



**Millard Tuddenham**  
Planning and Development

**BRECKLAND DISTRICT COUNCIL**

FURTHER STATEMENTS TO THE EXAMINATION INSPECTOR

**REPRESENTATIONS/STATEMENTS**

**March 2018**

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**1.0 - Question 14.87 - Is the approach to settlement boundaries and whether schools are located within them justified and consistent across the District? 3**

## **ABBREVIATIONS AND REFERENCING**

- **'The Site'** - The site Breckland District Council reference LP(113)005 and also known as land adjacent to and west of The Permission Site
- **'BDC'** - Breckland District Council
- **'NCC'** - Norfolk County Council
- **'LSC'** - Local Service Centre
- **'PSP'** – Pre-submission Plan
- **'NPPF'** – National Planning Policy

**1.0- Question 14.87 - Is the approach to settlement boundaries and whether schools are located within them justified and consistent across the District?**

1.1 - Millard Tuddenham are acting on behalf of the Landowners of LP(113)005, Land off Elm Close Yaxham (The Site).

1.2 - Question 14.87 (The Question) should be answered in 2 parts. Firstly, is the approach justified; here we state that there is clear evidence that the approach BDC have taken by setting an 800m distance to a school is not justified. The statutory consultee for education in the District, Norfolk County Council, has produced a document entitled Home to School and College Transport Policy 2017/2018 (Attached as Appendix A) that states that the statutory walking distance for pupils under 8 years of age is 2 miles (3,218m) and 3 miles (4,827m) for pupils aged over 8 years of age. On this basis BDC have set a consideration criteria for school travel distances that is a quarter of the statutory distance as set out in Appendix A. It is therefore clear that the approach taken by BDC is not justified. The issue of travel distances to school has recently been considered in a S.78 appeal decision for the LSC village of Mattishall where the Inspector concluded at paragraph 31 of the Inspectors decision (Attached as Appendix B) that the site in question was in sustainable proximity to local services despite being located circa 1,287m from the primary school, which is in line with the policy set by NCC within Appendix A and discounts the 800m approach adopted by BDC.

**Appendix A**  
**Norfolk County Council -**  
**Home to School and College Transport Policy 2017/2018**

# **Home to School and College Transport Policy**

**2017 / 2018**

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## **1. General Transport Policy**

The general policy of the County Council is:

- Free home to school transport is provided for eligible children of statutory school age (5 to 16 years). See S. 2 regarding what makes a child eligible;
- Free transport is provided for eligible children when a child starts school at age 4 years if they will be 5 years old before 1 September;
- For students aged 16 -19 years (or 16 - 25 years for those with an Education, Health and Care Plan that names a post 16 learning establishment) the County Council operates a subsidised post16 travel scheme on existing local bus or train services, on education transport contract vehicles, or on any specialist transport that the County Council deems necessary to meet a student's needs.

The County Council has the power to provide transport support outside of the general policy on a discretionary basis. Such requests will be assessed individually and must fall into the criteria outlined in section 5 of this document.

## **2. Entitlement to transport for children of statutory school age**

2.1 Free transport is provided for children of statutory school age who attend the nearest catchment school or nearest available school for their age and educational needs, provided they meet the distance and age criteria below:

- a. Under 8 years of age and living more than 2 miles from school or
- b. 8 years of age and over and living more than 3 miles from school
- c. Pupils of primary school age (up to the end of year 6) who are entitled to free school meals due to a qualifying benefit or whose parents are in receipt of the maximum level of Working Tax Credit, are eligible for free transport to their nearest catchment or nearest available school if living more than 2 miles away
- d. Pupils of secondary school age (Years 7-11) who are entitled to free school meals or whose parents are in receipt of the maximum level of Working Tax Credit are eligible for free transport to:
  - one of three appropriate schools closest to their home, where this is more than 2 and less than 6 miles away, or
  - the nearest school preferred on grounds of religion or belief where this is more than 2 and less than 15 miles from their home (If Children's Services are unable to confirm that admission to the preferred school has been secured on religion/belief grounds, evidence of regular attendance at an appropriate place of worship

will be required from a person in authority at that place of worship).

- 2.2 For pupils who have an Education, Health & Care Plan transport will be provided, subject to the distance criteria above, to the school named within their Plan as the nearest appropriate school that can meet their assessed needs.

Transport will not be provided to a school named within a Plan as a school of parental preference where a nearer appropriate school has been identified that can meet the child's assessed needs, as this is the responsibility of parents and guardians.

- 2.3 Free transport is also provided for pupils who are unable to walk to school because of mobility problems or a severe medical condition, unless the distance to the establishment attended is such that the applicant could reasonably be expected to make their own way using a wheelchair or other suitable alternative, accompanied as necessary.

Transport support will be provided for as long as the physical mobility disability or severe medical condition exists.

- 2.4 Transport may also be provided if there are associated health and safety issues related to a child's special educational needs or disability of such severity that it means they could not reasonably be expected to make the journey to and from school even if accompanied.

Please note:

- Home to School Transport will only be provided at the standard start and finish times of the school/learning establishment and does not cater for part day arrangements or for extended school opportunities or extended school provision.
- Transport will only be provided to the main site of the school/learning establishment.
- An 'appropriate' school is a school that provides education appropriate to the age, ability and aptitude of a pupil, as determined by Norfolk County Council.
- If the County Council provides a place for a pupil at a Specialist Resource Base (SRB), this will be deemed as their nearest appropriate school for the purpose of assessing transport entitlement and the standard criteria in S.2 will apply. Transport will be provided at the beginning and end of the school day. No midday transfers between schools will be provided.
- If the County Council provides a place for a pupil at a Short Stay School for Norfolk (SSSfN) this will be deemed as their nearest appropriate school for the purpose of assessing transport entitlement



and the standard criteria in S.2 will apply.

- If the County Council provides a place for a pupil at an alternative educational setting this will be deemed as their nearest appropriate school for the purpose of assessing transport entitlement and the standard criteria in S.2 will apply. Transport will be provided at the beginning and end of the school day. No midday transfers between schools/learning establishments will be provided.
- Transport for pupils in Year 11 will cease at 30 June.
- Ages are taken on 1st September in each school year.
- The nearest school is determined by the shortest route by road for schools over the statutory walking distance, or by the shortest route using roads and public rights of way for schools within the statutory walking distance.
- The qualifying distances of 6 or 15 miles, as stated at 2.4 above, will be measured using the shortest route by road.
- The 2 and 3 mile qualifying distances will be measured by the shortest available walking route using roads and public rights of way.
- Public rights of way are determined as any route where access does not constitute trespassing, and includes routes such as bridleways, permissive paths and common land.
- All distances will be measured from the Post Office address point of the home to the nearest pedestrian school gate, using an up to date geographical information software system managed by the local authority to ensure a fair and consistent process for all applicants.
- Parents are required to ensure their children get to and from the nearest vehicle boarding point (see section 11).
- A pupil's home address is the address of their main residence. Where a child lives with separated parents who have shared responsibility, the home address is considered as the one that the child lives at for most of the calendar week. Where a child lives for an equal amount of time with each parent, the home address will be considered as that of the parent who receives child benefit in respect of the child concerned. Evidence of this will be required to support the application.
- Transport support will only be provided from one home address and it is parental responsibility to ensure that a child can get to and from school when residing at an alternative address. The only exception to this is where a court has directed that the child must spend 50% of their time with each parent and when the school is a qualifying school for both addresses under the School Transport Policy as stated above. Evidence of the court order will be required to support the application and Travel and Transport must be advised by the parent/guardian if a

court order ceases to direct residence 50% with each parent.

- We will check full address data for a sample of applicants each year, to ensure this is the pupil's main residence.
- Where transport has been provided in error, transport will continue for at least 6 weeks up to the next natural term / half term break after the error is discovered, in order to allow parents time to make alternative arrangements.
- If at any time there is a change to the infrastructure which may affect a child's entitlement to transport (e.g. a new housing development, a change to the network of walking routes or to the school infrastructure) school transport entitlement will be re-assessed. Following this re-assessment, if a child is no longer entitled to free transport then transport will continue for at least 6 weeks up to the next natural term / half term break, in order to allow parents time to make alternative arrangements.
- If a child is receiving free school transport on low income grounds (entitled to free school meals or whose parents are in receipt of the maximum level of Working Tax Credit), this entitlement will be re-assessed annually to ensure that they continue to meet the criteria for free school transport. If they don't (e.g. if they are no longer entitled to free school meals) then free school transport will cease and it will be the responsibility of parents and guardians to ensure they can get to and from school.
- Transport is not provided for children attending induction, taster or transitional days or sessions before joining the school/establishment.
- Whilst an application is being processed, parents will be responsible for ensuring that their child gets to and from school and the County Council will not refund any costs incurred. Processing an application may take up to 10 working days following receipt of a completed form, with any necessary supporting documents. This time limit cannot be guaranteed for those applying for spare seats under the County Council's discretionary travel scheme or for applications for the new academic year. Passes and transport details are sent by 2<sup>nd</sup> class post.

