



WILKINSON
PLANNING

Planning Statement

SITE

Hot to Trot School of Equitation, West
Meadows, Low Road, Bunwell, Norfolk, NR16
1SD

PROPOSAL FOR

Outline - Erection of 1 no. equestrian dwelling
(with access)

PROPOSAL BY

Hot to Trot School of Equitation Ltd

September 2023

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1.0 Introduction

- 1.0 This statement is prepared for and on behalf of Hot to Trot School of Equitation Ltd in respect of an application for; Outline - Erection of 1 no. equestrian dwelling (with access) at Hot to Trot School of Equitation, West Meadows Barns, Low Road, Bunwell, Norfolk, NR16 1SD.
- 1.2 It will consider the local and national planning policy position and provide an overview of the relevant material considerations relating to the proposed development.
- 1.3 The extract below shows the location of the site relative to its surroundings and other nearby development:

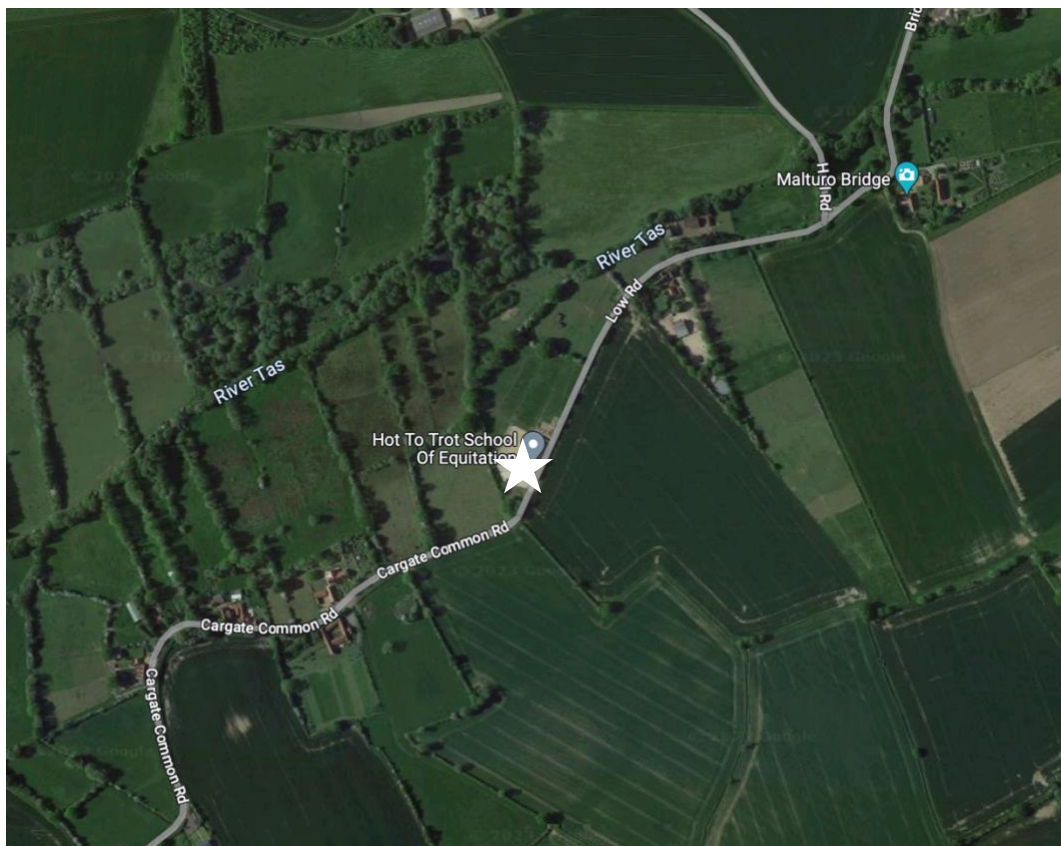


Figure 1.3.1 Aerial View

2.0 Site and Surrounding Area

- 2.1 The application site is located on the western side of Low Road in the village of Bunwell. There are no immediate neighbouring residential properties adjacent to the application site.

The nearest residential properties to the west of the application site, Low Farm House and The Courtyard are some 250m away, and to the east of the application site, Gowers Farm is some 350m away.

