**Appeal Decisions**

**Hearing Held on 21-22 March 2019**
Accompanied Site visit made on 22 March 2019

by David Spencer BA(Hons) DipTP MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

**Decision date: 15 April 2019**

**Appeal A**

**Appeal Ref: APP/L2630/W/18/3204808**
**Land to the north of Farmland Road, Costessey, Norfolk NR5 0HX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mrs Katrina Kozersky against the decision of South Norfolk Council.
- The application Ref 2016/2430, dated 13 October 2016, was refused by notice dated 13 December 2017.
- The development proposed is erection of 83 dwellings (to include 27 affordable dwellings) to include the creation of areas of public open space, sustainable drainage systems and associated infrastructure.

**Appeal B**

**Appeal Ref: APP/L2630/W/18/3204810**
**Land to the north of Farmland Road, Costessey, Norfolk NR5 0HX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Katrina Kozersky against the decision of South Norfolk District Council.
- The application Ref 2017/0420, dated 17 February 2017, was refused by notice dated 13 December 2017.
- The development proposed is the provision of two circular recreational walks, including boardwalks and associated landscaping and biodiversity enhancements (Linked with application 2016/2430).

**Decisions**

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

**Application for costs**

3. An application for costs was made by Mrs Kozersky against South Norfolk Council in respect of both appeals. This application will be the subject of a separate Decision.

**Procedural Matters**

4. As set out above there are two appeals on directly adjoining sites, in the same part of Costessey and in the same land ownership. They differ in respect of the development proposed on each parcel of land although the appellant seeks to

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link the two either by way of a planning obligation or by way of a condition as part of Appeal A. I have considered each proposal on its individual merits. However, to avoid duplication, I have dealt with the schemes together, except where otherwise indicated.

5. The proposed ‘residential scheme’ (Appeal A) was submitted in outline with all matters reserved except for access and landscaping. The proposed ‘recreational walks area’ (Appeal B) was submitted as a full application. The Local Planning Authority (LPA) determined the appeal proposals on this basis and so shall I.

6. The appeals were submitted prior to the publication of the revised National Planning Policy Framework (NPPF) in July 2018 which was partially further updated in February 2019. The opportunity to provide further submissions has been provided, including in response to the latest Housing Delivery Test results. For the avoidance of doubt all references to the NPPF in this decision are the revised 2018 NPPF.

7. At the hearing the appellant submitted a signed and dated Section 106 Agreement containing obligations in relation to affordable housing, a financial contribution to footpath connections, the provision of formal play space and the provision, management and maintenance of the proposed recreational walks area. I return to the planning obligations later in this decision.

Main Issues

8. The main issues in this appeal are as follows:

(i) Whether the LPA is able to demonstrate a five-year supply of deliverable housing sites sufficient to meet assessed housing need and the implications of this in terms of national and local planning policy;

(ii) The effect of the proposals on the character and appearance of the area; and

(iii) Whether the proposed residential scheme would be sustainably located having regard to the gradient of the local highway network.

Reasons

Five Year Supply of Deliverable Housing Land

9. The development plan comprises the Greater Norwich Joint Core Strategy (JCS) of 2011 and the South Norfolk Local Plan Development Management Policies Document 2015 (the DMPD). The JCS sets the housing requirement and separates it into a Norwich Policy Area (NPA) and wider rural hinterlands. The appeal site is located within the NPA. Whilst delivery in South Norfolk has been buoyant, the most recent delivery data for the NPA in the 2016/17 JCS Annual Monitoring Report as a whole shows a shortfall against the JCS housing requirement for the NPA of 4.61 years.

10. The JCS as of 10 January 2019 is more than five years old and as such paragraph 73 of the NPPF applies in that housing supply should be measured against local housing need (the new standardised methodology) unless the strategic policies in the JCS have been reviewed and found not to require updating. Initial steps are being taken to produce a new Greater Norwich Local
Plan (GNLP) including preliminary consultation but there is no decision or material before me to purposefully demonstrate that the action at paragraph 73 (footnote 37) of the NPPF has been taken.

11. The LPA at the hearing acknowledged that it could not demonstrate a five year housing supply against the JCS although the situation is somewhat in a state of flux recognising the 3 constituent Greater Norwich authorities need to collectively monitor performance (not yet updated since the 2016/17 outputs) and agree the basis for a future housing requirement against which delivery performance is to be measured. To date that work has been informed by the Central Norfolk Strategic Housing Market (SHMA) which indicates an annual requirement within the range of 1,880 to 2,199 for the Greater Norwich authorities. For comparison the housing need in the JCS for the authorities is 2,045 dwellings per annum and under the emerging local housing need the figure is indicatively 2,066 dwellings per annum (dpa). As such there is a degree of coalescence within the various figures on housing need. This needs to be considered against an imminent prospect, given the very recent Housing Delivery Test outputs, that the basis on which performance against a housing requirement is measured in the wider Greater Norwich area could change.

