BROADLAND DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY: Quantum Land (Brundall) Ltd against the refusal of Broadland District Council to grant outline planning permission with the details of appearance, landscaping, layout and scale reserved for later determination, with the exception of Phase 1 for which details of all matters in relation to the 23 dwellings within that Phase are provided. Development to comprise: up to 170 dwellings (Use Class C3), and a community/sports pavilion (Class D1 and D2 use), a country park, formal and/or informal outdoor sports provision, access, and other earthworks and engineering works. All development, works and operations to be in accordance with the Development Parameters Schedule and Plans.

PLANNING INSPECTORATE REFERENCE: APP/K2610/W/19/3239986

LOCAL PLANNING AUTHORITY REFERENCE: 20171386

Date: 1st September 2020

Proof of Evidence of Charles Judson BA (Hons), MSc.

Principal Planning Officer

Broadland District Council
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1. **QUALIFICATIONS AND EXPERIENCE**

1.1. My name is Charles Andrew Judson and I am employed by Broadland District Council as Principal Planning Officer in the Majors Team, which serves both Broadland District Council and South Norfolk Council.

1.2. I have a BA honours in Geography and an MSc in Town Planning.

1.3. I have 12 years’ experience of development management within the public sector across authorities in Norfolk and Suffolk. Throughout my employment I have gained considerable experience of handing planning applications for a wide variety of development proposals.

1.4. I was not the case officer for the planning application but did assist the case officer during parts of the process, including assisting in the drafting of the committee report. My input to the committee report was limited to inputting consultation responses, listing relevant policies and reporting matters of fact. I was not responsible for the officer’s assessment or recommendation to planning committee.

1.5. The evidence which I have prepared and provide for this appeal reference APP/K2610/W/19/3239986 in this proof of evidence is true, and I confirm that the opinions expressed are my true and professional opinions.
2. **INTRODUCTION**

2.1. This proof of evidence has been prepared in response to an appeal under section 78 of the Town and Country Planning Act 1990 following the refusal by Broadland District Council on 19th July 2019 of planning application 20171386. The appeal proposals are a ‘hybrid’ seeking full permission for a first phase of 23 dwellings and outline permission with all matters reserved except access for a second phase of 147 dwellings. The appeal proposals also include provision for a community/sports pavilion (use class D1 and D2), a 7ha ‘country park’, 3ha of formal and/or informal outdoor sports, access and other associated earthworks and engineering operations.

2.2. The planning application was determined by planning committee on 10th July 2019 and the decision notice was issued shortly thereafter on the 19th July 2019 (Core Document 3.4).

2.3. This proof of evidence will bring up to date and build upon matters set out in the reasons for refusal set out in the decision notice, the Council’s statement of case and the topic specific statements of common ground. It should be read in conjunction with the proof of evidence submitted by my colleagues Robin Taylor who will be giving evidence on landscape issues, Paul Harris who will be giving evidence on housing land supply issues and Chris Bennett who will be giving evidence on heritage issues. My evidence does not duplicate the assessments provided by my colleagues but does draw on their conclusions to inform my views.

2.4. My proof of evidence is comprised of the following sections:

- An overview of the site, the site history and an overview of the proposals
- The legislative and policy context
- An evaluation of planning issues
- A planning balance and conclusion
3. **THE SITE AND ITS CONTEXT**

3.1. The appeal site extends to 17.4 hectares (ha) and straddles the parish boundary of Brundall to the south and Blofield to the north. The site slopes from its high point in the south down towards the Witton Run Dike which forms the northern boundary of the site. The site was last in agricultural use and classified as grade 2 (Very Good). Mature trees and hedgerows boarder the linear parcels of grazing land and riparian land that runs approximately parallel to the Witton Run Dike to form a distinctive character alongside the tributary, parts of which are in Flood Zones 2 and 3.

3.2. Beyond the Witton Run Dike is land associated with Norfolk Premier Golf where the gradient of land rises once again. To the south and east of the appeal site are residential dwellings and to the west is Brundall Memorial Hall and associated recreational facilities beyond which is further residential development.

3.3. A public right of way (Brundall FP1) runs along the southern boundary of the site between Highfield Avenue to the east and Links Avenue to the west. A second public right of way (Brundall FP2) runs in part along the western boundary of the site which connects to Postwick FP6 heading north to Yarmouth Road.

3.4. A number of agricultural buildings and a pumping station are located within the east of the site where the site boundary is contiguous with Brundall Road. A main foul sewer crosses the site east to west and overland power lines run north-south.
4. **PLANNING HISTORY AND OTHER RELEVANT PROPOSALS**

4.1. Part of the appeal site, (the same area covered by allocation BRU3), has been subject to a number of planning applications in the past relating to the change of use for recreational purposes. These applications are as listed in the Council’s statement of case. The most recent such application, reference 20191974, was undetermined when the statement of case was produced but has subsequently been approved on 20th February 2020.

4.2. The site was also subject to an EIA Screening Opinion for a development of up to 170 dwellings including means of access and formal and informal open space. On 12 January 2017 it was determined by the Council that the proposal, whilst listed at paragraph 10(b) of column 1 and exceeding the thresholds in column 2 of Schedule 2 to the Town and Country Planning (Environmental Impact) Assessment Regulations 2011, was not EIA development with regard to Schedule 3 of those Regulations.

4.3. The appeal site is currently being promoted for inclusion in the emerging Greater Norwich Local Plan (‘GNLP’) for a development of up to 250 dwellings plus open space, recreation and leisure uses under reference GNLP0436 (described as “Land north of Links Avenue”). The Regulation 18 consultation which was undertaken between January and March 2020 for the GNLP identifies it as an “unreasonable” site (Core Document 5.2) concluding that:

> “This site is not considered to be suitable for allocation. The site is subject to a current planning application (reference 20171386) for 170 dwellings and associated recreational space and green infrastructure. Little additional growth is proposed in Brundall due to the substantial existing commitment and concerns about capacity of the A47 roundabout”.