- 2.2 The land immediately to the south and east of the application site is agricultural arable land. The land immediately to the west of the application site is cattle pasture land. The land immediately to the north of the application site, up to the River Tas boundary is within the ownership of the applicant. There are no protected trees on site. The site falls within Flood Zone 1 and is at a very low risk of pluvial flooding. The site is outside of and not adjacent to any Conservation Area or Special Landscape Area. The site is not within any designated view or protect open / recreational space. The site is therefore unconstrained in planning terms.



Figure 2.2.1 Site Location Plan

3.0 Proposal

- 3.1 The proposal is for; Outline - Erection of 1 no. equestrian dwelling (with access). The following plan provides context:

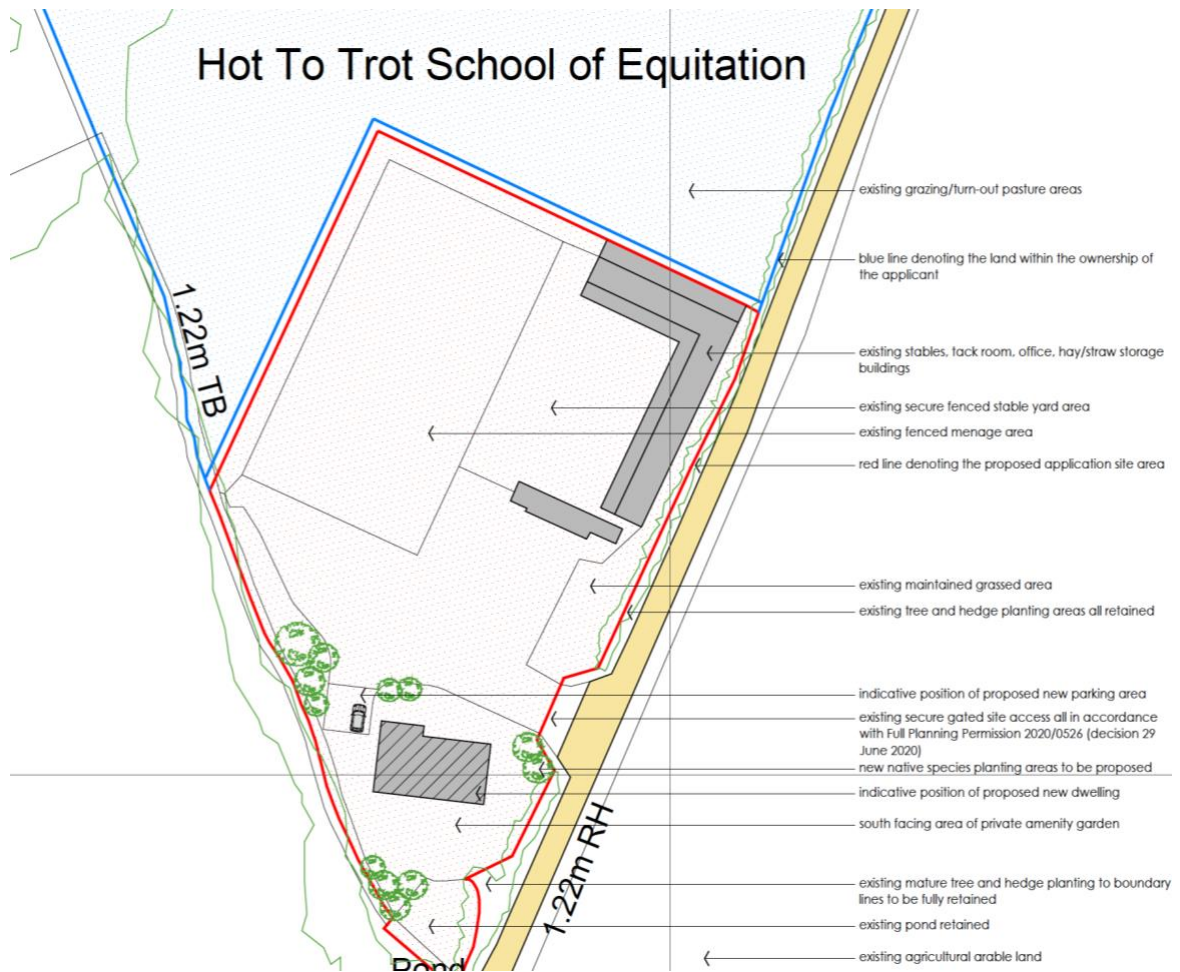


Figure 3.1.1 Indicative Site Plan

3.2 The application is supported by a suite of plans and documents including:

- Application Form
- Planning Drawings
- Planning Statement
- Ecology Report
- Land Contamination Report
- Company Accounts