12. To some extent the SHMA represents the latest assessment of an objectively assessed housing need which is more up-to-date than the JCS. Applying the SHMA the LPAs latest annual monitoring report (2016/17) submits that there would be an 8.08 year supply of deliverable housing land in the NPA (reducing to 6.82 years with the Norwich City Deal). The SHMA has not been conclusively tested through a Plan examination although other recent appeals in the housing market area have found the SHMA to either be robust or a reasonable starting point. However, Section 78 appeals are unlikely to test and scrutinise the SHMA in the holistic way required by a plan examination. Accordingly, I am not persuaded that the SHMA, whilst being a comprehensive piece of work should set the requirement against which housing delivery should be measured at the time of this appeal and, on balance, greater weight should be given to the examined JCS requirement despite its agedness.

13. In any event for the purposes of establishing a housing requirement the SHMA is now superseded by the standardised methodology for local housing need (LHN) in the NPPF. This adds to my view to give little weight to the untested lower housing need identified in the SHMA recognising there is a greater coalescence around the JCS and LHN annual figures at just over 2,000 dpa.

14. The Housing Delivery Test (HDT) results were published on 19 February 2019. It is notable that the results are aggregated for the JCS authorities, indicating that future supply calculations, in the context of LHN may no longer make the distinction between the NPA and the rural hinterland. The HDT results show that recent delivery across the JCS area has been 133%. This would trigger a 5% buffer (in contrast to the previously applied 20% buffer) which would need to be taken into account, together with the NPPF latest definition of “deliverable”. This may well have ramifications for whether or not there is a five year supply but at the time of this appeal this is unknown due to the lack of a five year housing land statement prepared in accordance with the latest requirements of the NPPF.

1 Regulation 18 of the Town & Country Planning (Local Planning) (England) Regulations 2012 (as amended)
2 APP/Y2620/W/16/3150860 (subsequently quashed but not on OAN grounds) and APP/K2610/W/17/3188235

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15. This all adds to a mixed picture which ultimately leads me to conclude that there is not a deliverable supply of housing land on the basis that the 4.61 year figure in the latest Annual Monitoring Report remains the most recently published reliable figure. This must be, however, regarded as a worse case figure given: (1) the age and basis of the JCS on which it is predicated, and (2) a number of indicators pointing to improving performance, not least the recent HDT results and the aggregation of performance across the wider Greater Norwich area. The emerging picture for housing land supply and the relatively modest degree of shortfall tempers, however, the weight that should be given to the benefit of additional housing in any planning balance.

16. Consequently, because there is not a demonstrable deliverable five year housing land supply paragraph 11(d) of the NPPF is engaged because policies which are most important for determining the appeal proposal are out-of-date in accordance with footnote 7 of the paragraph. This is consistent with a number of recent appeals within the JCS area which have also grappled with housing land supply\(^3\). Accordingly, this is an appeal where planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits (the tilted balance).

17. The development plan countenances this scenario at Policies DM1.1 and DM1.3 of the DMDP. This means that although the appeal site is not allocated for development the policy framework exists in South Norfolk to approve sustainable development that would contribute to meeting identified needs in the absence of a five year deliverable supply of housing land. The appeal site is located in within the NPA which Policy 9 of the JCS identifies as a focus for new housing development. Costessey forms part of the Norwich Urban Fringe which Policy DM1.3 identifies in-principle as a sustainable location for new housing development. This is materially different to the services village location in the recently dismissed Little Plumstead decision\(^4\) which was determined to contribute to an unsustainable pattern of development.

**Landscape**

**Introduction**

18. The appellant submitted a Landscape Visual Impact Appraisal (LVIA). Concerns have been expressed regarding its methodology but the submitted LVIA reasonably follows the latest guidelines\(^5\). That said, landscape and visual impact is a subjective matter, informed by judgment having regard to the landscape and visual characteristics, sensitivities and strategies.

**Appeal A**

**Landscape Impact**

19. The residential scheme would be located on what is currently an arable field on land which gently rises between the adjoining valley floor of the River Tud to the north and the steeper escarpment landform which contains the wooded East Hills to the south-west and existing residential development including Farmland Road to the south. With reference to the LPAs South Norfolk Landscape Assessment (SNLA) 2012 the majority of the site is appropriately

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\(^3\) APP/L2630/W/18/3205905, APP/K2610/W/18/3205832 and APP/K2610/W/18/3207888.

\(^4\) Document 7

\(^5\) GLVIA 3rd edition.
within landscape character area G1 the Easton Fringe Farmland due to its topography, land cover and the influence and visibility of existing residential development to the south and east.

20. The northern fringes of the residential site are within the A3 - Tud Rural River Valley landscape character area. The boundary generally follows a lower contour to which there is no demarcation on the ground, such that the arable field blends into both landscape areas. Consequently, there is a degree of blurring and whilst the proposed housing would be wholly within the fringe farmland area, its potential effect on the setting of the rural river valley must also be considered. The appellant’s LVIA has appropriately considered the two affected landscape character areas and this accords with the LPAs view that the scheme should be tested against both character areas.

21. In respect of the fringe farmland it is characterised in places by settlement edge, human activity (leisure and recreation) and providing an attractive arable and pastoral farmland context, absent of significant wooded areas and marginalized by development but nonetheless retaining a strong rural character. The proposed residential site fits squarely within these characteristics.