4.4. 8.67 ha of the appeal site is being promoted separately by the Parish Council for recreation and leisure through the GNLP (GNLP2069). This proposed site includes the existing area of BRU3 and additional land to the east. The Regulation 18 consultation
however identifies that the Council proposes to carry forward allocation BRU3 into the GNLP and allocate 4.9 hectares of the appeal site for recreational open space. It is not proposed to enlarge the area of BRU3, so the larger site proposed by the Parish Council is considered to be “unreasonable” for allocation (Core Document 5.2).

4.5. Paragraph 48 of the NPPF states that Local Planning Authorities may give weight to relevant policies in emerging plans according to the stage of preparation, the extent to which there are unresolved objections to the relevant policies and the degree of consistency of the relevant policies in the emerging plan to the Framework. Given the early stages of preparation and the extent of unresolved objections I do not consider that the emerging Local Plan carries significant weight in the determination of the appeal.
5. THE PROPOSAL

5.1. The proposal and application history are summarised in sections 1 and 2 of the amended Statement of Common Ground and for the sake of brevity are not repeated here.
6. LEGISLATIVE AND POLICY CONTEXT

6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

The adopted development plan

6.2. The development plan for Broadland is comprised of the following documents:

- The Joint Core Strategy for Broadland, Norwich and South Norfolk 2011, amendments adopted 2014 (JCS).
- The Brundall Neighbourhood Plan 2016 to 2026 (BrNP)
- The Blofield Neighbourhood Plan 2016 (BlNP)

6.3. With regard to the development plan, the planning application was refused as being contrary to policies 1 and 2 of the JCS, policies GC2, GC4 and EN2 of the DM DPD, policy BRU3 of the SA DPD and policy 3 of the BrNP. These are considered to be the most important policies for the determination of the appeal. A full list of relevant policies was contained in the committee report (Core Document 3.1).

6.4. In the interests of brevity, I do not repeat the relevant policies in this proof. However, I provide some commentary on the role of the various development plan documents and some of the key policies below.

The JCS

6.5. The JCS has been prepared by the three Local Planning Authorities of Broadland, Norwich and South Norfolk working together with Norfolk County Council as the Greater Norwich
Growth Board (formerly Greater Norwich Development Partnership). It sets out the long term vision and objectives for the area, including strategic policies for steering and shaping development. The JCS includes a spatial vision with the central theme being building sustainable communities with a high quality of life by addressing the implications of climate change, conserving and enhancing the area’s high quality environment, providing for the full range of essential infrastructure and community facilities, enhancing accessibility, building on the cultural assets and creativity of the area and ensuring a vibrant economy. Building on this vision, the JCS contains 12 spatial planning objectives to provide the framework to monitor the success of the plan.

6.6. JCS 1 and 2 seek to protect and enhance environmental and heritage assets and require new development to respect local distinctiveness, including landscape character and the historic environment.

**The SA DPD**

6.7. The SA DPD identifies or allocates areas of land for specific types of development such as housing, employment and community facilities and reflects the requirements set out in the JCS. It also identifies areas where development is acceptable in principle through the definition of a “settlement limit”. Further policies relating to the settlement limits and requirements that may apply are contained in the Council’s DM DPD.

6.8. BRU3 is most relevant for the appeal proposals on the basis that it forms part of the appeal site. Policy BRU3 contains guidelines for the recreational open space development, including the need for it to comply with relevant policies in the development plan and the NPPF and clarifying that the open space will be for formal recreation uses, such as playing pitches, together with more informal recreation such as walks, jogging tracks etc.
**The DM DPD**

6.9. The DM DPD seeks to further the aims and objectives of the JCS by providing more detailed local policies for the management of development.

6.10. Policy GC2 seeks to ensure that new development is accommodated within settlement limits; outside those limits development which does not result in any significant adverse impact will be permitted where it accords with a specific allocation and/or policy of the Development Plan.

**The BrNP**

6.11. The Brundall Neighbourhood Plan contains a number of policies that any future development in the village must take into account. Alongside the vision and objectives, the policies have been developed based on the views of those who live or work in the village and independent research.

6.12. BrNP 3 seeks to protect and enhance the views to the north-east from the Memorial Hall as indicated on figure 4. It states that any development or alteration to an area within these views must ensure that key features of the view can continue to be enjoyed; including distant buildings, areas of landscape and the juxtaposition of village edge and open agricultural countryside. The background and justification to this policy identifies that views to the north and east of the village remain and are valued by residents and highlights that specifically, views to the north east across agricultural land from the busy Memorial Hall and path connecting Links Avenue and Golf Links Road towards Blofield and its prominent Grade I listed Church of St Andrew and St Peter are considered important. The stated ambition of the policy is to protect and enhance the remaining views across open landscapes to the north and east of Brundall.
Supplementary Planning Documents (SPD)

6.13. The Recreational Provision in Residential Development SPD 2016 provides guidance on how the requirements of policies EN1, EN3 and RL1 of the DM DPD (relating to habitats, green infrastructure and recreation space) should be applied. It includes a Technical Appendix which provides justification for the costs within the SPD.

6.14. The Broadland Landscape Character Assessment SPD 2013 is supplementary to JCS policy 1, EN2 of the DM DPD and 3 of the BrNP and provides evidence for the applications of these policies when considering development proposals.

National Planning Policy

6.15. The National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG) are material considerations in the determination of planning applications. It is not considered necessary to describe it further here. The only part of the NPPF referred to in the decision notice is paragraph 196.