4.0 Planning Policy

4.1 The National Planning Policy Framework 2021 (NPPF) contains the Government’s planning policies for England and sets out how these are expected to be applied. Planning law

continues to require that applications for planning permission are determined in accordance with the Development Plan unless material considerations indicate otherwise. The policies contained within the NPPF are a material consideration and should be taken into account for decision-making purposes.

4.2 The NPPF is supported by the Planning Practice Guidance (PPG), which assists applicants and decision makers in interpretation the NPPF.

4.3 The Development Plan for South Norfolk consists of:

South Norfolk Local Plan Development Management Policies (2015)

DM1.1: Ensuring Development Management contributes to achieving sustainable development in South Norfolk

DM1.3: The sustainable location of new development

DM1.4: Environmental Quality and local distinctiveness

DM2.8: Agricultural and other occupational dwellings in the Countryside

DM2.11: Equestrian and other small changes of use of agricultural land

DM3.1: Meeting Housing requirements and needs

DM3.8: Design Principles applying to all development

DM3.10: Promotion of sustainable transport

DM3.11: Road safety and the free flow of traffic

DM3.12: Provision of vehicle parking

DM3.13: Amenity, noise, quality of life

DM4.2: Sustainable drainage and water management

DM4.5: Landscape Character Areas and River Valleys

DM4.8: Protection of Trees and Hedgerows

DM4.10: Heritage Assets

Joint Core Strategy (2011, and amended 2014)

Policy 1: Addressing climate change and protecting environmental assets

Policy 2: Promoting good design

Policy 3: Energy and water

Policy 4: Housing delivery

Policy 6: Access and Transportation

Policy 17: Small rural communities and the countryside

Supplementary Planning Documents

- Nationally Described Space Standard (2019)
- Parking Standards (2007)

- 4.4 The Council is currently in the process of preparing a new Local Plan (Greater Norwich Local Plan (“GNLP”)) with its partner authorities. The GNLP was submitted for examination in Summer 2021. Examination remains ongoing. It is not presently clear whether the plan will be found sound and the recent issue of nutrient neutrality has raised other issues that require further modification to the Plan. It follows that only limited weight should be applied to the GNLP as a consideration and that it is the current development plan policies which are determinative in this case.

The National Planning Policy Framework (2021)

- Para 7: Achieving sustainable development
 - Para 8: Three dimensions to sustainable development
 - Para 10: Presumption in favour of sustainable development
 - Para 11 – 14: The presumption in favour of sustainable development
 - Para 38: Decision making
 - Para 47 – 50: Determination of planning applications
 - Para 60: Housing delivery
 - Para 69: Small and medium sized housing sites
 - Para 78 – 79: Rural housing
 - Para 81 – 85: Building a strong, competitive economy
 - Para 104 – 109: Promoting sustainable transport
 - Para 119 – 123: Making effective use of land
 - Para 126 – 136: Achieving well designed places
 - Para 159 – 169: Planning and flood risk
 - Para 174 – 187: Conserving and enhancing the natural environment
- 4.5 The NPPF sets out the Government’s planning policies for England and how these should be applied. Paragraph 7 of the NPPF confirms that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF

identifies three overarching objectives in order to achieve sustainable development. The NPPF goes on to state, however, that “they are not criteria against which every decision can or should be judged” (para. 9). The policy paragraphs, footnotes, and annexes to the NPPF should be considered as a whole. Nevertheless, the key considerations that apply to this proposal are dealt with below.