22. The SNLA advises that the inherent landscape sensitivities and vulnerabilities relevant to the appeal location include: (i) securing a balance between areas that are developed and rural context, noting that further intrusion may have significant effects on perceived quality; and (ii) the need to preserve good quality rural views from the ridge top to surrounding countryside. In terms of the landscape strategy for the area, the key points are to: (i) create new woodland to screen proposed development; and (ii) development of a land use strategy to prevent incremental and ad hoc erosion of remaining quality.

23. In relation to the rural river valley landscape, this is characterised as a remote, very rural character, a small intimate rural valley with confined valley form, wooded valley sides and a relatively narrow open valley floor. The SNLA identifies that the pastoral valley floor provides an important green gap between Costessey and New Costessey but also has a strongly wooded character with a reference to arable farmland on the valley sides. As such it is understandable that there is a degree of blurring between the characteristics of the rural river valley and valley fringe landscapes at this location.

24. The residential scheme, notwithstanding the proposed landscaping, as a result of the direct loss of attractive, open sloping arable land that characteristically and positively contributes to the wider setting of the narrow valley would significantly adversely affect the balance of developed areas and rural context at this sensitive edge of greater Norwich conurbation. This would be keenly perceived due to the extent of intrusion into and direct loss of the end parcel of a narrow corridor of open, rolling valley fringe farmland.

25. In respect of the adjoining rural river valley landscape it would represent gradual, incremental development into the remote rural character of the valley which the SNLA seeks to manage and prevent. Whilst it would not result in the direct coalescence between Costessey and New Costessey, in combination with the Townhouse Road development on the opposite side of the valley, it would perceptibly narrow the gap, harmfully consolidating development in an area which should be primarily be kept open as an important corridor and green gap in the landscape at this edge of the city.
26. The proposed landscaping for the residential area would extend from East Hills Wood down the western side of the farmland site and into and along the rural river valley landscape to the north. Whilst significant wooded areas are not characteristic of the fringe farmland, the landscape strategy for the area specifically refers to woodland creation to screen new development. However, the proposed landscaping does not overcome my concerns arising from the direct loss of a margin of open farmland important to the setting of the valley. Nor does it mitigate the significant harm arising from the incremental intrusion of built development into the wider rural environment of the valley disturbing the need for a careful balance between the rural and built contexts and discernibly narrowing of the green, open gap of the wider Tud at its lower slopes in the fringe farmland landscape.

27. The appellant refers to the almost continuous development along Longwater Lane and Townhouse Road/Norwich Road as examples as to how development has extended down the valley sides and into the valley floor. These linear patterns of development appear to be of some age and pre-date more sophisticated approaches to understanding landscape character. These are the only two examples in an otherwise largely undeveloped part of the narrow valley such that I am not persuaded that they should set the pattern for consolidated development along the lower valley sides that would further erode the particular rural, open and pastoral qualities of the remaining valley gap.

Visual impact

28. The appellant’s LVIA has defined an appropriate zone of theoretical visibility and representative viewpoints. Given the current perspective from viewpoint 8 at the northern end of Farmland Road over an open field towards the wooded valley floor, the proximity of development would significantly and irrevocably alter the view. The proposed central green would moderately assist in breaking-up the density of development. Boundary planting would only slightly filter some views of development from this perspective given its proximity and scale. As such that I cannot share the assessment that it would be only partially visible in winter months. Over time the development would remain prominent and a sense of the rural wider valley landscape would be irretreivably lost. The residual visual harm, even by year 15, would be greater than the appellant submits and closer to the major/adverse impact projected at year 1 of the scheme. I accept that as a viewpoint, the cul-de-sac arrangement at Farmland Road means very few people would purposefully pass viewpoint 8 but it is a publicly accessible point where the landscape of this part of the Tud valley is immediately visible.

29. The critical viewpoint is number 7 (supplemented by 7a for the in-combination effect with Townhouse Road) at the junction of Farmland Road and Grove Avenue. This provides one of only a handful of vantage points within the urban fabric of New Costessey where the local topography of the Tud valley, including its open lower slopes, can be readily appreciated. The open character of the appeal field is highly visible from this point to receptors including pedestrians moving slowly along Grove Avenue. Consequently, a valuable sense of the characteristic openness of valley fringe farmland between settlement and the more wooded valley floor can be gained from this viewpoint.

30. As with viewpoint 8, and having regard to the visualizations prepared by the appellant, the proposed landscaping would only moderately soften the visual

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impact such that over time the central and western parts of development would remain boldly visible as an extension of existing development at Farmland Road. Existing vegetation on Farmland Road would only filter views of the eastern half of the appeal site. Consequently, the view here would irretrievably and permanently change including the loss of views across open farmland that provides the setting for the more wooded valley floor and a comprehension of the local topography. A valuable view of the edge of the valley on the southern side of the Tud valley would be significantly affected resulting in a panorama in which appeal development in the foreground, together with Townhouse Road in the middle distance, would harmfully interrupt an appreciation of the valley topography.