Other legislation

6.16. S66(1) Planning (Listed Buildings and Conservation Areas) Act 1990 provides that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority, or, as the case may be, the Secretary of State 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.
7. MAIN PLANNING ISSUES AND EVALUATION

The main issues

7.1. The main issues in the appeal have been identified by the Inspector as follows:

1. The effect of the proposal on the landscape character and appearance of the area, including on identified public viewpoints;
2. The effect of the proposal on the setting of the Grade I listed church of St Andrew and St Peter;
3. The effect of the proposal on the identified strategy for growth of the district;
4. Whether or not the Council is able to demonstrate a five year housing land supply; and
5. Whether any adverse effects, including conflict with the development plan considered as a whole, would be outweighed by other material considerations.

7.2. In the remainder of my proof I will evaluate the proposal by reference to these main issues, before reaching an overall conclusion.
Main Issue 1: The effect of the proposal on the landscape character and appearance of the area, including on identified public viewpoints

7.3. The appeal proposals would result in the introduction of residential development and associated infrastructure on largely undeveloped agricultural land. Furthermore, the use of 10ha of the site for public open space would necessitate the introduction of infrastructure to facilitate such a use. Whilst large elements of the scheme are reserved for later consideration, the parameter plans which accompany the application and which have been submitted for approval in this appeal include details of the maximum building height, extent of developable area and finished ground levels. These parameter plans form the basis for any assessment of landscape character impact and appearance.

Landscape character and appearance

7.4. An assessment of the impact of the proposals on landscape character and appearance is contained in the proof of evidence prepared by Robin Taylor, Landscape Architect. The evidence of Mr Taylor identifies that the appeal proposals:

- Would mask and alter the distinctive topography of the Blofield Tributary Farmland Landscape Character Area, which is a distinctive topographical feature making a significant contribution towards defining the character of the area.
- Would require alterations to the existing distinctive topography.
- Would result in the loss of open agricultural land and block open agricultural views.
- Would foreshorten, clutter and block views towards the Church of St Andrew and St Peter.
- Would reduce the vertical significance of the church tower reducing its impact as a memorable feature.
- Would result in the loss of the existing sense of openness.
7.5. The evidence of Robin Taylor is clear that the development would have a significant adverse impact on the character and appearance of the area. As a result, the development would conflict with policy JCS 1 which seeks to protect environmental assets of the area, including general aspects such as the countryside and rural character and the setting of villages (see paragraph 5.4 of the supporting text). Therefore, notwithstanding the fact that the site is not designated for its landscape value, the erosion of its rural character is contrary to the development plan.

7.6. Similarly, the appeal proposals would conflict with policy JCS 2 which seeks to ensure that development respects local distinctiveness by respecting the landscape setting of settlements and the landscape character; policy GC 4 which requires developments to pay adequate regard to the environment, character and appearance of an area; and policy EN 2 which seeks to protect the character of the area by seeking to protect and enhance visually sensitive hillsides and valley sides and important views as well as green spaces including natural and semi-natural features which make an important contribution towards defining the character of an area.

7.7. Paragraph 170 of the NPPF recognises the importance of the intrinsic character and beauty of the countryside, which the appeal proposals would erode. Therefore, the erosion of its character would, in addition to conflicting with the development plan would also be contrary to the environmental objectives of the NPPF.

Public viewpoints

7.8. The supporting text to Policy 3 of the BrNP identifies that one of the natural benefits of Brundall’s position on a ridge of high ground is that it provides opportunities to experience attractive views across the surrounding landscape. It identifies that views to the north are valued by residents. It further identifies that the Broadland Landscape
Character Assessment SPD comments that the topography of the area helps to create a small-scale enclosed character and that church towers and woodland create memorable features in these views. It identifies that, specifically, views to the north east across agricultural land from the busy Memorial Hall and path connecting Links Avenue and Golf Links Road towards Blofield and its prominent Grade I listed church of St Andrew and St Peter are considered important.

7.9. The plan seeks to protect and enhance views to the north east from the Memorial Hall and policy 3 states that any development or alteration to an area within these views must ensure that key features of the view can continue to be enjoyed including distant buildings, areas of landscape and the juxtaposition of village edges and open agricultural countryside. The location of the view is shown indicatively on the plan in figure 4 and a photo of the view is also provided. The requirements of this policy are two-fold, seeking (1) to protect and enhance views to the north east, and (2) ensuring that any development within these views ensures that key features of the view can continue to be enjoyed including distant buildings, areas of landscape and the juxtaposition of village edges and open agricultural countryside.

7.10. Amended plans were submitted during the course of the planning application to chamfer the north-west extent of the proposed residential development, and amended photomontages were submitted to reflect the extent of the newly defined developable area. Whilst the revised plans would retain a view towards the church tower (as demonstrated in the revised photomontage), with regard to the evidence of Robin Taylor, I consider that the overall view towards the north east from the Memorial Hall would be significantly changed with the sense of openness reduced and views foreshortened or blocked. Furthermore, the evidence of Robin Taylor also makes clear that other views of this church, including views along the public footpath between Links Avenue and Golf Links Roads referred to in the Background and Justification of Policy 3, would be altered and potentially blocked. Whilst these additional views are not mentioned in the policy wording of BrNP Policy 3 (which only identifies the view north-east from the Memorial Hall as shown on figure 4 of the Neighbourhood Plan), these views are nevertheless identified as important in the background and justification
section to the policy. In my opinion, the value of those views is a material consideration and adds weight to the landscape character and visual harm associated with the proposals.

7.11. The impact on the important view identified in Policy 3 of the BrNP would be permanent and irreversible. Whilst views of the church tower would remain possible as part of the appeal proposals, other aspects of the view which are important – including the rural character, being able to see the church in its wider landscape setting and an appreciation of its vertical significance – would be fundamentally affected. Given this impact I consider that the key features of this important view would be neither protected nor enhanced by the appeal proposals. It would be permanently and adversely altered. The scheme conflicts with policy 3 of the BrNP. Furthermore, the failure to protect and enhance important views is contrary to criteria ii of policy EN 2.
Main Issue 2: The effect of the proposal on the setting of the Grade I listed Church of St Andrew and St Peter.