- 4.6 Paragraph 11 of the NPPF confirms that there is a presumption in favour of sustainable development.
- 4.7 It will be shown that the scheme accords with the development plan as a whole because of its compliance with the important policies for its determination. Such a view is entirely consistent with the recent *Corbett* judgment of the Court of Appeal¹. Thus, in accordance with NPPF para. 11(c) planning permission should be granted without delay.
- 4.8 In any event, the Council cannot presently demonstrate a five-year housing land supply as confirmed in a recent appeal of this year (ref. 3285244, Frettenham, Norfolk). This means that paragraph 11(d) of the Framework applies, and the “tilted balance” is engaged.
- 4.9 This was similar to the finding in an appeal conducted by way of hearing in Poringland (ref. 3296988) where it is important to set out the findings of the Inspector in relation to the benefits of the scheme in this case:

“23. I have had regard to the current impacts of nutrient neutrality on the district council, which has resulted in the Council acknowledging that they can no longer demonstrate a 5 year housing land supply (5YHLS). The Council were unable to outline the extent of the shortfall, or the number of houses currently affected by this issue but has accepted that paragraph 11d of the National Planning Policy Framework would apply....

25. Whilst a package of strategic mitigation measures are in the process of being drawn up by South Norfolk Council in conjunction with other affected authorities, given the timescales outlined at the hearing, I consider that there will inevitably be a short term delay in housing delivery. Therefore, I have attached great weight to the

¹ *Cornwall Council v Corbett* [2020] EWCA Civ 508.

site's location outside of the nutrient neutrality catchment area which means that it can be delivered in the short term....

26. The delivery of a smaller site within the NPA, which is also outside of the nutrient neutrality catchment area and where no conflict has been identified with the NP, providing 6 affordable dwellings for affordable rent and shared ownership, would in this site specific case, based on the evidence before me, amount to an overriding benefit for the purposes of Policy DM1.3."

4.10 The above appeal decision is important because in that case, where it could be shown that the scheme would not be held up by the nutrient neutrality issue / was beyond the catchment for it, the benefit of housing was considered to be overriding to the fact that the site was in the countryside. Those considerations apply in this case.

4.11 The courts have explained how the "tilted balance" operates in such circumstances. For example, in the case of *Cheshire East vs SSCLG* (2016) EWHC 571 (Admin), Mr. Justice Jay stated:

"Another way of putting the matter is that the scales, or the balance, is weighted, loaded, or tilted in favour of the proposal. This is what the presumption in favour of sustainable development means: it is a rebuttable presumption, although will only yield in the face of significant and demonstrable adverse impacts."

4.12 As the nutrient neutrality section of this report will explain, the application proposal can avoid adverse effects and therefore there is no policy basis to disapply the tilted balance in this case.

4.13 An assessment of the proposal under the above policy context is detailed below and in consideration of the planning matters material to this application and its main issues. It will be demonstrated that the proposed development not only adheres to the development plan as a whole first and foremost, but also adheres to the policies of the NPPF. Planning permission should be granted without delay where there are overriding benefits in allowing development to proceed.

5.0 Planning History

5.1 The site has been subject to planning application submissions in the past:

Proposed small business for teaching riding and caring for horses and ponies.

Ref. No: 2014/1245 | Status: Approved with Conditions

Variation of Condition 3 of planning consent 2014/1245 (Proposed small business for teaching riding and caring for horses and ponies) - Increase in number of horses/ponies from 6 to 12, but no increase in business use.

Ref. No: 2016/1964 | Status: Approved with Conditions

Change of use of barn to part domestic/part commercial and retention of cladding

Ref. No: 2001/0324 | Status: Approved with Conditions

Convert and extend existing barns to form dwelling

Ref. No: 1995/0318 | Status: Approved with Conditions

Convert and extend existing barns to form dwelling

Ref. No: 1995/0294 | Status: Approved with Conditions

2020/0526 | Erection of stables, formation of menage and parking areas. | Land West Of Low Road Bunwell Norfolk

Positive Pre App under reference ENQSMI/2023/0036 dated 30th March 2023

6.0 Material Planning Considerations

6.1 Principle of Development

6.2 At a local level, the presumption in favour of sustainable development is set out in policy DM1.1 of the development plan and seeks to replicate the terms of the presumption as found within paragraph 11 of the NPPF. It is clear, therefore, that the presumption is set out within the development plan and, as such, the application of the presumption is not simply weighed

as a material consideration within the NPPF but is a consideration against which all proposals must be determined. The LPA cannot choose not to apply it because they consider they have a 5-year housing land supply (which the LPA do not retain), as that test does not exist in policy. The development plan has primacy, and the LPA would be incorrect in law if they chose not to apply it.