See also section 5.2 for information on possible transport support in specific family circumstances where a child would not qualify for transport under the general policy but parents are struggling to ensure attendance at school.

### **3. Entitlement to transport for Post 16 students**

Subsidised transport is available on existing local bus or train services or education transport contract vehicles to students who are eligible for Post 16 transport support. The County Council will endeavour to publicise travel options provided by operators which may be more cost-effective, but cannot guarantee that such information will be comprehensive – it is the responsibility of the applicant to check such information.

Transport services generally operate from defined points or as a “main road” type of service. It is the family’s responsibility to make provision to reach the nearest pick-up point.

To qualify a student must:

- Live in Norfolk
- Live at least three miles from the sixth form, college or other learning establishment as measured by the shortest walking route using roads and public rights of way, unless:
  - i) a student has mobility problems or a severe medical condition which would prevent them walking the distance required
  - ii) a student has associated health and safety issues related to their special educational needs which mean that they could not reasonably be expected to walk the distance required even if accompanied
  - iii) the County Council has assessed against the criteria set in Appendix 2 that there is no available walking route under 3 miles
- Be under 19 years old at 1<sup>st</sup> September (or 25 years for those with an Education, Health and Care Plan that names a post 16 learning establishment). Transport will be provided up to the end of the course year in which the student reaches the age of 19 or 25
- Be attending a full time course i.e. a minimum of 540 hours per year of supervised study (approximately 14 hrs/week)
- Be studying a course of further education, not an HND, HNC or degree course
- Be attending a state-funded:
  - a. school sixth form
  - b. sixth form college
  - c. further education college
  - d. specialist college (for courses available in that specialism only)
  - e. training provider (funded by the Education Funding Agency) offering a specialist course
- Travel on a core route determined by the County Council. Transport will not be agreed to any alternative college, sixth form college, sixth form or other learning establishment, even if the qualification or course is not available at the designated core route establishment

Information on core routes is available by calling 0344 800 8020, or at [www.norfolk.gov.uk/post16transport](http://www.norfolk.gov.uk/post16transport)

Students can live and travel from outside the core route area but will only receive transport support from Norfolk County Council once they are on a core route.

For specialist courses delivered at Easton College (i.e. land-based or animal care) transport support will be given to any student who qualifies under the general criteria from anywhere in Norfolk.

For post 16 specialist courses delivered only at the University Technical College Norfolk transport support will be given to any student who qualifies under the general criteria from anywhere in Norfolk.

Please note:

- Transport support will not be agreed to any alternative establishment even if the course is not available at one of the student's core route establishments, unless the County Council determines that both of the core route establishments cannot meet a student's specific needs.
- If a student wishes to attend a non-core route establishment, subsidised transport support will be provided once the student is on the core route to that establishment. Families will need to make their own arrangements and fund any transport needed to enable the student to get to the core route.
- Transport support will be provided for standard academic terms only and at the start and end of a standard college/sixth form day and will not include any evening or weekend provision. The start and finish times are agreed between the County Council and the learning establishments in advance and the transport is arranged to meet these times only. Access to courses outside of these times will have to be discussed directly with the establishments attended.
- Transport support is based on a student travelling to the main college/sixth form site. Transport to any satellite sites is the responsibility of the learning establishment concerned and students/parents should contact the learning establishment direct to discuss access arrangements.
- A financial contribution is payable towards transport costs, with concessions available for low income families receiving a qualifying benefit. See section 9 for further information. Further financial support may be available from the establishment as part of the Government Bursary Funding.
- No financial contribution towards transport will be required for students who have an Education, Health and Care Plan and who are in years 15 and above. Free transport will continue for these students up the end of the year in which they become 25 years old, as long as they continue to have an Education, Health and Care Plan.
- No travel assistance is provided for work placements or workplace apprenticeships.
- Transport is not provided for students attending induction, taster or transitional days or sessions before joining the college/sixth form.

- The 3 mile qualifying distance will be measured by the shortest available route using roads and public rights of way, measured from the Post Office address point of the home to the nearest pedestrian gate of the establishment, using an up to date geographical information software system managed by the local authority to ensure a fair and consistent process for all applicants.
- Public rights of way are determined as any route where access does not constitute trespassing, and include routes such as bridleways, permissive paths and common land.
- Norfolk County Council does not provide transport support for Post 16 students attending denominational establishments on faith grounds.
- Parents are required to ensure the student can get to and from the nearest vehicle boarding point (see section 11).
- Transport support will only be provided from one home address and it is parental responsibility to ensure that a child can get to and from sixth form/college when residing at an alternative address.
- Students are asked to make applications no later than the end of July. Applications made after this date may not be processed in time for the first day of term in September. Any travel assistance offered is for one academic year only and students will need to re-apply for transport assistance annually. If paying daily, confirmation that a student is continuing to attend must be received termly.
- The County Council has the right to terminate transport arrangements immediately if any payment due is not made within the appropriate timescales.
- Whilst an application is being processed, the student/family will be responsible for their own transport arrangements. The County Council will not refund any costs incurred. Processing an application may take up to 10 working days following receipt of a completed form, with any necessary supporting documents. These time limits cannot be guaranteed for applications for the new academic year. 10 working days must then be allowed after the date of payment for the dispatch of a travel pass or confirmation of travel arrangements. Passes and transport details will be sent by 2nd class post.

For full details please go to [www.norfolk.gov.uk/post16transport](http://www.norfolk.gov.uk/post16transport)

#### **4. How transport is provided**

Transport will be provided in the most economically advantageous way for the County Council. This means that most journeys will be provided using local bus or train services, or contracted school buses.

The County Council will assist with journeys within the approved limits but does not guarantee to secure specific services to and from school, sixth form

or college for the duration of attendance there. The final decision rests with the Council.

The County Council will make every effort to ensure that the services operate satisfactorily, but will not provide reimbursement for any days when the transport does not operate or for days when a student does not use the service.

Transport may also be provided in smaller vehicles if it has been assessed that the pupil/student has any difficulty or disability that prevents them from travelling safely using bus or train services, for example

- any significant mobility difficulties (e.g. physical inability to board a bus)
- any significant sensory or communication difficulties
- if the pupil/student is “at risk” to themselves or others in using public transport or school buses independently.

All pupils/students will be expected to undertake travel independence training to enable them to progress to using public transport or school buses unless they are assessed, by the County Council, as being unlikely to benefit from such training.

The County Council operates the TITAN travel training programme and details of the programme can be obtained from school SEN Co-ordinators (SENCOs) or from the travel training team on 01603 223391 or email [titan.norfolk@norfolk.gov.uk](mailto:titan.norfolk@norfolk.gov.uk) The County Council will withdraw any special transport provision if students or families choose not to take part in the travel training programme or to comply with reasonable arrangements recommended by TITAN representatives.

For students with special educational needs who are progressing to Post16 education a review of transport needs will be undertaken in Year 11. All transport requirements will be referred to the TITAN travel training team and part of the assessment of transport needs will include the potential for the student to travel on public services or contract buses following travel independence training.

The County Council's TITAN travel training programme for Post16 students includes a summer 'Buddy' scheme. The Buddy scheme is based on young people, employed and trained by the County Council, working with young people referred onto the scheme to help familiarise them with their new journeys as part of their transfer to Post16 education.

Any young person assessed as being suitable for travel training is expected to willingly participate. The County Council will withdraw specialist transport if students or families choose not to take part in the travel training programme or assessment.

See Appendix 1 for more information on transport journeys.

## **5. Other transport assistance outside the general policy**

Pupils who do not qualify under the County Council's general policy for free transport may receive assistance with transport under certain circumstances such as:

### **5.1 When a school reorganisation takes place**

The County Council will consider whether transport provision should be made available to pupils affected by any schools' reorganisation including:

- School closures
- Opening of new schools
- Changes made by Norfolk County Council to school catchment areas
- Any other major re-organisation of education provision within schools.

Where transport provision is offered this will only apply to pupils directly affected by these changes at the time they are made.

Arrangements will differ depending on the specific situation at the time. All parents of those pupils deemed by the County Council to be directly affected will be notified of the proposed arrangements prior to the changes being implemented. The level and duration of any transport assistance will be determined by the County Council.

### **5.2 Specific family circumstances**

5.2.1. Transport support may be given on a temporary basis (for a period of up to 6 weeks, to the end of the next term or half-term) if the child is subject to an emergency move of home beyond the family's control.