31. Overall, the appellant's LVIA recognises the visual effect from this perspective as being major-moderate adverse with a medium-high significance at year 1, primarily in respect of the visual impact of the middle and western parts of the site. The appellant submits this would be diminished over time to a moderate adverse effect of medium significance. I am not persuaded, however, that the narrow finger of native woodland planting landscaping extending east from East Hill Woods would provide effective screening particularly in winter months and given the openness of the extended Farmland Road would permanently reveal the development. The major-moderate adverse effect would continue, in my assessment, and I ascribe this as having a significant adverse effect.

32. Elsewhere, the proposed houses would be visible from the various viewpoints identified in East Hills woods, particularly in winter months. I accept that existing settlement edge in New Costessey would form the backdrop to some of these views across the appeal site but the appeal proposal would bring development tangibly closer to the woods and conspicuously in the views of those moving slowly through it. The effects would be particularly adverse in initial years but mitigated over time by the substantial intervening landscaping proposed along the western part of the appeal site such that I share the conclusion in the appellant’s LVIA that the long-term visual effect would be no more than minor adverse.

33. Similar would apply from the viewpoints 4 and 5 on The Loke, which are not publicly accessible but serve private properties. Any visual impact here would be no more than minor adverse due to the extensive landscape buffer around the west and north of the proposed housing which would be well-established by year 15.

34. From Bunkers Hill, the perspective westwards towards the appeal site is extensively filtered by the significant tree cover on the slopes of this hill, even in winter months, and especially from the grassed plateau area at the summit. As such the appeal proposal would be only glimpsed and where occasionally seen, primarily within the context of existing development at New Costessey. Additionally, proposed landscaping along the eastern boundary of the appeal site would assist in assimilating development such that over time, the appeal proposal would not be prominent or harmfully interrupt views from this location.

35. Further afield from viewpoint 6, the upper parts of the appeal proposal would be visible at distance across the valley for receptors moving west to east. Given the 40mph speed limit, it would be fleetingly glimpsed by motorists and for pedestrians the development would be largely filtered by existing
vegetation and seen against the context of existing housing at New Costessey. Proposed landscaping would further assimilate the development from this view. The appellant’s LVIA is reasonable in attributing a negligible impact from this view by year 15.

Appeal B

36. In respect of the proposed recreational walks these are situated wholly within the A3 – Tud Rural River Valley landscape character area. The site comprises wet woodland and an area of sedge fen which is becoming gradually encroached by scrub. The proposed boardwalks would have a very limited physical impact on the rural character of the site and as a consequence human activity and presence would be insignificant. The proposals would not substantively alter or affect the landscape character of the valley floor and in many respects would provide opportunities for enhancement through appropriate habitat management. Visually, the proposed recreational walks would be largely imperceptible from any of the viewpoints. Furthermore, I note elsewhere in this part of the Tud valley floor there is human activity in the form of fishing lakes, the recreational ground at Costessey and smallholdings / equestrian. The recreation walks would integrate into this fabric of land uses.

Conclusions on Landscape matters for both appeals

37. In respect of Appeal B, I therefore conclude there would be no significant landscape harm and negligible visual harm. The proposal would accord with Policy DM4.5 by virtue of respecting, conserving and presenting the potential to enhance the landscape character having particular regard to the landscape sensitivities of the identified A3 Tud rural river valley landscape character area. It would also accord with the objectives of the NPPF at paragraph 96 to improve the well-being of communities and at paragraph 170 to enhance the natural and local environment including valued landscapes and recognising the intrinsic character and beauty of the countryside.

38. In respect of Appeal A, I conclude that there would be a significant adverse impact to both the landscape character of the valley fringe farmland and by its immediate proximity the remote qualities of the rural river valley landscape by virtue that the proposed housing would incrementally and unacceptably result in loss of the open qualities of the valley sides and erode the balance of rural context and development at a sensitive valley edge to the wider Norwich urban area. There would also be unacceptable visual harm in respect of views from Farmland Road and Grove Avenue northwards over Farmland Road into the Tud valley that would not be mitigated by the landscaping proposed.

39. The proposal would therefore be contrary to DMPD Policy DM4.5 by virtue of the significant adverse impact on the distinctive landscape characteristics, special qualities and geographical extents of the identified Rural River Valleys and Valley Urban Fringe landscape character types which the policy states require particular attention. It would also fail to comply with JCS Policy 2 which requires, amongst other things, for all developments to contribute to a strong sense of place including the landscape setting of settlements and the urban/rural transition. It would also be contrary to DMPD Policy DM1.4 part (d)(i) that development should take all reasonable opportunities to make a positive contribution to local character and distinctiveness. It would also fail to accord with the objective of the National Planning Policy Framework at paragraph 127 that developments are sympathetic to local character and at
paragraph 170 that the intrinsic character and beauty of the countryside is recognised.

Sustainable Location and Highway Safety

40. The ‘residential scheme’ would be accessed by all modes via Farmland Road, an adopted cul-de-sac serving residential properties with footways on either side. By virtue of its location on the escarpment of the Tud the highway on Farmland Road has an average incline of 1 in 12 and includes a section of gradient as steep as 1 in 6, particularly close to its junction with Grove Avenue. In a local context the modest length of 1 in 6 gradient is, nonetheless, unusually abrupt.