6.3 Policy DM1.3, and in particular its criterion d), is considered to be material to this main issue albeit recognising that other policies are applicable, and which will be considered further below.

6.4 Policy DM1.3 states:

“Policy DM 1.3 The sustainable location of new development

- 1) *All new development should be located so that it positively contributes to the sustainable development of South Norfolk as led by the Local Plan. The Council will work with developers to promote and achieve proposals that are:*
 - a) *Located on Allocated Sites or within the development boundaries of Settlements defined on the Policies Map, comprising the Norwich Fringe, Main Towns, Key Service Centres, Service Villages and Other Villages; and*
 - b) *Of a scale proportionate to the level of growth planned in that location, and the role and function of the Settlement within which it is located, as defined in the Local Plan.*
- 2) *Permission for development in the Countryside outside of the defined development boundaries of Settlements will only be granted if:*
 - c) *Where specific Development Management Policies allow for development outside of development boundaries or*
 - d) ***Otherwise demonstrates overriding benefits in terms of economic, social and environment dimensions as addressed in Policy 1.1.***

6.5 The application of policy DM1.3 and its criterion d) has been a matter of some debate in previous local and appeal decisions. The Applicants view is that the definition provided by the Oxford English Dictionary is useful, which states that “overriding” means: ‘to prevail over, dominate; to outweigh, outnumber’. It is simply the case that accounting for any identified harms, if the benefits to accrue would outweigh them then development should be permitted

to proceed having regard to the three objectives of sustainable development which are effectively described under policy DM1.1. Such a balance would be positively applied and entirely consistent with the NPPF; this Statement demonstrates how that test is met.

“Overriding” should not set an artificially high threshold as this would plainly conflict with the NPPF where under national policy it is only in acute circumstances that exceptional justification is needed; it is precisely that: an exception, not a general rule. Such an exceptional circumstances test does exist for new isolated homes in the countryside (as NPPF para. 80) but that test does not engage here due to the nature of the proposal.

6.6 Such an approach is entirely consistent with that adopted by the appeal inspector for another appeal (ref. 3261262, Barford, Norfolk). In any event, because of the absence of a five-year housing land supply the presumptive tilt of paragraph 11(d) of the NPPF and policy DM1.1 is also engaged i.e., “the tilted balance”. As the Poringland appeal Inspector found, this automatically presents overriding benefits / any harms would have to significantly and demonstrably outweigh the benefits in order to disapply that presumption (see para. 26 of that decision).

6.7 Thus, the fact that the application site in this instance is in the countryside (but nevertheless an equestrian dwelling) should not be a determinative factor in the disposal of this application. Interpreted fairly and benevolently on its ordinary meaning, Policy DM1.3(d) offers flexibility where a balanced decision of harm (if any) against benefit directs that planning permission should be granted. As this Statement makes clear, no other harm arises in relation to the proposal and the lack of land supply means that the proposal for a new home offers overriding benefit because it can bypass the backlog of homes and shortfall caused by the nutrient neutrality issue.

6.8 In this instance the site is not physically or functionally isolated and a new equestrian dwelling in this location would help to maintain the vitality of the community of Bunwell, that would host it. Paragraphs 78 and 79 of the NPPF seeks to promote sustainable development in rural areas, advising; *“housing should be located where it will enhance or maintain the vitality of rural communities”*. Further, Paragraph 105 of the NPPF identifies that access to sustainable transport options between the urban and rural areas will vary and that this should be taken into account for decision-taking purposes. The direction is therefore clear that the level of services available in a particular location should not be the determinative factor in planning

decisions; rather, the spatial – as opposed to functional – distribution of new development is of greater importance, noting that it is important for rural communities to thrive and that, in accordance with the PPG and Paragraph 79 of the NPPF, services in one settlement will support those in another, and vice versa.