Support will generally only be considered if all of the following criteria are met:

- the pupil was attending their nearest appropriate school for their previous address;
- the family is in receipt of maximum working tax credit or a benefit which would entitle a pupil to free school meals, or third party evidence of extreme financial hardship is provided; and
- all other means of ensuring attendance have been exhausted.

5.2.2 Transport support may also be given if the child is too young or vulnerable to walk to school unaccompanied and parents are unable to accompany them due to their physical mobility difficulty or other severe medical condition.

If there are two or more adults living in the family home they must all be able to demonstrate that they are not able to get the child to school, including in the explanation what other means of ensuring attendance they have explored.

5.2.3 If a child in Year 11 is subject to an emergency move of home beyond the family's control, transport support may be given to the end of Year 11 if Children's Services Admissions confirm that there is no nearer provision than the school currently attended that is able to accommodate the child.

5.2.4 Third party professional evidence must be provided in all cases and any associated costs must be met by the applicant.

Whilst an application is undergoing the assessment stage, parents will be responsible for ensuring that their child gets to school. The County Council will not backdate decisions and will not refund any costs incurred prior to the point of the decision being given to the parent. Depending upon the complexity of the situation, the assessment may take up to 20 working days following receipt of all supporting evidence. All efforts are made to complete assessments as quickly as possible and most applications are assessed within 10 working days.

### **5.3 Unavailable walking routes**

The criteria for the assessment of walking routes is at Appendix 2.

If a route to school is assessed against these criteria as being unavailable for walking, the County Council will provide free transport for children attending their nearest catchment or nearest appropriate school/establishment.

Whilst a route is undergoing the assessment stage, parents will be responsible for ensuring that their child gets to and from school.

Unavailable walking routes will be reviewed on a regular basis and if any changes to a route mean that it is then assessed as available according to the criteria, free transport will be withdrawn and it will become the parent's responsibility to get their child to and from school.

Similarly, if an alternative route to school is identified which is available according to the criteria and also within the qualifying distance, free transport will be withdrawn and it will become the parent's responsibility to get their child to and from school.

In both instances the County Council will give at least six weeks' notice of the withdrawal of free transport, up to the next natural term / half term break, to allow time for parents to make alternative arrangements.

Appeals against walking route decisions can be made by following the appeals procedure detailed in section 12 of this document.

### **5.4 School full situations**

If the nearest catchment or nearest appropriate school is full at the time of application to the County Council for a school place, transport will be provided to an alternative school, as defined by the County Council, in accordance with the general policy (*note eligibility criteria in section 2*). This is normally the next nearest school. This arrangement will continue until the end of the pupil's current phase of schooling e.g. primary, secondary.

As an exception to policy, younger siblings of children accommodated in a primary phase school under a school full situation will be entitled to free transport to the same school, in accordance with the general policy, on condition that there are places available within the appropriate year group and that there is no additional cost to providing the transport.



## **5.5 Authorised school transfers**

The County Council will only consider providing transport support for pupils transferring schools before the natural end of their current phase of schooling where the transfer is managed by the County Council e.g. pupils at risk of exclusion.

Any pupil moving schools due to the alleged failure of the school attended to address parental concerns, e.g. bullying, will not be considered for transport support from the County Council. The County Council expects all schools to appropriately manage any reported issues and incidents. Any parent who is not satisfied with the school intervention should take this up with the governing body of the school concerned via the school complaints procedure.

The only exception to this will be where the current school confirms in writing that there is no further action that can be taken to resolve the situation and external agencies have been involved fully in this process. The next nearest school will then be deemed the nearest appropriate school and transport support will be provided subject to the criteria in section 2.

## **5.6 Allocation of spare seats for pupils/students**

Pupils/students who are not eligible for free transport may be able to purchase spare seats on contracted vehicles transporting eligible pupils.

If there are more applications for spare seats than there are places available, the allocation of seats will be made in the following order:

- Pupils with an Education, Health & Care Plan
- Pupils looked after by the Local Authority
- Young carers (evidence of their caring responsibility will need to be provided by a third party)
- Pupils living within the qualifying walking distance (priority based on distance with the pupil living furthest away given highest priority)
- Pupils attending a school of parental preference. It is not necessary for such pupils to be resident in Norfolk but priority will be given to those who are, and then to those living nearest to the school
- Post16 students not entitled under the general policy

Priority will be given to those who received transport in the previous academic year.

Ten working days must be allowed after the date of payment for the dispatch of a travel pass or confirmation of travel arrangements.

Applications for spare seats will only be considered once we have allocated all eligible children to transport and are confident that spare seats are available. This decision is unlikely to be before the start of the school term in September and parents applying for a spare seat should have their own arrangements in place in case a seat is not available.

There is a charge for using a spare seat, which is a contribution towards the whole cost of transport. The annual charge varies depending on

circumstances and is paid in three instalments. All current charges are on our website at [www.norfolk.gov.uk/schooltransport](http://www.norfolk.gov.uk/schooltransport)

If during the school year the seat is needed for an eligible pupil, the discretionary place can be withdrawn at a week's notice. If the place is withdrawn before half term a pro-rata refund will be made of half the contribution paid.

## **6. Transport Grants for Cycling**

The County Council wishes to support cycling to school as a 'healthy and green' alternative to motorised vehicle travel and a cycling allowance of £200 per year is available, reduced to pro-rata amounts for applications made after October half-term.

The grant of £200 per year is available for any pupil or student who is eligible for travel assistance under Sections 2 & 3. This grant is payable instead of a travel pass or any other transport provision.

Each application for this grant is individually assessed with distance and age being taken into consideration before it is agreed that a cycle allowance can be awarded. However parents are ultimately responsible for ensuring that their child can safely cycle to and from school.

Acceptance of the cycle grant is a commitment for a full academic year, therefore anyone applying for this grant must consider how they will travel when they feel that adverse weather conditions make cycling difficult. The County Council will not provide alternative transport in such circumstances.

Once the grant has been paid parents are responsible for the cycle and any insurance, as Norfolk County Council will not accept responsibility for loss, damage or theft.

New applications for a cycle allowance are not accepted for the current academic year after the last day of the spring term, i.e. at Easter.

## **7. Fuel Allowances**

In some cases parents will provide their own transport to and from school/college instead of the County Council making the necessary transport arrangements. These arrangements are only agreed if contracted or public transport is not available and if it is the most cost effective option.

The level of allowance is based on the mileage for two return journeys each day and on the condition that the driver is acting as a volunteer.

The current allowance payable is 50p/mile, as recommended by HMRC when carrying a passenger.

Example: Where a school is 5 miles from home the calculation will be  
2 return journeys = distance (5 miles) x 4 = 20 miles  
20 miles x 50p = £10.00 per day

Post16 students are still required to pay a contribution towards transport costs and the appropriate level of contribution will be deducted from any fuel allowance the family are entitled to.

A fuel allowance may also be payable to Post16 students who are driving themselves to sixth form/college, but will only be paid where no contracted or public transport is available and when this is the most cost effective option. The rate in these cases is 45p/mile, as recommended by HMRC, and will only be paid for 1 return journey each day.

Example: Where a college is 5 miles from home the calculation will be  
1 return journey = distance (5 miles) x 2 = 10 miles  
10 miles x 45p = £4.50 per day  
Over 180 college days, annual amount = £900  
Less a parental contribution (e.g. £516) = £384

If the family/student have been allocated a mobility vehicle for the pupil/student that requires transport, the mileage allowance will be 11p/mile, in line with HMRC rates. The financial contribution is still required for Post16 students.

Allowances are paid monthly in arrears on receipt of a claim form authorised by the establishment to confirm attendance.

## **8. Moped Loan Scheme**

The County Council operates a moped loan scheme for Post16 students who are not able to access public transport or other contracted school transport for their journey. All applications are assessed individually and the County Council retains the right not to support cases where there is reason to believe that:

- This is not a suitable mode for a particular journey
- An applicant is not suitable for this mode of travel
- The journey in question is served by other transport arrangements.

The cost to the family of participating in this scheme is exactly the same as the student contribution applicable to any other form of transport under the Post16 Transport Policy. If the financial contribution is not paid by the due dates, the moped will be confiscated with immediate effect.

## **9. Payment of contributions towards the cost of transport**

Financial contributions towards transport for young people who are not entitled to free transport are determined annually. These rates, along with payment options, are published on the County Council website at [www.norfolk.gov.uk/schooltransport](http://www.norfolk.gov.uk/schooltransport) and [www.norfolk.gov.uk/post16transport](http://www.norfolk.gov.uk/post16transport). Alternatively this information can be obtained from the County Council on 0344 800 8020.