41. The contours of the proposed residential site are not particularly onerous and nor are the short gradients elsewhere in Grove Avenue or Three Mile Lane. Accordingly, I find that, notwithstanding the stretch of steep gradient on Farmland Road, the residential site, in principle, would be sustainably located to access the good level of day-to-day services, all within reasonable walking and cycling distance, in New Costessey. Overall, the appeal site would be located where, for a number of future occupants, the need to travel would be reduced and the use of sustainable forms of transport maximised.

42. In respect of highway safety, I am satisfied that the scale of proposed residential development would be acceptable via Farmland Road in light of the technical advice from the LHA, against national and local standards. The local highway network is subject to a 20mph speed limit such that the visibility of the junction with Grove Avenue would be within safe standards. From my observations on site I am not persuaded that the undulations in Grove Avenue inhibit safe exit from Farmland Road. I note on-street parking is a feature in Grove Avenue such that buses along this road use the junction mouth of Farmland Road as a passing bay. With increased traffic using Farmland Road this practice would have to adjust but I see no reason why this cannot be done safely elsewhere.

43. The gradient of Farmland Road is steepest at its point approaching the junction with Grove Avenue. There is some dispute with interested parties as to whether the appellant should have undertaken more detailed queue-length modelling at the Grove Avenue junction. This was not requested by the LHA and I am not sure what it would usefully add to the evidence on highway safety. The appellant’s transport assessment (May 2017) at Section 5 reasonably assesses trip generation from the site in peak periods such that there would be relatively little queueing on the steepest 1 in 6 section. In any event a hill start is part of the driving test in terms of competency and safety and there is nothing more than assertion around the potential that rolling traffic would result in a severe impact on highway safety. Farmland Road would remain a non through-route, such that the vast majority of users of the highway would be readily familiar with the local highway conditions. The steep gradient may well be challenging in wintry conditions but there is little before me that highway safety would be unacceptably compromised, or future residents left inaccessible other than in intense weather conditions which are unlikely to be of any significant duration.

44. The abrupt gradient of the proposed access via Farmland Road would inhibit the ability of people with disabilities and reduced mobility including the elderly
and pregnancy⁶ to access and leave the site by non-motorised means. With an aging population and attendant long-term disabilities, I am concerned that any future occupants with mobility issues would have unduly constrained independent means of access to nearby services due to the absence of any alternative, gentler gradient, means of access to the site. The appellant acknowledges that the gradient would deter some future occupants from walking and cycling, although the matter is not substantively addressed or quantified in the Transport Assessment. I consider the matter is more than “deter” and for some future occupants the gradient will be an insurmountable barrier to exiting or leaving the site by non-motorised means. I appreciate that similar would apply for a small number of existing houses, including those at the northern (bottom) end of Farmland Road, but I am not persuaded that this should set the pattern for future development in this regard.

45. The local highway authority (LHA) raises no technical objection to either appeal proposal but comments that Farmland Road “….is steep and in excess of the desirable maximum defined in accessibility standards…”. I accept the steepest gradient is on existing highway and not part of the appeal proposal but the LHA comments do not allay my concerns regarding suitable accessibility for all.

46. Elderly, disabled and pregnant people have protected characteristics under Section 149(7) of the Equality Act 2010. Section 149(1) requires that due regard is given to the need to advance equality of opportunity between persons who share a relevant protected characteristic and person who do not share it by amongst other things eliminating discrimination, advancing equality of opportunity and fostering good relations. The difficulties for disabled, aged or pregnant persons being able to independently negotiate Farmland Road to visit services, facilities and any nearby family and acquaintances is likely to have important and detrimental effect on the quality of the lives of these persons. The inequity in not being able to independently access and exit the site compared to those without these protected characteristics is significant with consequential harms around potential social isolation and pressures on other service providers to provide access and home-based services. In the absence of any alternative proposed access to the site there is no effective mitigation to the inequality identified.

47. The Public Sector Equality Duty contained in the Equality Act 2010 is not a duty to eliminate discrimination but requires that where there is a negative impact, consideration is given to clear negative impacts and the extent to which they can be mitigated. The negative impacts I have identified in this appeal on persons of protected characteristics must be given significant weight.

48. Overall, I find the proposed residential scheme in Appeal A whilst it would be generally sustainably located, the gradient of the local highway network on the only means of access into and out of the site would be unacceptably steep and inaccessible for some future occupants with protected characteristics under the Equalities Act resulting in palpable disadvantages. Such persons would be dependent on motorised transport and as such the proposal would be contrary to Policy DM3.10 of the DMPD in relation to the promotion of sustainable transport. It would also conflict with the NPPF at paragraph 110 that development should address the needs of people with disabilities and reduced mobility in relation to all modes of transport.

⁶ A matter of agreement at paragraph 26.9 of document 1 (SOCG)
49. Turning to Appeal B, without the proposed residential scheme it would be disconnected as a publicly accessible area via footways or highway. It was made clear at the hearing that on that basis it would be unlikely to come forward. I share, however, the LPAs submission that the recreational walks as a separate full application can be determined on its own merits.

