommodate major strategic growth of 7,000 dwellings with a small sites allowance of 2,000 dwellings being distributed within the remainder of the NPA.

(ii) These housing figures are expressed as minimum figures.

(iii) Section 6 of the JCS sets out the overall growth requirements for the Greater Norwich Area and separates this into the Norwich Policy Area and the Rural Area for Broadland and South Norfolk. JCS Policy 9 discusses a strategy for growth in the NPA and seeks to identify the broad locations for the focus of growth. During the Plan period a total of 21,000 dwellings will need to be provided. The Policy identifies an hierarchy of settlements over which this growth will be spread comprising the Norwich Urban Area, followed by the main towns of Aylsham, Diss, Harleston and Wymondham, and then Key Service Centres, service villages and other villages. The scale of development that may occur decreases with each level of the hierarchy. It is stated that the smaller sites in the NPA within Broadland will accommodate up to 2000 dwellings. Allocations to deliver the smaller sites will be made in accordance with the settlement hierarchy and local environmental and servicing considerations. Para 6.6 states that 'The smaller sites allowance is intended to provide a balance between site sizes and locations to encourage flexibility and the shorter term delivery of new housing'.

(iv) JCS policy 14 identifies Blofield as a Key Service Centre (KSC) among 9 others. KSC's possess a range of local services and facilities that enables them to meet local needs and those of surrounding areas and typically consist of a primary school, a secondary school either within the settlement or easily accessed by public transport, convenience shops, primary health care, village hall and a library. They also possess public transport services for non journey to work and leisure purposes.
(v) It is accepted that Blofield is one of three KSC's with more limited services than some of the others that have been identified, hence the Authorities' conclusion that there are more sustainable options for new residential development within the Norwich Policy Area.

(vi) Blofield is also one of three KSC's within the NPA that are identified as potential locations for additional development to help deliver the smaller sites allowance of 2000 dwellings (JCS Policy 9) in the Norwich Policy Area. The supporting text states that, where a range is specified for a particular settlement, it is expected that new development will stay within that range. In exceptional circumstances, however, the range can be exceeded if it can be demonstrated that the resulting development respects the form and character of the settlement and brings sustainable benefits both for existing and new residents, eg through improved local facilities or connections to them through meeting other defined local needs. The Appellant's evidence will demonstrate that such circumstances apply to Blofield and the appeal site.

(vii) The main reason given in the JCS for only allocating a small amount of housing development in Blofield is the lack of a secondary school. However, the nearest high school at Thorpe St Andrew is only 10km (7 miles) from the appeal site and is on a direct bus route from Blofield with an acceptable walking distance from the bus stop in Thorpe St Andrew. In addition, 3 school bus services to Thorpe St Andrew High School operate direct from Blofield. There is also a direct bus route to the High School in Acle approximately 14 km (11 miles) to the east.

(viii) It is therefore clear that the absence of a secondary school should not preclude Blofield from being considered suitable for a larger amount of development.
3.3 The Appellants' evidence will also deal with the appropriateness of the appeal scheme in relation to the following policies and will demonstrate that the scheme meets all of the policy requirements as follows:

JCS Policy 1: Addressing climate change and protecting environmental assets.

JCS Policy 2: Promoting Good Design.


JCS Policy 4: Housing Delivery.

JCS Policy 6: Access and Transportation.

JCS Policy 7: Supporting Communities.

JCS Policy 8: Culture, Leisure and the Environment.

JCS Policy 9: Housing numbers and allocations

JCS Policy 12: Norwich Urban Area

JCS Policy 13: Main Towns

JCS Policy 14: Blofield.