All payments will be dealt with as promptly as possible but 10 working days must be allowed after the date of a payment for the dispatch of a travel pass or confirmation of travel arrangements. Please note that passes and transport details will be sent by 2<sup>nd</sup> class post.

Refunds of the financial contribution will be issued as follows:

- If the travel pass is returned or the travel arrangements are cancelled before the start of term in September, we will give a full refund
- If travel passes are returned or the travel arrangements are cancelled during the year we will give a pro-rata refund based on the amount paid less the time the travel pass/arrangement has been used, to the nearest full half-term, less a £10 administration fee
- No refunds are given for those selecting the post16 six-instalment payment option
- For the period following May half-term, refunds will only be given if the travel pass is returned and received by the County Council, or the transport arrangements cancelled, by 31 May
- No refund will be given if the pass has been posted back but not received by the County Council, unless proof of posting can be supplied.

Refunds will not be given for any day the transport does not operate.

We do not offer any refunds on travel costs incurred while waiting for travel arrangements to be made or the travel pass to arrive. Any request for a refund for bus or train tickets will be at the discretion of the County Council, e.g. if there was a significant delay in issuing the pass or the pass issued was incorrect and/or unusable.

## **10. Travelling times**

The County Council will seek to provide single journeys, assessed using the door to door time, that do not exceed

- 45 minutes at primary school age
- 75 minutes at secondary school age and above.

These times are a guideline only and the efficiency of the transport provision has to be the over-riding, principle factor when organising transport.

However, where the average daily travelling time over a week would be more than 1 hour 30 minutes for primary age pupils or more than 2 hours 30 minutes for secondary age pupils, bespoke transport arrangements will be considered to see if a shorter journey can be offered within available resources.

If the travelling time is within these guidelines but it is considered that the pupil/student cannot cope with the length of the journey, appropriate medical or other justifiable evidence from a third party professional must be provided before any changes can be considered.

## **11. Transport boarding points**

Boarding points for children of statutory school age are provided as near as possible to home. This is usually no more than 1 mile away from home for

children of primary school age and no more than 1.5 miles for children of secondary school age. Parents are required to ensure their children get to and from the nearest boarding point.

Set-down points are provided as near as possible to school. For primary age pupils this will be within the school grounds or just outside the school gate; for high school students this will be no more than 1 mile from the school.

There is no maximum distance to a vehicle boarding point or set-down point for Post16 students.

Children should be at the boarding point 10 minutes before the stated departure time and should wait at the bus stop for 30 minutes after the stated departure time in case their school transport is delayed. If children are left to wait on their own it is a parent/guardian's responsibility to ensure that their children know what to do if their transport does not turn up or if they are refused travel because they do not have a valid travel pass.

Children are the responsibility of parents before they board the vehicle and after they alight at the end of the day.

Children of primary school age (Years R–6) and children with special needs should be collected from school transport by an appropriate adult, e.g. a parent/guardian, and parents should ensure that they or someone else can be at the drop-off point. If there is no adult present to collect a child then the child will not be left, which may mean that the school transport continues its route with the child on board whilst the parent/guardian is contacted.

## **12. Behaviour**

All children should behave in an appropriate manner while waiting for school transport and while travelling on home to school/college transport.

Any unacceptable behaviour may result in a temporary withdrawal of transport arrangements, for up to two months, during which time it will be the responsibility of parents/guardians to ensure that their children get to and from their place of learning.

Children should comply with any instructions from drivers or passenger assistants, particularly in the event of a breakdown or a road incident. Non-compliance with instructions will be regarded as unacceptable behaviour.

Transport will only be reinstated for banned pupils when they have demonstrated, to the satisfaction of the County Council, that they are willing and able to behave appropriately.

In cases of gross or persistent misconduct a permanent ban from school transport may be imposed.

Please note that CCTV is now in operation on many vehicles.

Please see Appendix 3 for the full Behaviour Policy and Procedure.

### 13. Appeals Procedure

The County Council operates an appeals procedure for parents/carers who wish to challenge a decision about their child's eligibility for transport, the transport arrangements offered, distance measurements or the availability of a walking route. The appeals procedure is as follows:

13.1 Following the original decision, a parent/carer has 20 working days to make a written request asking for a review of the decision.

13.2 The written request should be sent to

Commissioning & Client Services Manager  
Travel & Transport, Norfolk County Council  
County Hall, Norwich NR1 2SG

and should detail why the parent/guardian believes the decision should be reviewed, giving details of any personal and/or family circumstances they believe should be considered as part of the review.

13.3 The decision will be reviewed within 20 working days and parents/guardians will receive a detailed written notification of the outcome of the review.

13.4 If parents/guardians still believe that policy has not been applied correctly and they would like a further review of the decision, they have 20 working days to make a written request to escalate the matter to stage two of the process, setting out any additional relevant information to their case.

13.5 The appeal will be reviewed within 40 working days by a panel of 3 senior officers in Children's Services led by the Head of School Admissions Service, to which parents are invited to attend and speak, if they wish to do so.

13.6 The final decision of the County Council will be sent to the parent/guardian within 5 working days and will include contact information for the Local Government Ombudsman if a parent believes a further independent review of their case is necessary.

13.7 The Ombudsman will not usually consider cases unless they have been through the full appeals process of the County Council, and will only consider cases if complainants believe that the County Council has failed to comply with the procedural rules or if there are any other irregularities in the way the appeal has been handled.

13.8 For Post16 transport the appeals process should be followed as set out above, but following the final decision of the County Council parents may complain to the Secretary of State if they are still dissatisfied with the outcome of their appeal.

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# Journey Information

### **A 1: Transport Procurement**

Transport will be procured in accordance with the Public Contract Regulations, the County Council's Contract Standing Orders, and the requirements of any relevant UK legislation.

All contracts for the provision of passenger transport services will be reviewed at least every five years to ensure best value for money and efficiency of the overall provision of transport. This means that transport is very likely to change during a child's time at school.

### **A 2: Arrival and Departure Times**

Transport will be arranged to arrive up to 15 minutes before or after school and schools should make any necessary arrangements to supervise pupils for these periods.

Occasionally it may not be possible to arrange transport within these time limits and in these instances the County Council will liaise with schools to ensure that appropriate supervision arrangements are made.

### **A 3: Seatbelts and vehicle loading**

In accordance with the seating capacity regulations, a seat for each pupil will be provided. On vehicles without seat belts or on local bus services the 3:2 seating rule may be used to accommodate small numbers of pupils above the seating capacity available.

Seatbelts and other forms of child restraint will be provided where they are required by law. Children are responsible for putting on their own seatbelt.

### **A 4: Mixed Loading**

All age groups may be mixed on the same vehicle. However primary age pupils will be transported separately from secondary age pupils wherever possible, subject to there being no additional cost.

### **A 5: Drivers and Passenger Assistants**

Drivers and passenger assistants are employed in accordance with the Conditions of Contract and vetted in accordance with Home Office guidelines. Passenger assistants, in addition to the driver, are provided as follows:

- on vehicles carrying pupils with special needs if a risk assessment of the journey or a specific child indicates that one is required
- on vehicles where the driver cannot gain access to the passenger compartment without leaving the vehicle or where the driver does not have control of the vehicle doors from his driving position
- on vehicles carrying 30 or more pupils, all under 9 years old, travelling on journeys of at least 30 minutes duration

- on other vehicles where a specific need is identified.

## **A 6: Travel Passes**

Travel passes are the property of Norfolk County Council and are subject to the conditions set in this Home to School and College Transport Policy and those of transport operators. The County Council must be notified by the parent/guardian if a student leaves school, sixth form or college before the expiry date of the travel pass so that it can be cancelled.

Travel passes are Smartcards and are valid for one journey to school/college and one journey home each day during standard academic terms only. Pupils should present their Smartcard each time they board the vehicle, by placing it on the electronic ticket machine.

High school and Post16 students without a valid travel pass will be refused travel or asked to pay the appropriate fare if the service accepts fare-paying passengers.

Primary age pupils on a contracted service will be allowed to travel for five days without a travel pass to give them time to get a new one.

Lost and damaged passes (i.e. ones that no longer work on the electronic ticket machine) should be replaced. There is a charge of £10 for a replacement pass to cover the administration costs. Temporary passes which are valid for 2 weeks are available from high schools, to allow time for the payment and issue of a replacement pass.

Fraudulent use of a travel pass will result in it being confiscated and, for pupils travelling under the County Council's Discretionary or Post16 Travel Schemes, transport will be withdrawn.

## **A 7: Other Users**

Other persons may be given permission to travel on contracted transport e.g. staff, parents helping at the school, short term exchange students\*. Such persons should obtain permission from the County Council and will only be authorised to travel providing:

- there are spare seats available,
- there are no additional costs involved, and
- a relevant DBS check has been undertaken, where applicable.