50. The walks area does extend into a secluded part of the valley floor but there are numerous incidences of similar publicly accessible semi-natural spaces that are relatively remote and only accessible via paths and boardwalks. The likelihood of emergency services needing to attend to the site would be very infrequent. The walks area would be within reasonable walking distance of a large catchment population and serve a similar function as East Hills Wood. I am not persuaded as informal area that it would be a significant car-borne destination to justify parking provision or access for emergency vehicles.

51. I therefore conclude that Appeal B, either on its own or in tandem with Appeal A, would not have a harmful effect on highway safety and would accord with the design principles for good connectivity in Policy DM3.8 of the DMPD, the objectives for being sustainable located as per Policy DM3.10 and would avoid the highway safety problems from a lack of parking provision sought by Policy DM3.12.

Other Matters

Flood Risk, Drainage and Contamination

52. The proposed residential development would be entirely within Flood Zone 1 which represents, sequentially, land at the lowest risk of flooding. Elsewhere areas of both appeal sites are at a higher risk of fluvial flooding from the River Tud including the proposed recreational walks area. The walkways would be an acceptable form of development in the flood plain and not exposed to undue risk. There is no persuasive evidence, included undated photographs, that they would increase the risk of flooding elsewhere when the Tud is in full spate. There are also issues of surface water flooding including overland flows from adjoining areas. I am satisfied the appellant has appropriately considered this.

53. I note that there has been considerable interaction with both the Environment Agency (EA) and Norfolk County Council as the Local Lead Flood Authority (LLFA) to address initial objections. I attach significant weight to the fact that neither technical consultee objects to the appeal proposals. The LLFA advises as of 7 January 2019 that it considers the sources of potential flood risk have been “reasonably assessed” and notwithstanding constraints at the site, including surface water overland flow routes, the “principle of development was reasonable” subject to significant additional information at the detailed design stage. From everything before me the appeal site has been subject to a proportionate level of technical flood and drainage work commensurate for an outline scheme. What is proposed is an appropriate sequential strategy for drainage based on a reasonable initial trialling and appropriate fall-back solutions, the details of which could be satisfactorily secured by condition.

54. There is concern that part of the landscaping areas which could contain swales and lagoons for a sustainable urban drainage system (SUDS) are within Flood Zone 3 and therefore likely to be ineffective in terms of groundwater levels and

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7 Planning Practice Guidance confirms amenity open space is a ‘water-compatible’ use
8 Document 5

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infiltration. I observed on site that there are site level differences between the valley floor and the proposed landscaping area such that there would be a reasonable prospect that basins here could secure the required 1.2 metre unsaturated zone below the base of the infiltration basin. Notwithstanding the illustration of a 5 metre buffer around potential buildings for confirmation of ground stability⁹, there would remain considerable flexibility within the overall extent of the site to work-up a detailed solution that responded to the final layout. I share the view of the LLFA that in-principle the appellant has demonstrated that SUDS solutions exist compatible with the requirements of the Water Framework Directive and the detailed solutions, that take account of, amongst other things, the geology would need to be consulted with the LLFA and approved separately at the detailed stage. This could be secured by condition.

55. I recognise local concern on drainage reflects recent experiences at the nearby Townhouse Road development. Each case, however, must be determined on its own merits and in light of the particular site specific evidence. It does not follow that circumstances at Townhouse Road would be replicated at the appeal site. In arriving at this view I have taken account of the advice of technical consultees and their suggested conditions would be significantly more sophisticated compared to the condition imposed on the Townhouse Road development.

56. At the northern edge of the proposed residential area within the proposed recreational walks area there is a tranche of raised land from imported materials from some time ago. The appellant has undertaken an initial contamination assessment (May 2018) which submits that the level of contamination, if left undisturbed, is at safe levels for the intended recreational use. Nonetheless, a strategy for contamination across both appeal sites, including arrangements for the event that further unknown contamination is identified, could be appropriately secured by condition.

57. Overall, I find the approach to flood risk, drainage and contamination has been proportionate in demonstrating that acceptable in-principle solutions exist to manage known constraints at the site. This assessment is shared by both the EA and LLFA. The appropriate base work has been provided and could be embedded in appropriately detailed conditions. I therefore find there would be no conflict with DMP Policy DM4.2. Appeal A would also accord with the NPPF section 14, notably at paragraphs 163 and 165.

Ecology

58. The proposed residential site is an open arable field, and notwithstanding local observations of relatively common species and the proximity of the adjoining East Hills County Wildlife Site and the River Tud, it has relatively limited biodiversity value as confirmed through the submitted preliminary ecological assessment (2016). The recreational walks area does contain priority habitats but these could benefit from improvement and management through the proposals in Appeal B.

59. The River Tud immediately to the north is a sensitive riverine environment. Matters of water quality are addressed above and I find no in-principle reason on biodiversity grounds that there would be harm to the natural environment of

⁹ Document 4
the River Tud which would be separated from the nearest edge of housing by some margin. The proposed recreational walks would bring people into what is currently a tranquil and inaccessible area but there is no persuasive evidence that the limited path network would result in undue disturbance or direct harm to the ecology of the valley floor.