3.4 The evidence will demonstrate that the Broadland Area Local Plan Replacement 2006 only makes provision for the Plan area up to June 2011 and that the Plan is therefore out of date in terms of the scale and location of new housing allocations.
4.1 The Appellant's evidence will deal with the policies of the National Planning Policy Framework in which significant emphasis is placed on the need to support sustainable development wherever possible, particularly where proposals are in accordance with an up to date development plan. Where local plan policies are absent, silent or out of date however planning permission should be granted (para 14). The NPPF highlights the importance of LPAs having an up to date Local Plan in place. Paragraph 12 states that 
"Proposed development that accords with an up to date Local Plan should be approved...... It is highly desirable that Local Planning Authorities should have an up to date plan in place..." The Appellants will demonstrate that, in the absence of a 5 year housing land supply, the District Council is not able to rely on an up to date Local Plan.

4.2 The Appellant's evidence will demonstrate that Blofield constitutes a sustainable settlement and that the appeal scheme comprises a sustainable form of development which is well related to and within the confines of the rest of the settlement.

4.3 The Appellants will rely on the NPPF policy that:

(i) LPAs should use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the NPPF including identifying key site which are critical to the delivery of the housing strategy over the Plan period.

(ii) LPAs should update annually a supply of deliverable sites sufficient to provide 5 years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the Plan period) or 20% to ensure choice and competition in the market for land.

4.4 The Appellants will demonstrate that the District Council's housing land supply is significantly below the required 5 years with the result that the Council's policies for the supply of housing cannot be considered to be up-to-date.
4.5 The East of England Plan was formally revoked on 3rd January 3rd 2013 along with saved policies of the Structure Plan. It therefore no longer forms part of the development plan for the purposes of determining planning applications. The Appellants will note however that Policy H1 of the EEP identified Norwich as a 'key centre for development and change' and a regional focus for housing, employment and other activities. 33,000 additional homes were to be provided in the Norwich Policy Area between 2001 – 2021 facilitated by development plan documents prepared jointly by Broadland District Council, Norwich City Council and South Norfolk District Council.

5.1 The Appellants will refer to a number of other material considerations which demonstrate that planning permission should be granted for the appeal scheme as follows.

5.2 The District Council undertook a call for sites exercise in 2009 which identified in excess of 5000 potential development sites. Following an assessment of these sites, a list of 62 sites, including 2 within Blofield, were identified. These sites were published in the 'Site Allocations Consultation - Shortlisted Sites' document and were the subject of a sustainability appraisal. When this document went out to public consultation during 2011, a number of alternative sites were proposed by landowners including the appeal site which was put forward by Norfolk Homes Ltd. This resulted in 4 more sites in addition to the original 2, making a total of 6 potential sites being included for Blofield in the amended Site Allocations DPD. This document was published for consultation in spring 2012 and BDC are currently considering the responses received. It is not anticipated that the Site Allocations Document will be adopted by BDC until early-mid 2015. BDC has also been progressing its Development Management Policies DPD. Its Issues and Options document was the subject of consultation in September 2011. As with the Site Allocations DPD, it is not anticipated the Development Management Policies DPD will be adopted by the District council until early-mid 2015.
5.3 The Appellants will refer to the 'Policy Statement on the determination of Housing Developments Promoted in advance of the Emerging Local Plan'. This document has not been subject to public consultation and therefore can only have limited weight attached to it. Nonetheless, it is an important consideration particularly when the NPPF places such importance on the need for up to date local plans and the provision of a 5 year housing land supply.

5.4 This Policy Statement refers to the NPPF and acknowledges that the saved policies of the Local Plan do not benefit from the transitional provisions of the NPPF if they are inconsistent with its up to date requirements. This document states that applications should be considered against the policies in the East Of England Plan, the JCS (where unremitting) and the saved policies of the Local Plan as well as the presumption in favour of sustainable development in the NPPF. The report acknowledges that '...In areas where there is less than a five year supply of housing land relevant Local Plan policies will need to be treated with appropriate caution'. Nevertheless, the requirement for development to be 'sustainable' as defined in the NPPF remains. The report then goes on to identify a number of considerations that will be applied in the determination of applications particularly on sites of 5+ dwellings which contribute to affordable housing including the following:

- The scale and location of the proposal would not undermine the Spatial Strategy and Settlement Hierarchy of the Joint Core Strategy. Where a larger scale of development is proposed, the applicant will be expected to demonstrate how the proposal would contribute to increasing overall sustainability. The Appellants will demonstrate that the proposal for 64 houses provides a sustainable form of development in an appropriate location within the boundaries of a settlement which has sufficient facilities to accommodate such a development.
• The site has been 'shortlisted' as a potential development site (or subsequently a 'preferred option') in the emerging Local Plan, and it can be demonstrated that planning permission would not unduly prejudice the plan-making process. Where undue prejudice would occur, or in the case of sites not 'short-listed' or 'preferred' there will have to be clear and compelling justification for the approval of any proposal. The appeal site has been included in the second round of consultations for the Site Allocations DPD of the Local Plan which together with the first round 'suggested sites' forms the short list of sites from which the allocations will be chosen.

• The development would make a demonstrable contribution to '5 year housing land Supply'. Applicants are required to demonstrate that there is a less than 5 year supply of housing land within the relevant part of Broadland and that their proposal would materially improve the situation. In the course of the recent appeal relating to the site on the north side of Yarmouth Road, Blofield (APP/K2610/A/12/2177219) the District Council argued that, in accordance with the GNDP monitoring report 2011-2012, there was only a 3.28 year supply of housing land available within the Broadland part of the NPA. However, the Appellants will draw attention to the Inspector's conclusions in the Yarmouth Road appeal decision that 'there has been a persistent under delivery of housing. Accordingly I have reached the view that a buffer of 20% should be applied. That gives a total requirement of housing land for 11,928 dwellings, against which the projected completions would give a supply of only 2.74 years'. The Appellants will similarly submit that the District Council has persistently failed to deliver a 5 year housing land supply and that a 20% buffer should therefore be applied to the housing supply requirement and the 5 year housing land supply figure calculated accordingly. The Appellants will provide detailed figures and calculations in their evidence and wills eek to agree those figures with the District Council.
• Applicants must also be able to show the amount of housing that would be completed on the development in the next five years. In order to do this the applicant should be a recognised house building firm or have an agreement with such a firm and therefore be able to set out the building schedule for the development. The Appellants are an established, reputable and active house builder who already own a large part of the application site and will be able to secure almost immediate possession of the remainder of the site if planning permission is granted. The Appellants will demonstrate that the entire development can be delivered within a maximum of 2 to 3 years.

• A demonstrable community benefit would result from the development. This 'community benefit' might be the provision of community facilities such as open space, recreation facilities or affordable housing to meet an identified local need. Where an applicant uses 'community benefit' as justification to support the development, the applicant will need to demonstrate not only the claimed benefit but also that the local community as a whole would attach significant value to the claimed benefit. This application includes the provision of a large area of open space of just under 2ha at the northern end of the appeal site. There is a notable deficit of public open space in Blofield which this open space provision will help to improve. The open space will be available for the use and benefit of the wider community as well as the future occupants of the development. Two smaller areas of open space will also be provided within the site to cater more directly for the occupants of the site.

• The development would deliver a higher proportion of affordable units than would otherwise required. The development makes provision for 21 affordable homes (33% of the total development) and will include a mix of 1, 2 and 3 bedroom flats and houses. The development therefore entirely satisfies the policy requirements in terms of the provision of affordable housing and will contribute to the stock of affordable housing available within Blofield.
• Other policy requirements would be met as normal. Where policies relating to environmental standards or design are not only met but exceeded this will be given added weight. The Appellants will demonstrate in their evidence that the appeal scheme complies with all normal policy requirements.

• The site has been identified through the Neighbourhood Plan process with clear evidence of community support. There is currently no Neighbourhood Plan for Blofield.

• The developer can demonstrate compliance with relevant Government policy promoting appropriate public/community engagement. The Appellants will describe the lengthy consultations that have taken place with the District Council, the local community and Blofield Parish Council and the changes made to the scheme to satisfy the requirements of the various statutory and other consultees.