School staff using the services are expected to supervise the pupils whilst travelling.

\*Exchange students travelling for more than one half term must apply through the normal application process



## Appendix 2

### Criteria for home to school walking route assessments

#### Introduction

All roads and footpaths can be considered as being potentially hazardous for pedestrians, whether in a rural or urban setting. Free transport cannot be provided for this reason alone. For pupils living within the qualifying distances of their nearest catchment or nearest appropriate school, the County Council will look at the physical nature of the route and the age of the child before it will consider providing free transport.

For the council to provide free transport, the route must have special factors that make it particularly hazardous and therefore unavailable to walk or cycle along in reasonable safety, even where a child is accompanied by a parent or other responsible adult.

#### What can make a route unavailable?

##### Roads and footpaths alongside roads

A route could be considered unavailable as a walking route, even to a child accompanied by an adult, if a **combination** of the following factors exists:

- There is no footpath or roadside strip;
- There is no verge by the side of the road that can be used to step onto to avoid passing vehicles;
- Where there is no path or verge, the road is less than 5.5 metres wide **and** has a traffic count of more than 240 vehicles and 12 large vehicles per hour;
- Visibility is impaired by sharp bends, banks, hedges or other obstacles;
- There is a history of road accidents involving pedestrians along the route;
- Where there are no crossing facilities, there are insufficient gaps in traffic to enable a safe crossing.

These criteria are based on Road Safety GB guidelines. A sufficient number of gaps in traffic across two lanes is determined as four gaps of 4-6 seconds in each 5 minute period.

Drivers are expected to comply with the speed limits. Where they do not, the local police should be asked to take appropriate action.

##### Public rights of way

Public rights of way are determined as any route where access does not constitute trespassing, and include routes such as bridleways, public byways, permissive paths and common land. These routes are generally considered as available walking routes, however a route could be considered unavailable

as a walking route, even to a child accompanied by an adult, if an element of the route poses a significant level of risk that cannot be reduced by any reasonable adjustments, e.g. if there is a deep fast-flowing river adjacent to an exposed footpath, where it would be impossible to get out of the river should an incident occur.

### **What does not make a route unavailable?**

The following are examples of factors that are not considered as part of a route assessment:

- it is isolated and there is perceived to be a moral danger;
- the route is muddy or soft underfoot;
- it will be dark at the time of walking;
- there is a need to cross a railway line at a designated crossing point;
- there are short lengths of road where there is no verge;
- there are short lengths of road within the village/urban environment where there is no verge or footpath;
- there are other variable conditions e.g. inclement weather or possible flooding

since in these instances it is the responsibility of parents/guardians to decide whether to accompany their child to school or to make alternative arrangements. Parents are also expected to provide protective clothing or other equipment as necessary.

In all cases it is expected that pupils, students and members of the public behave reasonably and lawfully.

If a route is considered unavailable free transport will be provided until there is a significant change, e.g. if a footpath is created, when the route would be reassessed. Free transport is not provided if there is an alternative walking route to school, also within the qualifying distance, which is assessed as being available.

Free transport may be provided if the route is only available if the child is accompanied (normally for primary-age children only) and parents can satisfy the council that no adult is available to accompany the child, e.g. they have a younger child in a pram or pushchair and the route cannot then be walked in reasonable safety. However, we would expect all reasonable alternatives to have been explored by parents/carers before confirming that transport can be provided. Free transport is not provided if the child cannot be accompanied due to parents' work commitments.

When children from the same family attend different local schools in the area, e.g. infant and junior schools, and they do not qualify for free transport, then it is expected that parents will make any local arrangements they consider necessary for their children to be accompanied to and from different schools or to use any available transport services. Free transport will not therefore be provided.

## Appendix 3

### **Behaviour Policy and Procedure**

This procedure should be adopted for all school journeys operated under the Contract, but it does not affect the statutory powers of drivers and conductors given to them under the Public Passenger Vehicles Act 1981.

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#### **Supervision**

1. The Conditions of Contract for the Provision of Passenger Transport states:  
'The contractor shall for the purpose of safeguarding the pupils against accidents or injuries, ensure that they are supervised both during the journey and when boarding and alighting from the vehicle.'
2. In order to maintain good behaviour, supervision should normally require no more than a verbal instruction from the driver whose authority is vested in his legal responsibility for the vehicle. Where a passenger assistant is employed on the vehicle it will be the passenger assistant's responsibility, in the first instance, to issue any verbal instructions as a result of misbehaviour.
3. In the event of misbehaviour contractors' employees should not remove pupils from the vehicle or refuse to allow them to board except when the vehicle is at the school that the pupils attend. As a result of unacceptable behaviour and regardless of the provocations, on no account are the Contractor's employees to use actual or threatened physical force. If drivers' or passenger assistants' instructions are ignored and bad behaviour persists, or if the seriousness of the misbehaviour warrants it, the appropriate disciplinary actions outlined below should be taken.

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#### **Disciplinary Procedure**

4. There are three stages to the procedure:
  - 4.1 Initial Warning – a verbal instruction or warning
  - 4.2 Written Warning
  - 4.3 Exclusion from transport

Travel & Transport have discretion to override earlier stages in the procedure if the seriousness of the incident warrants this.

Where reference is made to the Headteacher, this can also refer to a member of staff with delegated responsibility for pupil behaviour on school transport.

#### **5. Initial Warning**

For minor incidents of misbehaviour the driver or passenger assistant should identify the culprit(s) and report the incident to the Headteacher for any action considered necessary, which will often prevent escalation to stages 4.2 and 4.3 of this procedure. The driver must also report these instances to his/her employer to record for future reference. Where primary age or special needs pupils are concerned, the Contractor will also inform the Council.

## 6. **Written Warning**

For repeated unacceptable behaviour or any single serious incident:

6.1 The driver or passenger assistant (if any) will report the details and name(s) of the culprit(s) as soon as possible to the Headteacher and Contractor;

6.2 The Contractor will send a written report, including any recorded details of the Initial Warning, to Travel & Transport, who will inform the Headteacher;

6.3 Travel & Transport, after consultation with the Headteacher, will write to the parents, with copies to the Headteacher and Contractor, seeking the help of the parents and warning them that any further incidents of unacceptable behaviour could result in the exclusion of their child from the vehicle.

## 7. **Exclusion from transport**

In general, exclusion from transport is used following completion of the Written Warning stage. When further incidents of bad behaviour occur:

7.1 The Driver is to report the details and name(s) of the culprit(s) as soon as possible to the Headteacher and Contractor;

7.2 The Contractor must advise Travel & Transport of the details by telephone and then confirm it in writing, referring to the previous Written Warning;

7.3 Travel & Transport, after consultation with the Headteacher, will write to the parents notifying them that their child will be excluded from the transport for a specified period (normally up to five school days on the first exclusion) giving them five days' notice to make alternative arrangements. This letter will be copied to the Headteacher and the Contractor.

## 8. **Immediate exclusion from transport**

Exceptionally there may be an incident of such a serious nature that it is necessary to exclude a pupil from transport without warning, for example:

- violent behaviour
- wanton damage to the vehicle
- gross verbal abuse of the driver or passenger assistant
- actions which compromise the safety of the vehicle

In such cases:

8.1 The Contractor must immediately telephone details to Travel & Transport. After consultation with the Headteacher, Travel & Transport

will issue a verbal instruction for the commencement and duration of the exclusion to the Contractor, the pupil and the parent(s);

8.2 Contractors and Headteachers must not act independently; only the Council should authorise the exclusion of a pupil from transport;

8.3 The exclusion should commence as soon as possible after the incident, preferably from the next journey but not partway through an existing journey, unless the pupil has been arrested by the Police. The details of the exclusion will be confirmed in writing to the parents with copies to the Contractor and Headteacher.

## 9. **The role of schools in addressing poor behaviour on transport**

The Department of Education expects each school to promote appropriate standards of behaviour by pupils on their journey to and from school through rewarding any positive behaviour and using sanctions to address poor behaviour.

Headteachers are required to determine what measures should be taken to promote self-discipline among pupils; and encourage positive behaviour and respect for others, including the prevention of bullying. The Act makes it clear that Headteachers must make and publish rules, and decide on penalties for unacceptable behaviour.

The Act also empowers Headteachers to take action to address unacceptable behaviour even when this takes place outside the school premises and when pupils are not under the legal control of the school, but when it is reasonable to do so. In the Department's view, this would include behaviour on school buses, or otherwise on the route to and from school, whether or not the pupils are in school uniform.

## 10. **Vandalism**

Parents/guardians may be invoiced to recover the cost of repair due to vandalism.

## 11. **Smoking**

For incidents of smoking on transport there will be a mandatory minimum travel ban of one week. This includes smoking e-cigs or similar devices.