- 6.9 Notwithstanding the in principle arguments presented, the scheme finds further support through Policies DM2.8 (Agricultural and other occupational dwellings in the Countryside) and DM2.11 (Equestrian and other small changes of use of agricultural land). It is
- 6.10 Policy DM2.8 supports equestrian and other changes of use of agricultural land, therefore the site has inherently been supported on an equestrian level, as established. The commercial entity of the site has grown, and the business now commands the need for a full time equestrian dwelling.
- 6.11 Policy DM2.11 is expressly engaged, as this policy specifically deals with agricultural and other occupational dwellings in the countryside. For the avoidance of doubt, the policy states:

“Policy DM 2.11 – Agricultural and other occupational dwellings in the Countryside

(1) Proposals for development in the Countryside to meet the housing needs of full-time workers in agriculture, forestry and other essential workers connected with that land will be permitted only where they comply with the following criteria.

In the case of all enterprises:

a) There is a demonstrated functional need for one or more full-time workers to be readily available at all times for the enterprise; and

- 6.12 The applicants are the founders of Hot To Trot School of Equitation Ltd, established in 2014. The site is a fully licensed and insured riding school run by the applicants, who have established strong connections locally. The business offers horse riding lessons for adults and children of all standards, from beginner to advanced. As well as daily lessons, the business also offer hacking out along Tas Valley, amongst other areas of Norfolk. The business specialise in running informative ‘Own A Pony Days’ and Fun Days that are perfect for

younger riders. The applicants offer comprehensive equine service for all ridden and handling issues encountered with problem horses and ponies including backing and breaking.

6.13 The proposal site offers a suitable parcel of land for the proposed end use, which would be managed through strict equine measures. The result would be a bespoke equine site operated on a commercially sensitive basis:

- Total of 24 no. horses (native breeds)
- 1 no. stable block with tack, feed and wash rooms, and office and WC.
- 1 no. menage
- Combination of grazing and working use
- Post and rail fencing (electric lines where necessary)
- Siting of 1 no. horse trailer to be used incidentally

6.14 It is not uncommon for equestrian workers to live and work on the same site in rural areas. This is particularly the case where round the clock care is required, and when rare breeds are involved. The management, welfare and maintenance duties include:

- Inspecting stabled horses early morning before the normal working day, during the day and at least twice after the normal working day
- Feeding all stabled horses
- Bedding-down and cleaning out stables
- Checking all horses late at night for any problems and bringing in any horses turned out in controlled environment if poor weather conditions
- Monitoring susceptible horses for signs of colic
- Monitoring all stabled horses for incidents of becoming cast
- Bringing in any horses that are turned out if an air balloon flies over, or there is a sudden thunder and lightning storm (day and night)
- Administering routine treatments and medication with assistance of veterinary professionals
- Checking all stock late at night for any problems and shutting in if poor weather conditions
- Monitoring groups of mares and young stock for signs of bullying
- Changing and dressings and flushing wounds where necessary

- Grassland management operations such as harrowing, rolling, topping and fertiliser spreading
- General maintenance duties

b) The functional need could not be met by another existing dwelling in the area that is available and suitable;

6.15 The applicants are experienced horse handlers with over 20 years' experience in horse care and welfare. The proposal site offers a suitable parcel of land for the proposed equestrian dwelling, which would be managed through strict equine measures. The result would be a bespoke equine site operated on a private basis, where there are currently no other tangible residential properties which would enable equestrian use, to the level established. The existing use goes above and beyond the realms of what one may consider to be typical of an open market domestic dwelling. The horses, shelters, vehicles, exercise quarters, apparatus, waste management and paraphernalia would not be suitable within the curtilage of a conventional domestic dwelling. This is why a bespoke equestrian dwelling is required on site.