6.1 The Appellants' evidence will demonstrate that the appeal site is an appropriate location for residential development having regard to the relationship of the appeal site to the rest of the settlement and the facilities which lie within and close to the settlement.

6.2 By allocating a minimum of 50 dwellings to Blofield, the JCS acknowledges that the village is a sustainable location for new housing development and capable of accommodating some additional development above that figure. The Appellants' will draw attention to the reasons why the figure of 50 dwellings for Blofield was referred to in the Joint Core Strategy as a minimum and not a maximum figure.

7.1 The Appellants will demonstrate that a grant of planning permission for the appeal scheme is not premature in advance of the Site Allocations DPD.

7.2 Reference has already been made to the short listing of the appeal site and others in the SA DPD consultation document in 2011 and to the Spring 2012 'Site Allocations DPD Alternative Sites for Potential Development' which included the appeal site. Given the
relatively early stage of the SA DPD, the Appellants will show that the appeal scheme represents less than 1% of the JCS requirement in Broadland and that, by reference to NPPF policies and other considerations, a dismissal of the appeal on prematurity grounds can not be justified.

8. The Appellants will draw attention to the absence of any objection by the District Council or any statutory consultees in relation to the impact of development on the appeal site on the amenity of neighbours, the character and appearance of the area or the capacity of local facilities.

9. The Appellants will produce an executed Planning Obligation to secure the provision of affordable housing and open space and will demonstrate that the payment of contribution towards improvements in education and library facilities is covered by the Community Infrastructure Levy. The Appellants will suggest that the conditions set out in Appendix 1 to this Statement are appropriate in the event that the appeal is allowed.

10. The Appellants will refer to the following documents:

(i) Joint Core Strategy and all background documents

(ii) all documents submitted to the re-convened JCS Examination in relation to housing land supply issues including the GPDN's evidence

(iii) Broadland District Council 'Policy Statement on the determination of Housing Promoted in advance of the Emerging Local Plan'

(iv) Broadland District Council Site Allocations Document including the Sustainability Appraisal
(v) Appeal decisions APP/K2160/A/12/2177219 (Blofield), APP/L2630/A/12/2170575 (Costessey) and APP/L2630/A/09/2097802 (Wymondham)

(vi) Application no 20130296, supporting documents, consultation responses, third party representations and Committee report

Peter Brady
Solicitor for the Appellants
The Planning Law Practice
6th August 2013

Appendix 1: Draft conditions

1. The development hereby permitted shall begin not later than 1 year from the date of this permission.

2. The development shall comply with level 4 of the Code for Sustainable Homes for water as a minimum standard.

3. The development shall be carried out in accordance with the measures set out in the Energy Efficiency Statement submitted as part of application no 20120296.

4. No development shall take place until wheel washing facilities have been provided in accordance with a scheme approved in writing by the local planning authority. The wheel washing facilities shall be retained for the duration of the construction period.

5. No work shall commence on the site until detailed plans of the roads, footways, cycleways and foul and surface water drainage have been submitted to and approved in writing by the local planning authority. All construction work shall be carried out in accordance with the approved plans.
6. No work shall be carried out on roads, footways, cycleways or foul and surface water sewers other than in accordance with the specifications of the local planning authority.

7. Before any dwelling is first occupied, the road(s), footway(s) and cycleway(s) shall be constructed to bind course surfacing level from that dwelling to the adjoining County road in accordance with details approved in writing by the local planning authority.

8. No development shall take place until a landscaping scheme has been approved in writing by the local planning authority. The scheme shall indicate:

   (i) these species, number, size and position of new trees and shrubs at the time of their planting; and

   (ii) details of materials for fences, walls and hard surfaces.

9. No dwellings shall be occupied until the highway works shown on drawing no AS&D 1174/HWY/001-2 dated 29.1.2013 have been completed.