60. The appeal proposals would introduce and re-establish a network of habitats including a significant area of green space around the residential development including native woodland, swales, ponds and the general biodiversity that inhabits residential gardens. The recreational walks area would allow for habitat restoration of reed beds and woodland management. Overall, the appeal proposals would accord with national and local planning objectives to conserve and enhance the natural environment as well as the Green Infrastructure Strategy for the Greater Norwich area (2006).

Planning Obligations

61. The appellant submitted a signed and dated Section 106 (S106) agreement under the provisions of the Town and Country Planning Act 1990. The S106 makes provisions for an affordable housing scheme that would facilitate the provision of 33% of the proposed units in accordance with development plan policy. The agreement contains mechanisms to secure a mix which the Council would approve, appropriate trigger points for phased provision linked to the delivery of market dwellings, means of retaining stock for eligible households and compliance with a local connection cascade policy. Overall, I am satisfied the scheme would deliver a level and mix of affordable housing to meet local needs in accordance with Policy 4 of the JCS.

62. The S106 would also contain a mechanism to provide play space and recreational areas as part of the residential development. The provision would be in accordance with the requirements and standards of the development plan to meet needs arising from the proposed development as set out in Policy DM3.15 of the DMPD and the LPAs 2018 Supplementary Planning Document (SPD) on Open Space. In principle it would meet the tests at paragraph 56 of the NPPF.

63. A financial contribution towards footpath connections between the residential site and the East Hills Wood CWS is proposed. The sum is based on recognised costs for informal footpath provision. The path would connect to an attractive amenity area and provide alternative pedestrian access\(^\text{10}\) to a nearby play area and on towards the secondary school and other facilities in New Costessey. No other schemes have contributed to footpath enhancements in East Hills Wood and notwithstanding grant funding for East Hills Wood, I find the obligation would meet the tests at paragraph 56 of the NPPF.

64. The S106 also includes a mechanism to link the residential scheme to the delivery of the proposed recreational walks area including a management plan and arrangements for funding the ongoing maintenance. The obligation would require the provision of the recreational walks area prior to the occupation of half of the dwellings and then prior to the occupation of no more than 60% of the dwellings seek to transfer the walks area to a nominated body, which if a private management company would occur prior to the occupation of no more than 80% of the dwellings. The obligation would also require a financial

\(^{10}\) As steep, and possibly even steeper, than Farmland Road.
contribution to the nominated body for management, maintenance and repair (index linked) and in accordance with the LPAs open space SPD.

65. There is very little before me that the proposed recreational walks area, whilst of some benefit in terms of facilitating informal access and managing some priority habitats is necessary to make the proposed residential development acceptable in planning terms. The residential scheme would provide itself for extensive areas of landscaping and naturalistic open space as part of its proposed strategy for landscape mitigation. Whilst the proposed recreational walks area would be directly adjacent to the proposed residential area, I am not aware that the 83 dwellings would generate a need for nearly 5 hectares of additional semi-natural green space. It is a sizeable area which is beyond the scale that can be considered either reasonably or fairly related to the development. Overall, I find the obligation would not meet the lawful tests at the Community Infrastructure Levy Regulation 122 (repeated at NPPF paragraph 56) and so I have not taken this obligation into account.

66. The appellant’s fall-back position is that the two schemes could linked by a phasing condition in the event the residential site appeal were allowed. I have been referred to a recent appeal elsewhere in the Greater Norwich area where a substantial area of natural green space has been secured through a relatively modest scale of residential development. That provides some assurance that what is being proposed could be deliverable. The appellant has stated that the proposed recreational walks area is linked so as in effect to be weighed as a benefit in any planning balance for the residential scheme. Given the recreational walks scheme is not necessary to make the residential scheme acceptable in planning terms the benefit would be no more than limited.

67. Overall, I find the obligations relating to affordable housing, on-site open space and recreation provision and the costs of footpath connections into East Hill Woods would meet the lawful tests and as benefits of the scheme should be taken into account. Whilst it has not been possible to transparently scrutinise the viability of the scheme, there is little to persuade me that the findings of the District Valuer are unreasonable or that the site would involve particular abnormal costs or diminished sales values to render it unviable.

Planning Balance and Conclusions

68. As set out above the tilted balance at paragraph 11(d) of the NPPF is engaged. The proposed residential scheme would be of social benefit in terms of providing market and affordable dwellings. I have taken into account the recent HDT results which affirm positive recent housing delivery in the Greater Norwich area and that affordable housing delivery rates, on the whole, have been positive in South Norfolk. I acknowledge that the HDT results have been referred to in the recent Little Plumstead appeal but I am not aware of precisely what evidence was in front of the decision-maker in that written representations appeal. With regard to the evidence before me I consider the shortfall at 4.61 years in the NPA is the worst case scenario and very likely to improve. I therefore attach moderate weight to this social benefit.

69. Other social (and environmental) benefits of the scheme include the provision of publicly accessible play areas and open space as part of the residential scheme as well as financial contributions to link these open spaces to the East

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Hills CWS. To a large extent these attributes are necessary to make the scheme acceptable in planning terms but I note the scale of accessible space is beyond usual standards of provision and would have a wider public benefit to which I ascribe limited weight.