7.12. The Council considers that the proposal would result in less than substantial harm to the setting of the Grade I listed church of St Andrew and St Peter located in the parish of Blofield approximately 1 km from the appeal site. The impact on the setting of the Church is now not a matter which is agreed and evidence will be given by my colleague Chris Bennett on this issue. I have deferred to his judgement on heritage impact.

7.13. The church tower is visible from within and adjacent to the appeal site and the proposals would urbanise the area and erode the wider rural setting of the church. Given that the appeal proposals have an adverse impact on the contribution the rural setting makes to the significance of the church and the ability to appreciate it, I consider that the scheme results in conflict with policy JCS 1 which seeks to conserve and enhance heritage assets and the wider historic environment through the protection of their settings. This represents a conflict with the development plan.
Main Issue 3: The effect of the proposal on the identified strategy for growth for the district

Spatial strategy

7.14. Policy 4 of the JCS identifies the need to deliver at least 36,820 new homes over the plan period 2008 to 2026 of which approximately 33,000 will be in the Norwich Policy Area (NPA) as the focus for major growth and development. The NPA is a longstanding local planning area used to ensure that growth needs arising from the Norwich urban area are addressed as close as possible to the area where the needs arise. It is defined in appendix 4 of the JCS and has been defined to provide a focus for planning and co-coordinating Norwich related growth. These homes are to be distributed in accordance with the policies for places (JCS policies 9-19) which establishes a settlement hierarchy consisting of the following 5 tiers:

1) Norwich Urban Area,
2) Main Towns,
3) Key Service Centres,
4) Service Villages and
5) Other Villages

Settlements higher up the within the hierarchy generally have the capacity to receive more growth than those lower down.

7.15. Policy 9 of the JCS identifies that housing need will be addressed by the identification of new allocations to deliver a minimum of 21,000 dwellings in the NPA. Of these a minimum of 2,000 homes are to be delivered as “Broadland smaller sites in the NPA”. Policy 9 states that allocations to deliver these dwellings will be made in accordance with the settlement hierarchy (above) and local environmental and servicing considerations.

7.16. Brundall is located within the NPA and is identified in policy 14 of the JCS as a Key Service Centre - a third tier settlement within the hierarchy. Compared to other Key Service Centres, which are mainly allocated for between 100-200 dwellings, a “modest”
allocation of about 50 dwellings is proposed for Brundall. Together with Blofield, it has the smallest allocation of all of the Key Service Centres. The policy does note that Brundall is a village which may be considered for additional development, if necessary, to help deliver the ‘smaller sites in the NPA’ allowance. The supporting text at paragraph 6.51 identifies that:

“Brundall has a limited range of dispersed shops and services and is a major centre for boatyards. It has grown as a consequence of its proximity to Norwich, but has a limited provision of recreational facilities that needs to be rectified. Brundall is surrounded by high quality agricultural land. Secondary education is provided at Thorpe St Andrew. It is important to prevent coalescence with the neighbouring large village of Blofield. Although Brundall has two railway stations and relatively frequent bus services to Norwich, there are more sustainable options for accommodating new housing developments in the Norwich Policy Area; consequently modest housing allocation of about 50 dwellings is proposed”.

7.17. In terms of housing in Brundall, the SA DPD allocates a 5.8ha site known as BRU1 for a residential development of 150 dwellings and open space to be developed in accordance with planning permission 20121638. This permission, extant at the time the SADPD was adopted, has been completed and the development is fully occupied.

7.18. To address the shortfall in open space serving the Parish of Brundall (identified in paragraph 6.51 of the JCS, the SA DPD allocated two sites for informal and formal recreational open space – 7.2ha at land north of Berryfields (BRU2) and 4.9ha of the appeal site (BRU3).

7.19. In the absence of a 5 year supply of land for housing, the land associated with BRU2 (known as the “Broom Boats” site) was granted outline planning permission (20161483) for up to 155 dwellings and open space, with the permission securing informal open space and 1.12ha of land for the provision of formal recreational facilities and financial
contributions towards the delivery of a ‘3G’ artificial football pitch. The residential development has proceeded to reserved matters stage (planning application 20190604) and the Parish Council, who were gifted the 1.12ha for formal recreation, have submitted their own full application for an artificial grass pitch and club/house/changing facilities and associated infrastructure (planning application 20191377). This development brings the housing commitment in Brundall since the adoption of the JCS to 305 dwellings, far in excess of the “modest” allocation of 50 dwellings.

7.20. In light of the evidence of Paul Harris, which confirms that the Council is able to demonstrate a 5 year supply of land for housing, I am of the opinion that significant weight should be given to the spatial strategy for the area, as set out in the adopted JCS. The level of growth expected in Brundall as a result of the JCS was the subject of consultation, public participation in the examination process, and approval by elected councillors. Approval of the appeal proposals would result in a housing commitment of 475 in Brundall, a level of new housing which is 9.5 times the amount planned for by the JCS. This level of growth would significantly conflict with the spatial strategy for the area. The NPPF places very highly the importance of the plan led approach to planning, as emphasised at paragraph 15 and enshrined in law. I consider that the appeal proposals would conflict with the spatial strategy for growth and result in harm to the integrity of the plan-led system and the public confidence in the development plan, and the plan-making process, in the absence of material considerations of sufficient weight to justify a departure.

Locational policies

7.21. The site is located outside of a settlement limit as defined on the Policies Maps which accompany the SA DPD. Policy GC2 of the DM DPD states that new development will be accommodated within settlement limits; outside of those limits development which does not result in any significant adverse impact will be permitted where it accords with a specific allocation and/or policy of the development plan.
7.22. The majority of the appeal site (approximately 12.5ha) is outside of the settlement limit and does not benefit from any specific policy or allocation in the development plan.