## 12. **Mobile Phones**

The use of mobile phones or other electronic devices for taking photographs or filming is prohibited on all vehicles.

**Appendix B**

**Appeal Decision**

**Appeal Ref: APP/F2605/W/17/3185918  
Land south of Dereham Road, Mattishall**



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## Appeal Decision

Hearing Held on 9 January 2018 and closed on 19 January 2018

Site visit made on 10 January 2018

**by G D Jones BSc(Hons) DipTP DMS MRTPI**

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

**Decision date: 06 March 2018**

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### **Appeal Ref: APP/F2605/W/17/3185918** **Land south of Dereham Road, Mattishall**

- 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 Gladman Developments Ltd against the decision of Breckland District Council.
  - The application Ref 3PL/2015/0498/O, dated 24 April 2015, was refused by notice dated 10 August 2017.
  - The development proposed is the erection of up to 50 residential dwellings with associated infrastructure.
- 

### **Decision**

1. The appeal is allowed and outline planning permission is granted for the erection of up to 50 residential dwellings with associated infrastructure at land south of Dereham Road, Mattishall in accordance with the terms of the application, Ref 3PL/2015/0498/O, dated 24 April 2015, subject to the conditions contained within the Schedule at the end of this decision.

### **Preliminary Matters**

2. The proposal is for outline planning permission with access only to be determined at this stage and with appearance, landscaping, layout and scale reserved for future approval. Whilst not formally part of the scheme, I have treated the submitted details relating to these reserved matters as a guide as to how the site might be developed.
3. I adjourned the hearing on 9 January 2018 on the basis that the main parties had reached verbal agreement during the course of the hearing regarding the detail of trigger points associated with proposed planning obligations, which had previously not been agreed. In doing so and with the agreement of the main parties, I allowed the appellant until 19 January 2018 to prepare and submit a revised legal agreement to reflect the newly found common ground. I subsequently received a Unilateral Undertaking, dated 18 January 2018, made under S106 of the Town and Country Planning Act 1990 (the UU), which I have taken into account in the determination of the appeal. I then closed the hearing in writing on 19 January 2018.
4. Since the appeal planning application was determined by the Council the Mattishall Neighbourhood Plan was made on 2 November 2017 (the MNP) such that it now forms part of the development plan for the area. At the hearing the Council confirmed that in its view the appeal scheme also conflicts with

Policies ENV2 (important views and vistas), ENV5 (distinct villages) and HOU1 (size of individual developments) of the MNP.

## **Background**

### *Site and Context*

5. During the planning application process the site was reduced in size from 4ha to 3.2ha to take account of identified flood risk to the western end of the original site. The appeal site, as revised, comprises agricultural land located on the western edge of the village of Mattishall. It is bounded to the north by Dereham Road, which is fronted by residential development immediately opposite the site; to the east by residential properties in the form of fairly recently constructed dwellings to the Dereham Road frontage and the older farm house and barn conversion to their south; to the west by the remainder of the field parcel, with Old Hall Road beyond; and to the south by open countryside. Much of the perimeter of the site is lined by mature hedgerows and hedgerow trees, particularly to Deneham Road to the north and to the east, while the western boundary is more open.
6. The site is located roughly 0.8 miles from the range of services found towards the centre of the village, which include a primary school, post office, shops and hot food takeaway, a pub and doctor's surgery. Mattishall is located approximately 6km east of Dereham and 18km west of Norwich and the Statement of Common Ground (SoCG) states that the bus links to both are good. Although adjacent to it, the site is located beyond the settlement boundary of Mattishall as identified in the development plan.
7. There was a previous planning application for development at a larger site, that included the current appeal site, which was refused by the Council and was subsequently the subject of an appeal (the previous appeal)<sup>1</sup>. The previous appeal site appears to correspond with the 4ha site which was initially proposed under the current appeal planning application. The previous appeal scheme was for the development of up to 90 dwelling houses.
8. Mattishall is identified in the development plan as a Local Service Centre Village where the strategy is defined to be primarily around service protection and enhancement and development to meet local needs.

### *Planning Policy & Housing Land Supply Context*

9. The National Planning Policy Framework (the Framework) outlines a presumption in favour of sustainable development, which it indicates has three dimensions – economic, social and environmental. Paragraph 14 sets out how this presumption is to be applied and indicates, among other things, that where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
10. In respect to housing delivery, the Framework requires the Council to meet the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the Framework. Applications for housing should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the

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<sup>1</sup> Appeal Ref. APP/F2605/W/15/3027972, dated 31 March 2016



supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The main parties agree that, for the purposes of this appeal at least, there is not a Framework compliant supply of housing land. The SoCG indicates that the Council can demonstrate no more than 4.6 years' supply of housing land<sup>2</sup>.

11. The evidence also refers to the Written Ministerial Statement on Neighbourhood Planning of 12 December 2016 (the WMS). Among other things, it states that relevant policies for the supply of housing in a neighbourhood plan should not be deemed to be 'out-of-date' under para 49 of the Framework where three criteria apply. However, not all three criteria do apply in this case because the MNP does not allocate sites for housing.
12. In respect to neighbourhood planning the Framework adds that communities are given direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need. It also states that where a planning application conflicts with a neighbourhood plan that has been brought into force, permission should not normally be granted.
13. Consistent with the Framework, the WMS also states that the Government confirms that where a planning application conflicts with a neighbourhood plan, planning permission should not normally be granted, yet communities who have been proactive and worked hard to bring forward such a plan are often frustrated that it is being undermined because their local planning authorities cannot demonstrate a five-year land supply of deliverable housing sites.
14. Although weighty material considerations, neither the Framework nor the WMS change the statutory status of the development plan. The development plan for this area includes the Breckland Council Core Strategy and Development Control Policies Development Plan Document 2001-2026 Adopted December 2009 (the DPD) and the MNP. The refusal reason cites development plan policy conflict in respect to Policy CP 11 of the DPD only. Nonetheless, it is common ground between the main parties that the appeal scheme would also conflict with DPD Policy CP 14. As outlined above, the Council now also cites conflict with MNP Policies ENV2, ENV5 and HOU1.
15. DPD Policy CP 11 seeks to protect and enhance the landscape of the District for its own intrinsic beauty and for other benefits including the rural character. Policy CP 14 of the DPD indicates that in villages not identified for a specific level of growth in the identified settlement hierarchy, residential development will generally only be permitted where suitable sites are available within defined settlement boundaries.
16. Policies ENV2 and ENV5 of the MNP seek to protect the countryside and the character and appearance of the village and the land around. Policy ENV2 makes particular reference to three vistas / views including when approaching Mattishall along Dereham Road from the west in the vicinity of the appeal site. MNP Policy HOU1 states that the neighbourhood area will deliver a minimum of 141 dwellings in the period up to 2036. It adds that proposals for new dwellings within or adjacent to the village will be supported subject to four criteria including that they are of a scale that is appropriate to the size of the

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<sup>2</sup> This is the Council's preferred position based on the application of a Liverpool type methodology whereas the appellant's preferred position is based on a Sedgefield type methodology which equates to a 4.0 years' housing land supply. I have used this 4.6 years figure simply as a benchmark for the purposes of making my decision as it represents what might be described as the best case scenario from the Council's perspective.

village and its rural setting, they create an attractive and well-landscaped interface with the surrounding countryside where appropriate, and their design and layout has regard to their immediate surroundings.

### **Main Issues**

17. The main issues are:

- The effect that the proposal would have on the character and appearance of the area; and
- Whether any development plan conflict and harm arising, is outweighed by any other considerations including that the Council cannot currently demonstrate a Framework compliant supply of housing land.

### **Reasons**

#### *Character and Appearance*

18. As identified by the previous appeal Inspector, the appeal site has the character and appearance of open countryside and is part of a wider expanse of similar land extending south. Whilst enclosed by hedgerows to the front and partially by further hedgerows and trees along other boundaries, the open, rural character of the site is a significant feature of this part of the village's setting and is particularly evident in approaching the site along Dereham Road to the west. The significance of this latter point is expressly recognised in Policy ENV2 of the MNP.
19. The current appeal site stands on part of the previous appeal site, albeit that it has a smaller area. Up to 50 homes are now proposed compared to 90 homes as proposed under the previous appeal scheme. The density of the proposed development would be approximately 16 dwellings per hectare (dph) across the whole site, with a density of some 24 dph across the built part of the site. This contrasts with the proposed density of some 34 dph of the previous appeal scheme.
20. In similar terms to the previous appeal, the illustrative details that support the appeal application indicate significant areas of planting and other open space around much of its perimeters, such that the immediate impact upon the physical, landscape character of the site itself would be modest. Nonetheless, a hard built frontage, contrasting with the open existing countryside, would be created along Dereham Road, in a similar – albeit less extensive – manner to that which the previous Inspector found in that case.
21. Notwithstanding the current scheme's relative reduction in density, in extent of development and in site area, visual effects with regard to specific views and upon wider visual amenity would remain and these would be comparable to those identified by the previous Inspector. In particular, as he stated, the existing contribution of the appeal site as part of an open, rural setting to the village and to the surrounding character would be lost, and despite proposed landscaping, the scheme would have the inherent character and appearance of built form. The illustrative material also still suggests that this would remain apparent along boundaries to the site, with development likely to be evident above boundary landscaping and in filtered views and gaps through it.
22. Consequently, notwithstanding its reduced scale and density, the current proposal would continue to lead to a harmful loss of open countryside contrary

to the existing character and appearance of the appeal site and its surroundings. It would, again, introduce built form outside the defined settlement boundary, albeit at the village fringe, which would be mitigated to an extent by the proposed landscaping, but the appeal site is still part of a wider pattern of open countryside and contributes to the distinctiveness of the setting accordingly.