70. The appellant submits that a further social and environmental benefit arises from the ability of the residential scheme to deliver the proposed recreational walks area. I have found above that the walks area is not necessary to make the residential development acceptable in planning terms nor would it be fairly or reasonably related in scale and kind. Nonetheless, I accept that through a condition the two proposals could be linked such that it would provide benefits in terms of an attractive area for informal recreation and ecological enhancement. I attach limited weight to the benefit of delivering the walks area.

71. The proposal would deliver economic benefits in terms of construction jobs and future occupants supporting local services and facilities. At 83 dwellings these economic benefits attract appreciable weight. The proposal would also secure benefits in terms of Community Infrastructure Levy but as this is required to mitigate the impacts arising from development it would not be a positive benefit. It would deliver New Homes Bonus to which I give moderate weight given 83 dwellings would be relatively modest in the grand scheme of the annual scale of planned development across the JCS area.

72. Turning to the environmental and social harms identified. The scheme would result in a significant adverse landscape impact on both the characteristics of the sensitive valley fringe farmland and the rural river valley due to the loss of the open pastoral/arable lower valley sides of the River Tud and through incremental intrusion into, and the perceptible narrowing of, a valuable green gap at the edge of the wider conurbation and Costessey. In many viewpoints the visual impact would be mitigated by the proposed landscaping, but the development would permanently and harmfully affect two key viewpoints (viewpoint 7/7a and 8) which provide a rare opportunity within the urban fabric of New Costessey to appreciate the rolling topography and landscape character of the adjacent Tud valley and valley fringes. I attach substantial weight to the environmental harm identified.

73. The proposal would also present accessibility challenges for the disabled, elderly and pregnant persons due to the very steep gradient of the slope on Farmland Road providing the only means of access to the site. These circumstances would result in significant social and environmental harm in terms of the ability of such future occupants to independently access nearby services and facilities without resorting to motorised transport.

74. On balance, the harms identified would demonstrably and significantly outweigh the benefits in this case. For the reasons given, land north of Farmland Road would be a sub-optimal location for residential development and when taken in the round would not result in the achievement of sustainable development which is the purpose of the planning system. It would be contrary to a number of development plan policies that notwithstanding the absence of a five-year deliverable supply remain up-to-date and consistent with the NPPF and as such the conflict with these policies carries significant weight. In light of the balance indicating that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits the
The proposed residential scheme would also fail to accord with DMPD Policies DM1.1 and DM1.3.

75. I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. The equality implications add weight to my overall conclusion that Appeal A should not be allowed.

76. For the reasons given above, and having taken into account all other matters raised, I conclude that Appeal A should be dismissed. Appeal B is inherently linked to Appeal. Whilst I have found no landscape, visual or ecological harm for Appeal B, I accept that without the residential scheme it is highly unlikely to be implemented and a means of safe public access to the site would be undefined. From what I heard at the hearing I think that all parties would find some perversity were Appeal B allowed in isolation and accordingly I dismiss this appeal as well.

David Spencer
Inspector.

**APPEARANCES**

**FOR THE APPELLANT:**

Paul Wootton – Howes Percival
Eoghan Shiels – Shiels Flynn for landscape and character matters
Nicholas Hooper – Rossi Long for flood risk and drainage matters
Rachel Clements – Lichfields for housing land matters
Luke Fairall – Rossi Long for highway matters
Jamie Woolam – CSA Environmental for ecology matters

**FOR THE LOCAL PLANNING AUTHORITY:**
Claire Curtis – Senior Planning Officer
Tracy Lincoln – Team Leader – Major Projects
Robin Taylor – Senior Landscape Architect
Simon Marjoram – Senior Planning Officer

**INTERESTED PERSONS:**

Steve Codman – Farmland Road Working Group (FRWG)
Terry Laidlaw – FRWG & Costessey Town Councillor
Ben Betts – landscape matters for FRWG
Adam Padmore – highway matters for FRWG
Dr Rob Murdock – flood risk and drainage matters for FRWG
Hilary Elias – Clerk to Costessey Town Council
Cllr Tim East – County Councillor, Costessey Division
Cllr Alison Thomas – South Norfolk Council
Cllr Dr. Murray Gray – South Norfolk Council
Cllr Andrew Pond – Ward Member, South Norfolk Council
Cllr Vivienne Bell – Ward Member, South Norfolk Council

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John Newby – Friends of Tud Valley & Costessey Town Councillor
Bryan Ulph – Local Resident
Sally Ulph – Local Resident
Valerie Gray – Local Resident
Michelle Newton – Local Resident
Geoff Green – Local Resident

DOCUMENTS SUBMITTED AT THE HEARING

1. Signed and Dated Statement of Common Ground between the main parties
2. Ordnance Survey map extract of the area showing contours at 5 metre intervals
3. Photographs submitted by Farmland Road Working Group of local highway conditions
4. Plan submitted by Dr Murdoch showing extent of 5-metre buffers for soakaways requiring confirmation of ground stability.
5. Photographs submitted by Farmland Road Working Group of fluvial levels in River Tud
6. List of suggested conditions
7. Appeal decision APP/K2610/W/18/3207888
8. Plan of suggested viewpoints submitted by LPA
9. Photograph of subsidence submitted by Farmland Road Working Group
10. Signed and Dated Section 106 Agreement