7.23. 4.9ha of the appeal site is allocated for recreational open space in accordance with BRU3 of the SA DPD. This allocation was made to address the shortfall of open space in the village identified in the JCS. Whilst the appeal proposals do provide for 3ha of open space within the boundary of BRU3, residential development and associated infrastructure would be delivered on the remaining 1.9ha of this allocation. This residential development and associated infrastructure does not comply with policy BRU3.

7.24. The development would therefore conflict with policy GC2.

7.25. I note that at paragraph 3.4 of the appellants’ Statement of Case they claim that the 3ha of land that is consistent with BRU3 complies with policy GC2 and BRU3 and so with the adopted development plan. I do not consider it appropriate to ‘split’ the appeal proposals up in the manner that the appellant suggests. In this case BRU3 (and therefore GC2) is not complied with because part of the application is being used for housing development, which is not supported by the policy. The policy is for the whole area to be allocated for informal or formal recreational use. As a consequence, the appeal proposals conflict with BRU3 of the SA DPD.
Main Reason 4: Whether or not the Council is able to demonstrate a five year housing land supply

7.26. The Council considers that it is able to demonstrate a five year housing land supply when measured against local housing need as required by paragraph 73 of the NPPF. This is now not a matter which is agreed, and evidence will be given by my colleague Paul Harris on this issue. I have deferred to his judgement on housing land supply.

7.27. Given the evidence of Paul Harris, I consider that the ‘tilted balance’ of the NPPF is not engaged by virtue of paragraph 73, and policies for the supply of housing and the spatial strategy in the development plan should carry significant weight in the determination of the appeal.
Main Issue 5: Whether any adverse effects, including conflict with the development plan considered as a whole, would be outweighed by other material considerations

Conflict with the development plan and other adverse impacts

7.28. Section 38(6) of the Planning and Compulsory Purchase Act requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The primacy of the development plan is therefore enshrined in law. The NPPF is a material consideration.

7.29. The Council has a five year housing land supply, and therefore the development plan policies which are most important for determining the appeal are not out of date for that reason by reference to paragraph 11(d) NPPF.

7.30. The DM DPD, SA DPD and BrNP (and thus policies GC2, GC4, EN2 and BRU3 and Policy 3 of the BrNP) post-date, and have therefore been found to be consistent with, the NPPF. The JCS pre-dates the Framework (although amendments adopted in 2014 following the remittal of parts of the plan relating to the Broadland part of the Norwich Policy Area, post-date the NPPF). This does not render it ‘out of date’. The extent to which the relevant policies are consistent with the NPPF needs to be considered in determining what weight should be given to the policies, and therefore to any conflicts with them.

Policies on landscape/character and appearance

7.31. It has been demonstrated, through the evidence of Robin Taylor, that the appeal proposals would result in landscape harm which would conflict with policies 1 and 2 of the JCS and GC4 and EN2 of the DM DPD. These policies include requirements to protect the environmental assets of the area which is consistent with the Framework’s environmental objectives and in particular section 15 which expects decisions to contribute to and enhance the natural and local environment. Consequently, I consider them to be consistent with the NPPF and can be given full weight in decision making.

7.32. I am aware of a recent appeal decision (APP/K2610/W/20/3245147) (Core Doc 6.16) in which the Inspector found policy EN2 to be out of date on the basis that the policy
includes reference to designated heritage assets (conservation areas, scheduled ancient monuments and historic parks and gardens) but fails to acknowledge the balancing exercise required by the Framework. However, I do not agree with this conclusion that EN2 is inconsistent with the Framework and therefore out of date. EN2 is a landscape policy rather than a policy which is specifically directed towards the protection of heritage assets. In my view the wording of the policy does not preclude a balancing exercise taking place if necessary under paragraph 193 of the Framework. The policy requires proposals to have regard to the landscape character SPD and sets out 7 types of landscape “use” where the impact of the proposals should be considered. Having regard to something and considering impact are not directive of a particular outcome and do not stop other material considerations also being considered. They do not prevent a balance of harm against public benefit from being undertaken. In my view therefore, the policy is consistent with the Framework and should be accorded full weight.

7.33. In addition, the scheme would not protect or enhance views identified as important under policy 3 of the BrNP. Policy 3 is consistent with the environmental objectives of the Framework particularly in respect of the requirement to protect the visual amenity, character and appearance. I consider this policy to be up-to-date and afforded significant weight. The proposals would therefore conflict with the development plan and would conflict with the environmental objectives of the NPPF. I accord significant weight to this conflict.

Policies on heritage

7.34. The proposals would have an adverse impact on the setting of the grade I listed Church in Blofield, which would conflict with policy JCS 1.

7.35. Whilst JCS1 does not include a balancing exercise in respect of heritage as required by the NPPF, it does not preclude one from being undertaken (for the same reasons set out above in respect of EN2). It reflects the statutory requirements of section 66 of the Planning (Listed Building and Conservation Area) Act 1990, which underpin the NPPF. Consequently I consider it to be consistent with the NPPF and can be afforded full weight.
Paragraph 196 of the NPPF requires less than substantial harm to be weighed against the public benefits of the proposal. Whilst there is harm to the setting of the Church, with reference to the evidence of Chris Bennett, I consider that this harm is at the low end of the ‘less than substantial’ spectrum. Whilst the decision notice states that the public benefits of the proposal are not considered to outweigh the heritage harm; given the low level of harm (in heritage terms) and the public benefits associated with the development I am of the opinion that the heritage harm is outweighed.

Although the harm to the setting of the Church would be outweighed by the public benefits, it would still exist. Section 66 of the Planning (Listed Building and Conservation Area) Act 1990 requires decision makers to give special regard to the desirability of preserving a listed building and any features of architectural or historic interest it possesses, including its setting. Preserving means ‘avoiding harm’, and I am of the view that the harm should be taken account in the planning balance.