23. For these reasons, therefore, the appeal development would be harmful to the character and appearance of area. Consequently, it would conflict, in these respects, with Policy CP 11 of the DPD and Policies ENV2, ENV5 and HOU1 of the MNP.

#### *Planning Balance*

24. Regarding the weight carried by the relevant policies of the development plan, as the previous appeal Inspector identified, DPD Policy CP 11 is not entirely consistent with the Framework such that its weight is affected. It seeks, in part, to protect the landscape of the District for the sake of its own intrinsic beauty. This reflects the fact that it was formulated before the publication of the Framework when national policy was that the countryside should be protected for its own sake. That is no longer the case and as such, in the light of Framework para 215, I accord Policy CP 11 significantly reduced weight.
25. Settlement boundaries in the District appear to have been drawn not only to protect the countywide but also to accommodate the District's housing requirements as set out in the development plan. DPD Policy CP 14 is therefore linked to the housing policy requirement which is now out of date due, at least, to the current absence of a Framework compliant housing land supply. On this basis and again in light of Framework para 215, Policy CP 14 also currently carries significantly reduced weight.
26. In contrast, the MNP has only recently been made such that its policies, including Policies ENV2, ENV5 and HOU1, must accord with the Framework. On that basis they carry full weight.
27. Through the Neighbourhood planning process the local community have gone to considerable lengths to plan for Mattishall's needs including in respect to housing. Nonetheless, the Council's evidence is that it can currently demonstrate only a 4.6 years' supply of housing land for the District at large. This is a substantial shortfall. While the appeal development would provide only a modest contribution to bridging that shortfall, it would be significant given the social-ills associated with housing need and the government's objective to boost significantly the supply of housing.
28. Need for housing is also expressly acknowledged in MNP Policy HOU1 which states a minimum of 141 dwellings will be delivered in the neighbourhood area in the period up to 2036. While the evidence indicates that there has already been significant progress made to that end both in terms of planning and delivery, this is a minimum amount of additional homes rather than a cap on further development. The MNP does not allocate sites for housing, such that the criteria of the WMS are not triggered, and there is now a substantial shortfall in housing delivery in the wider District.
29. It is suggested that confidence in the planning process, particularly in Neighbourhood planning, could be undermined if the appeal were to succeed.

However, although there is conflict with the MNP, it is reasonably discrete in terms of the Policies affected and the associated harm that would arise from the appeal development. Consequently, the integrity of the MNP would remain intact if planning permission were to be allowed, particularly in the current housing land supply circumstances. On this basis, any potential negative effect that allowing the appeal would have on confidence in the planning process, including Neighbourhood planning, carries only limited weight.

30. Accordingly, notwithstanding the positive planning undertaken in Mattishall Parish, the contribution to the District's market housing supply offered by the proposal carries significant weight in its favour under the social dimension of sustainable development as a public benefit. As part of the scheme up to 20 affordable homes would be delivered on-site and this additionally weighs significantly in favour of the appeal proposal.
31. The appeal development would offer a number of other potential benefits. Given the site's location on the western fringes of Mattishall, the proposed homes would be in a reasonably sustainable location such that residents would have access to a good range of facilities, services and transport options, albeit that the site is over 800m from most of these facilities. I also recognise that residents of the development are very likely to have to travel away from the village for employment and to access higher level education and wider facilities. On balance these considerations also weigh in favour of the appeal scheme, albeit to a limited extent.
32. In terms of the economic role, the development would contribute towards economic growth during the construction phase. The additional population would be likely to assist the local economy and help support the sustainability of facilities in the area. This latter point would also support to the social dimension of sustainable development.
33. Regarding the environmental dimension, concerns have been raised, including by those who spoke at the hearing, in respect to drainage and flood risk. However, having regard to the wider evidence I see no reason why the development could not be adequately mitigated in that regard subject to the imposition of controls that could be secured via planning condition. Nonetheless, as outlined above, there would be net harm to the character and appearance of area to an extent that carries significant weight against the appeal scheme.
34. I note the evidence regarding potential benefits resulting from other matters that would be secured via the UU and conditions, as outlined a little later in my decision. I recognise that at least some of these may be of some benefit to the wider community. However, as they are primarily intended to respond to needs arising from the proposed development, any such benefit attracts limited weight.
35. In summary, applying the Framework para 14 balancing exercise, the appeal scheme would conflict with the development plan including with policies of the recently made MNP, which involved considerable community investment, and would cause harm to the character and appearance of the area. However, in the current circumstances these important considerations, along with the other factors identified that have been said to weigh against the development, do not collectively significantly and demonstrably outweigh the matters outlined above that are in its favour, particularly the delivery of housing. Overall, therefore,

the appeal proposals would represent sustainable development in the terms of the Framework.

### **Other Matters**

36. As outlined above, the UU was submitted during the appeal process. In the event that planning permission were to be granted and implemented the UU would secure the provision of on-site affordable housing at a rate of 40%, open space and allotments along with provisions for their future management, new footpath links and off-site planting; and contributions in respect to library services, primary education and the maintenance of the proposed footpath links. Both the Council and Norfolk County Council have produced comprehensive statements that address the application of statutory requirements to the planning obligations within the UU and also set out the relevant planning policy support/justification (the Planning Obligations Submissions).
37. I have considered the UU in light of Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and government policy/guidance on the use of planning obligations. Having done so, I am satisfied that the obligations therein would be required by and accord with the Policies set out in the Planning Obligations Submissions. Overall, I am satisfied that all of those obligations are directly related to the proposed development, fairly and reasonably related to it and necessary to make it acceptable in planning terms.
38. In addition to the foregoing matters, concern has been expressed, including by those who spoke at the hearing, in respect to several considerations. These include the development's effect on highway safety, vehicle movements and congestion, on wildlife and biodiversity, and on archaeology; the loss of agricultural land; that Mattishall is a Service Centre Village and not allocated for significant growth; there are substantial strong and wider-spread objections locally to the current and past related proposals; the proposal is contrary to the Localism Act and MNP, including wider policies to those cited by the Council; the site is outside the settlement boundary and has also been removed as a preferred site from the emerging Local Plan; the conduct and motives of the appellant, including the introduction of amendments to the scheme and the consistency of material; the area is well on its way to delivering the amount of housing planned for in the MNP even though the end of the plan period is many years way; and the scheme remains too high density.
39. Other issues raised include that there are said to be significant infrastructure issues locally, including in relation to highways, foul / surface water drainage, health and education; the development is not sustainable nor in the right location and would encourage car use; the housing, including the affordable housing, is not needed; development of such a large size would be at odds with MNP, out of keeping with the identity of the village and be detrimental to the quality of life within it, having an urbanising effect; residents of the site would not be part of the village; property values would be effected; there is little employment in Mattishall and the site is too far removed from the limited services available in the village; other 'better' housing sites are available or are likely to be become available in future; light pollution; viability may diminish the proposed affordable housing provision in the longer term; and the previous application has been refused and turned down on appeal.

40. These matters are largely identified and considered within the Council officer's report on the appeal development. They were also before the Council when it prepared its evidence and when it submitted its case at the hearing. Other than as set out above, the Council did not conclude that they would amount to reasons to justify withholding planning permission. Subject to the identified obligations of the UU and the imposition of planning conditions, nothing I read, saw or heard during the appeal process prompts me to disagree with the Council's conclusions in these respects, or to alter the outcome of the balancing exercise as outlined above.