Policies on open space

The scheme enables the delivery of 3ha of informal or formal open space on BRU3. However, the parameter plans would enable, and the indicative masterplan shows, residential development on the remaining 1.9ha (39%) of BRU3. The scheme would therefore conflict with BRU3 and fetter the ability for 1.9ha of allocated formal open space to ever be delivered. Given the identified shortfall in formal open space in the Parish the construction of residential development on this part of BRU3 does represent a dis-benefit of the scheme.

Policy BRU3 was adopted to help address the known shortfall of open space in Brundall. This is consistent with the social objective of the NPPF which seeks to support strong, vibrant and healthy communities through the provision of open spaces which reflect current and future needs. Consequently, conflict with the policy can be given full weight in the planning balance.
7.40. The NPPF identifies the importance of the plan-led system stating at paragraph 15 that the planning system should be genuinely plan-led. This proof of evidence has demonstrated that the appeal proposals would conflict with the spatial strategy and locational policies of the development plan, in particular the allocation of approximately 50 dwellings to Brundall in JCS14. As demonstrated through the evidence of Paul Harris, the council can demonstrate a 5 year supply of land for housing and policies for the supply of housing should (and therefore conflict with these policies) carry significant weight in the planning balance.

7.41. The JCS was adopted in March 2011, with amendments in January 2014. The JCS became 5 years old on 10th January 2019. The JCS established a housing requirement of 36,820 homes between 2008 and 2026, of which 32,847 are planned for within the Norwich Policy Area (NPA). This resulted in an annual requirement of 2,046 for Greater Norwich. Although the Greater Norwich authorities have commenced work to replace the JCS, the current plan has not been reviewed in line with the PPG to demonstrate that the housing requirement does not require updating. Indeed, publication of a 2017 SHMA had already indicated the need to update the housing requirement although the annual requirement for housing set out in the SHMA is broadly consistent with the annual target set out in the JCS, which is indicative that the targets adopted in the JCS continue to effectively plan for the development needs of the area. Therefore the NPPF requires the starting point for the calculation of housing land supply in Greater Norwich to be local housing need (LHN) as calculated using the standard methodology.

7.42. The evidence of Paul Harris identifies that LHN using the standard methodology is 2,125 dwellings per annum. Consequently, the LHN is broadly in accordance with the projected need in the JCS and the SHMA. Therefore, despite its age, the JCS is still planning for an appropriate level of growth. I therefore consider that JCS4 and JCS14 are not out of date and can be given full weight in the planning balance. The conflict with this policy similarly carries significant weight.
7.43. The appeal proposal also conflicts with Policy GC2. This seeks to limit new development to within settlement limits. Outside of settlement limits, only proposals which do not result in any significant adverse impact will be permitted where it accords with a specific allocation and/or policy of the development plan. The appeal scheme conflicts with BRU3 for the reasons set out above. GC2, as a policy which seeks to control the location of new development to ensure that development is directed to the most sustainable locations and deliver the objectives of the JCS, is consistent with the delivery of sustainable development as required by the NPPF. This is emphasised in paragraph 25 of Core Document 6.16 which identifies that whilst a settlement limits policy in isolation of other considerations would not be wholly aligned with the more flexible and balanced approach of the NPPF there is still a clear rationale for development boundaries. Given that the Council can demonstrate a 5 year supply of land for housing and the housing need in the JCS is not out of date I consider that GC2 can be given full weight in the planning balance and the harm arising from allowing unplanned development outside of the settlement limits should be regarded as significant.

Benefits

A. Open Space

7.44. The appeal proposals are to provide a 7ha ‘Country Park’ along the route of the Witton Run (within the Parish of Blofield) and a 3ha ‘Village Green’ for informal and/or formal open space on part of BRU3. These elements are entirely in outline. In support of the application are a series of Parameter Plans and accompanying text. As amended, Parameter Plan 4 (Dwg 26007 09 Revision D) refers to the part of the appeal site allocated as BRU3 as being the ‘Zone within which informal outdoor play to be provided’. However, the supporting text at paragraph 6.6 defines this space as being for ‘formal and/or informal outdoor play’. The appellant has confirmed that the exclusion of reference to ‘formal’ on Parameter Plan 4 is an error and has suggested that this is rectified by way of condition and is reflected in the schedule of conditions to be submitted.
7.45. Since the submission of the appeal, and during discussions over the section 106 agreement, there has been some uncertainty over the appellant’s approach to complying with policies EN1, EN3 and RL1 of the DM DPD.

7.46. The appellant’s position was previously understood to be that the Country Park and Village Green were being provided wholly in excess of the requirements of EN1, EN3 and RL1, and that these policy requirements would be met either on the area of the residential development or through payment of a commuted sum in accordance with the recreational Provision in Residential Development SPD and associated Technical Appendix (Core Document 4.6).

7.47. However, more recent correspondence with the appellant suggests that they now propose to meet 50% of their EN1, EN3 and RL1 requirements through the provision of open space on the area of residential development, and will rely on the Village Green and Country Park to meet the remainder of their policy requirements. Consequently, the Village Green and Country Park are no longer being proposed wholly above the policy requirements but are in part being provided to mitigate the impact of development on the basis that they will provide recreational open space to meet the requirements of future residents.

7.48. Paragraph 6.51 of the JCS identifies that there is a lack of recreational open space serving the Parish of Brundall. Allocations BRU2 and BRU3 of the SA DPD were made to rectify this.

7.49. The current formal recreational facilities (sport and play) in the Parish comprise of the following elements and amount to 1.48ha (plus indoor facilities at Memorial Hall):

- Memorial Hall – Children’s play area, 3 piece skatepark, outdoor tennis court, informal grass area (total 0.4ha)
- Memorial Hall Great Hall – available for badminton, table tennis, short tennis, short mat bowls and martial arts.
- Meadow view – Children’s play area (0.1ha)
• The Pastures – Children’s play area (0.1ha)
• Spare cemetery field – informal ‘kick about’ area with goalposts (0.88ha)

Furthermore, Brundall Parish Council has submitted an application for a ‘3G’ pitch on land associated with application 20161483 which will provide new formal recreational facilities for the parish.