### **Conditions and Conclusion**

41. The Council submitted a schedule of suggested conditions prior to the hearing and a revised set following the hearing, the latter of which was in response to discussions during the hearing. I have considered all of these suggested conditions in the light of government guidance on the use of conditions in planning permissions and made amendments accordingly.
42. In order to provide certainty, particularly in respect to the matters that are not reserved for future consideration, a condition requiring that the development is carried out in accordance with the approved plans and in general conformity with the illustrative layout plan would be necessary. A condition requiring adequate remediation of any contamination affecting the site would be necessary to safeguard the health and well-being of future occupiers. Conditions to secure the installation of sustainable drainage as part of the development and foul water drainage would be necessary in the interests of flood prevention, to provide appropriate/adequate facilities and to protect the environment.
43. Conditions to provide additional control over the detail of reserved matters, to secure the proposed access and highway improvement works and to manage traffic speeds would be necessary in the interests of highway safety. For that reason and to protect the living conditions of local residents, a condition would be necessary to control matters during the construction phase of the development. A condition would be necessary to ensure that features of archaeological interest are properly examined/recorded. The approval and implementation of a scheme for the provision of fire hydrants would also be necessary in the interests of occupants' safety.
44. I conclude, for the reasons outlined above, that the proposed development is sustainable development for which there is a presumption in favour and, therefore, that the appeal should be allowed subject to the identified conditions.

*G D Jones*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANTS:

|                |                                         |
|----------------|-----------------------------------------|
| John MacKenzie | Planning - Gladman Developments Limited |
| Keith Nye      | Landscape - FPCR                        |

### FOR THE LOCAL PLANNING AUTHORITY:

|                                  |                                        |
|----------------------------------|----------------------------------------|
| Simon Wood BA(Hons)<br>BTP MRTPI | Planning – Breckland District Council  |
| Peter Coe BA DipLA<br>CMCI       | Landscape – Breckland District Council |

### INTERESTED PERSONS:

|                    |                                 |
|--------------------|---------------------------------|
| John Rockliff      | Mattishall Parish Council       |
| Cllr Bill Borrett  | County Councillor               |
| Cllr Paul Claussen | District Councillor             |
| Anna Loake         | Mattishall Matters action group |
| John Gogle         | Local resident / farmer         |
| Prof Robert Eady   | Local resident                  |
| Rita Cooper        | Local resident                  |
| Nicky Gandy        | Parish Plan Working Group       |
| Pauline Cox        | Local resident                  |
| Richard Stephenson | Local resident                  |
| Mr Osborne         | Local resident                  |

## **DOCUMENTS SUBMITTED WHILE THE HEARING SAT**

- 1 Draft suggested conditions
- 2 Extract of Breckland Core Strategy and Development Control Policies Development Plan Document December 2009 – Policy DC 2 (Principles of New Housing Development)
- 3 Note prepared by Karl Patterson, Housing Development Officer, Breckland District Council regarding potential planning obligation affordable housing delivery triggers
- 4 Colour 'S106 Legal Plan' and 'Offsite Planting' plan

## **DOCUMENTS SUBMITTED AFTER THE HEARING SAT**

- 1 Final suggested conditions
- 2 Unilateral Undertaking made under S106 of the Town and Country Planning Act 1990, dated 18 January 2018

SCHEDULE OF CONDITIONS FOR APPEAL REF APP/F2605/W/17/3185918:

- 1) Application for approval of reserved matters shall be made not later than the expiration of two years from the date of this permission, and the development shall be begun within one year of the final approval of the reserved matters or, in the case of approval at different dates, the final approval of the last such matters to be approved.
- 2) No development whatsoever shall take place until the plans and descriptions giving details of the reserved matters referred to in Condition 1 have been submitted to and approved in writing by the Local Planning Authority and these plans and descriptions shall provide details of the appearance, layout, scale and landscaping of the development (including an Arboricultural Impact Assessment and Tree Protection Plan, and an updated ecological assessment). The reserved matters shall be in general conformity with the Development Framework Plan drawing Ref. G.0228\_02R.
- 3) The development shall be carried out in strict accordance with the application form and the following approved drawings: Ref. G.0228\_20B and Ref. 4746/25/06.
- 4) No development shall take place until a Land Contamination investigation has been carried out. A protocol for the investigation shall be submitted to and approved in writing by the Local Planning Authority (LPA) before commencement of the investigation. A completed report shall be submitted to and approved in writing by the LPA prior to the commencement of any investigation. The report shall assess potential risks to humans and property, including buildings, crops, livestock, pets, woodland, service lines and pipes, adjoining land, ground and surface water, ecological systems, archaeological sites and ancient monuments, and the investigation shall be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11", or any subsequent version or additional regulatory guidance.

Should Land Contamination Remediation Works be identified as necessary, contamination of soil or ground water be discovered or suspected following commencement of the development, no development or further development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use has been submitted to and approved by the LPA. The development shall be carried out in accordance with the approved remediation scheme unless otherwise approved in writing by the LPA. The remediation scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures and any necessary long term maintenance and monitoring programme.

- 5) Prior to commencement of development, in accordance with the submitted Enzygo Flood Risk Assessment (FRA) Ref. SHF.1132.066.HY.R.001.B and drawing Ref. SHF.1132.066.HY.D.008, a detailed scheme of surface water drainage incorporating the following measures shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of the development. The scheme shall address the following matters:



- i. Surface water runoff rates from the developed site shall be attenuated to 5 l/s as stated within section 5.9.14 of the FRA;
  - ii. Provision of surface water attenuation storage in flood free land, sized and designed to accommodate the volume of water generated in all rainfall events up to and including the critical storm duration for the 1 in 100 year return period, including allowances for climate change, flood event. A minimum storage volume of 804m<sup>3</sup> shall be provided in line with section 5.9.14 of the submitted FRA;
  - iii. Detailed designs, modelling calculations and plans of the drainage conveyance network in the:
    - 1 in 30 year critical rainfall event to show no above ground flooding on any part of the site; and
    - 1 in 100 year critical rainfall plus climate change event to show, if any, the depth, volume and storage location of any above ground flooding from the drainage network ensuring that flooding does not occur in any part of a building or any utility plant susceptible to water (e.g. pumping station or electricity substation) within the development;
  - iv. The design of the attenuation basin shall incorporate an emergency spillway and any drainage structures shall include appropriate freeboard allowances. Plans shall be submitted to show the routes for the management of exceedance surface water flow routes that minimise the risk to people and property during rainfall events in excess of 1 in 100 year return period. This shall include surface water which may enter the site from elsewhere;
  - v. Finished ground floor levels of properties shall be a minimum of 300mm above expected flood levels of all sources of flooding;
  - vi. Details of how all surface water management features to be designed in accordance with The SuDS Manual (CIRIA C753, 2015), including appropriate treatment stages for water quality prior to discharge;
  - vii. A maintenance and management plan detailing the activities required and details of who shall adopt and maintain all the surface water drainage features for the lifetime of the development; and
  - viii. A maintenance and management plan for the existing ordinary watercourses (and any structures such as culverts), sewers and surface water management systems within and adjacent to the proposed development shall be submitted to and approved in writing by the Local Planning Authority to ensure that during the construction phase of the development flood risk is not increased onsite or elsewhere.
- 6) Prior to the commencement of any works above slab level precise details of the means of foul water disposal shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 7) As part of the reserved matters application(s) full details (in the form of scaled plans and / or written specifications) shall be submitted to and approved in writing by the Local Planning Authority to illustrate the following:
- i. Roads and footway;
  - ii. Visibility splays;
  - iii. Internal access arrangements;
  - iv. Loading and turning areas; and

v. Garages.

- 8) The driveway length in front of any garages within the site developed under the terms of this planning permission shall be at least 6.0m as measured from the garage door(s) to the highway boundary.
- 9) Development hereby permitted shall not commence until a scheme detailing provision for on-site parking for construction workers for the duration of the construction period, construction traffic management and access, and wheel cleaning facilities has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented throughout the construction period in accordance with the approved details.
- 10) Notwithstanding the details indicated on the submitted drawings, no works shall commence on-site until a detailed scheme for the proposed off-site highway improvement works, including the site access, as indicated on the approved plans has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme and no dwelling shall be occupied until the site access to Dereham Road and the off-site highways works have been fully completed.
- 11) No works shall commence on the site until a scheme for the management of traffic speeds to the west of Old Hall Road, to include a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme, including its implementation timetable.
- 12) No development, including demolition, shall take place within the application site until the applicant or their agent or successor in title has:
  - i. Caused to be implemented a programme of archaeological evaluation in accordance with a first written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority; and next
  - ii. Submitted the results of the archaeological evaluation to the Local Planning Authority; and next
  - iii. Secured the implementation of a programme of archaeological mitigation in accordance with a second written scheme of investigation which has first been submitted to and approved in writing by the Local Planning Authority.
- 13) Prior to the commencement of development, a scheme for the provision of fire hydrants, including an implementation timetable, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme, including the implementation timetable.