7.50. In addition, there are the following informal recreational facilities (green infrastructure and allotments) in the Parish which amount to 7.61 ha:

• Cremer’s Meadow County Wildlife Site (1.61ha)
• Brundall Countryside Park (4.85ha)
• Church Fen (1.21ha)

7.51. Against the district wide average, which policies RL1 and EN3 of the DM DPD seek to maintain (see paragraphs 2.1 and 2.2 of the Recreational Provision in Residential Development SPD – Core Document 4.6), with regard to the above provision there is a Parish deficit of 7.61 ha of formal and 10.33 ha of informal open space (assuming a population of 4500 people based on the 2011 census).

7.52. Given the need for open space identified in both the JCS, the delivery of open space above that required by policy is a social benefit of the scheme helping address the existing deficit and providing benefits in terms of health and wellbeing. Such objectives are supported by policies 7 and 8 of the JCS, policy 4 of the BrNP and policy TRA 3 of the BINP. I also note that the proposed Country Park assists in the delivery of aspects 2, 4 and 5 listed under the heading ‘Description’ of Project 10: Witton Run Gl Project of the East Broadland Green Infrastructure Plan (Core Document 8.38), a project to increase access links around Blofield and Brundall.

7.53. However, whilst the open space is a benefit of the scheme, I consider that the benefits are tempered for the following reasons.
7.54. **First**, it is currently unclear the extent to which the Village Green and Country Park are being provided above the policy requirements of EN1, EN3 and RL1. The provision of 170 dwellings would increase the need for open space due to a rise in population. Consequently, any provision of open space to meet these policy requirements is necessary to make the development acceptable.

7.55. Based on the requirements of these policies, and based on an average dwelling size of 3 bedrooms, the appeal proposals would generate the following open space requirements:

<table>
<thead>
<tr>
<th>Type</th>
<th>Children’s Play</th>
<th>Formal</th>
<th>Allotments</th>
<th>Informal (green infrastructure)</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount (ha)</td>
<td>0.145</td>
<td>0.714</td>
<td>0.068</td>
<td>1.7</td>
<td>2.627</td>
</tr>
</tbody>
</table>

7.56. It is now being suggested by the appellant that they would provide their entire children’s play space and allotment requirements and 50% of their formal recreation and green infrastructure on the area of residential development the development. The remaining formal recreation and green infrastructure requirements would be mitigated by the Village Green and Country Park. Consequently, 0.85 ha of the green infrastructure provided by the 7ha Country Park and 0.357 ha of the formal recreation provided by the 3ha Village Green would be necessary mitigation for the residential development and cannot be regarded as carrying significant weight as a benefit of the scheme. This reduces the ‘net benefit’ of these elements to 6.15ha and 2.643ha respectively, based on an indicative mix of 3 bedroom dwellings.

7.57. Furthermore, the Recreational Provision in Residential Development SPD (Core Document 4.6) identifies that the cost to equip and maintain 2.627ha of open space would amount to £363,568 which would be index linked from 2015. Based on the proposed contribution of £850,000, the amount of money to design, equip and maintain the remainder of the 6.15ha of Country Park and 2.643ha of Village green is reduced to
£486,432. Whilst these areas are being provided beyond the requirements of EN1, EN3 and RL1 and therefore are not subject to a financial policy requirement, the reduced contribution would impact upon the design, delivery and maintenance of these areas.

7.58. The submitted Parameter Plans and Indicative Masterplan do not quantify how the amount of open space to be provided on the area of residential development could be delivered. Consequently, it is unclear from the submission how these areas of open space could be delivered whilst still providing up to 170 dwellings in a manner consistent with the Parameter Plans.

7.59. Second, by introducing residential development on part of BRU3 the appeal proposals prevent the delivery of 1.9ha (39%) of BRU3 from ever being realised for the community. Whilst the appeal proposals provide for a significant amount of informal open space in the form of a 7ha country park, there is also a significant deficit of formal open space for existing residents which BRU3 could help address. Given this existing deficit I consider that the loss of 1.9ha (39%) of land allocated for formal open space to be a dis-benefit of the appeal proposals. Any formal recreation delivered on the area of residential development would be to mitigate the impact of the proposed development in accordance with policy RL1 of the DM DPD and make it acceptable in planning terms.

7.60. Paragraph 7 of the NPPF states that the objective of sustainable development can be summarised as meeting the needs of the present without comprising the ability of future generations to meet their own needs. By fettering the ability to ever deliver recreational open space on 1.9ha of BRU3, the appeal proposals would compromise the ability for current and future generations to meet their own formal recreational needs and in this regard I consider that the proposals would conflict with the social objective of the NPPF and not represent sustainable development. The Parish Council have also made clear in their representation that 3ha of formal open space, which would be provided on part of BRU3, is inadequate to deliver what the Parish Council believes is appropriate additional sporting provision for the village (contrary to the proposals at BRU2 which enabled the delivery of a 3g pitch whose qualitative value exceeded the area of space on the basis that a 3g pitch can be used more intensively than grass pitches).
7.61. The appellant states that the site has been allocated in various Local Plans for recreation/open space for at least 20 years, that this policy objective has not been realised to date and that none of the planning permissions secured by the Parish Council have been implemented and accordingly the appeal proposal provide an opportunity to deliver on policy BRU3. I accept that the site is not in the control of the Parish Council and the only realistic prospect of securing the site for recreational purposes would be for it to be purchased either through negotiation with the landowner or through compulsory purchase by the District Council. The Cabinet of Broadland District Council had previously agreed to the principle of a Compulsory Purchase Order on the Broom Boats site if negotiations to provide the satisfactory provision of recreational facilities on the site through the planning application were unsuccessful, and I understand that the Parish Council has allocated money in its future budget for the Compulsory Purchase process should it be required. Although the appeal proposal would allow for delivery of part of BRU3, there remains a possibility of achieving BRU3 through CPO albeit it is accepted that there is no certainty.

7.62. **Third**, the proposals for the open space elements of the scheme are entirely in outline. Whilst a financial contribution totalling £850,000 is being offered to design, deliver and manage the open space there is uncertainty about precisely what this money could deliver and therefore the overall public benefits which may result given the outline nature of the proposal. Whilst I do not disagree that the money and transfer of the land will be of public benefit and that the final plans for the delivery of the open space elements would be subject to approval by the Council through a combination of conditions, reserved matters and discharging section 106 obligations, in the absence of a detailed scheme it is difficult to quantify the level of benefit that may arise and the extent to which the open space would fulfil the ambitions of Project 10: Witton Run GI Project of the East Broadland Green Infrastructure Plan (Core document 8.38) and fulfil the needs of local residents and the Parish Council.
7.63. The above factors diminish the weight that I can give to the open space provision associated with the appeal scheme. I consider that the open space benefit attracts moderate weight in the balance.

B. Housing delivery (including affordable housing)

7.64. I note that the appellant contends that the immediate delivery of housing is a benefit of the scheme. I accept that the presence of a five year supply and a buffer does not represent a ceiling on the delivery of housing and the provision of housing is a benefit of the scheme, however, in the context of a plan led system and the demonstrable supply of land for housing, as evidenced by Paul Harris, I am of the view that the benefits of housing in these circumstances is of limited weight in the overall balance. Furthermore, the large majority of dwellings proposed are in outline which would entail an application for reserved matters and the need to discharge conditions before their development can commence and they contribute towards housing delivery.

7.65. In respect of affordable housing, policy 4 of the JCS states that a proportion of affordable housing will be sought on all sites of 5 or more dwellings. The proportion will be based on the most up to date needs assessment for the plan area. At the adoption of the JCS the target proportion on a development of the scale proposed was 33%. However, the publication of the SHMA in June 2017 (Core Document 8.23) identified a need for 28% affordable housing, and, whilst it is untested, I consider that this represents the most up to date needs assessment for the plan area.

7.66. On the basis that the appeal proposals seek to deliver 33% I accept that this is 5% more than that required by the development plan. This represents a social benefit of the scheme. However in quantitative terms this is a maximum of 8 more additional affordable dwellings. This is well short of the level of affordable housing which could be expected to come forward on this site (being outside the settlement limit) if the proposal was being put forward under policy 17 of the JCS and paragraph 77 of the NPPF, which both make provision for allowing exception sites for affordable housing to meet an
identified local need. Therefore, whilst the provision of affordable housing is a social benefit, the local plan has built in mechanisms to deliver affordable housing outside of settlement limits which the proposals do not comply with. I therefore give only modest weight to the limited overprovision of affordable housing. In addition, affordable housing is being provided within the village with 33% affordable housing recently delivered on BRU1 and 33% secured in the residential permission on BRU2.

C. Other benefits

7.67. In addition to the provision of open space and housing, the appellant has identified that the scheme would generate CIL payments, of which the Parish Council would receive 25%. Whilst this is a benefit of the scheme, I consider that it is of only modest weight. The appellant is legally obliged to pay CIL. Any other housing development of equivalent size would pay CIL at the same rate, including a development which was appropriately located and that complied with the development plan. It is not a benefit specific to the scheme. I also accept that the proposals would have other economic benefits including the creation of jobs during construction and an increase in local spending however, once again, those are ‘generic’ benefits which would apply to any housing development. Given the scale of development I consider that these economic benefits are only modest.

Overall planning balance

7.68. As evidenced above and with reference to evidence given by my colleagues Robin Taylor, Chris Bennett and Paul Harris (and the topic specific statements of common ground), the proposal would:

- have an adverse impact on the character and appearance of the landscape, and thus conflict with policies JCS 1, JCS 2, GC 4 and EN 2 which attracts significant weight;
- have an adverse impact on the setting of a Grade I Listed Building, and thus conflict with policy JCS 1 which, although outweighed by the benefits, should be taken into account;
- adversely impact on views identified in the Brundall Neighbourhood Plan for their importance, and thus conflict with policy BrNP 3 which attracts significant weight;
- conflict with the locational policies of the DM DPD and SA DPD (GC 2 and BRU 3) which attracts significant weight;
- conflict with policy JCS 14 and the spatial strategy of the JCS, and undermine the plan led system and public confidence in the development plan, which also attracts significant weight.

7.69. There are acknowledged benefits arising from the proposal, notably the contribution that the development would make towards providing open space in the Parish, although this is tempered by the fact that the open space is in part necessary to mitigate the residential development, the conflict with BRU3, and the limited information provided about what this open space would deliver. The weight to be given to housing delivery is limited given the five year housing land supply position. Furthermore, whilst the proposal does include a modest over provision of affordable housing against the JCS requirements the benefits are only considered modest. Furthermore, CIL and other economic benefits such as short term job creation in construction and increases in local spending are generic and only attract limited weight.

7.70. I do not consider that the benefits represent material considerations of sufficient weight to warrant a departure from the development plan.

7.71. The most important policies for determining this appeal are not out of date, for reasons already given and therefore the ‘tilted balance’ in paragraph 11(d) NPPF does not apply. However, if (contrary to my evidence on this point) the Inspector concludes that the tilted balance is engaged, my assessment is that the adverse impacts of the proposal significantly and demonstrably outweigh the benefits.
8. **CONCLUSIONS**

8.1. I therefore conclude that the appeal proposals would not comply with the development plan and that there are not material considerations sufficient to justify a departure from the plan. I consider that the planning permission should not be given and accordingly I invite the Inspector to dismiss the appeal.