In the case of established enterprises:

c) The enterprise has been established for at least 3 years and is likely to remain financially viable for the foreseeable future; and

6.16 The existing equestrian enterprise has been established since 2014, and is financially viable as evidenced by the enclosed Company Accounts. The proposed equestrian dwelling would enable the applicants to reside on site, whilst ensuring jobs are retained as part of the established equestrian use. Should the Council wish to impose a condition restricting the future occupancy of the dwelling, then this would be agreeable.

d) The proposal does not represent a replacement of another dwelling on the site (or the former holding of which the site formed a part) that has been sold on the open market in the last five years; and

6.17 The proposal does not result in a replacement dwelling.

e) The proposed dwelling is no larger than that required to meet the functional needs of the enterprise and is affordable from a viable income derived from the enterprise in the long term."

6.18 Whilst the sale, appearance, layout and landscaping would fall to reserved matters, there is a reasoned expectation that the dwelling would be proportionate and well-integrated amongst existing built form:

- Sustainable in its performance, function and efficiency (held by reserved matters)
- Immediately adjacent to established settlement
- Flanked by built form
- Presents limited encroachment into the open countryside
- Well enclosed by established mature hedgerows and trees
- Grey water filtration units
- Swift bricks
- Hedgehog friendly fencing
- Triple glaze windows and doors
- High performance insulation (GWP less than 5)
- Energy efficient integrated appliances
- Solar energy
- Air / Ground source heat pump
- Electric vehicle charging point
- Ultrafast broadband potential
- Renewable technologies which would facilitate low-carbon development

6.19 The National Planning Policy Framework encourages rural enterprise also, and is supportive of rural works dwellings through paragraph 80, which states:

“Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;”

6.20 Within the above context the principle of development is satisfactory having regard to the relationship of the site to an existing settlement and the overall spatial strategy of local planning policy. It should be common ground that the “tilted balance” applies, and that the existing equestrian enterprise is viable to warrant the need for a permanent dwelling.

6.21 As this Statement sets out, the Applicants are of the firm opinion that there is a nugatory level of harm (at best) when framed against policy DM1.3, which must be framed against not only the very important benefit of housing in the face of a national housing crisis and accepted shortfall of such in the plan area, but also the sustainability benefits which will be delivered.

6.22 Overall, therefore, the principle of development is satisfied and would accord with the development plan. This is because overriding benefits allow for development to proceed.

6.23 Sustainability

6.24 Paragraph 8 of the NPPF sets out three dimensions for sustainable development:

“a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being; and

c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.”

6.25 Economically, the proposal would generate a benefit for local trade before, during and after construction. Furthermore, there will be a positive benefit through support of local amenities, facilities and services available from future owner / occupiers. Financially, the proposal would contribute to Business Rates. The dwelling proposed would also hold potential to be ‘work from home’ enabled, through a high-speed broadband network and devoted home workspace.



- 6.26 Socially, the proposal yields positive benefits through the creation of a healthy and functionally sound dwellings which are conducive for day-to-day living, with positive interaction within the immediate and surrounding areas. Positive contribution to the local community can in some instances stimulate stronger communities. The space provided will enable good domestic enjoyment without materially hindering or oppressing the social enjoyment experienced by neighbouring property. The proposal provides a contribution to much needed housing of a desirable form.
- 6.27 Environmentally, the site benefits from connections. The proposal does not offer a materially harmful character area or residential amenity intrusion. The proposed works will exceed current Building Regulations standards, embedding positive measures to reduce carbon emissions and energy usage.
- 6.28 Notwithstanding the limited harm this scheme would create, these benefits are considered to go a significant way in offsetting any limited environmental harm that may occur. As such, any harm would not significantly and demonstrably outweigh the benefits of the scheme.
- 6.29 The proposal reflects the essence of paragraph 8 of the NPPF, and is therefore considered economically, socially and environmentally sustainable.
- 6.30 Highways Access, Parking and Safety
- 6.31 The established access provides sufficient access for the future end use. The width, splay and localised speed percentile is acceptable and would not result in undue highways concern.
- 6.32 Highways safety is an integral aspect of the scheme. Certainly, from assessment of the plans, and the nature and extent of the access / egress, the applicant is of the sound opinion that a safe access / egress can be achieved on site. The site would benefit from an established access point, with visibility splays which surpass the minimum LLHA requirements.
- 6.33 From the main body of the site, sufficient space can be provided to allow a vehicle to manoeuvre within the site and re-enter the highway in a forward-facing gear so as not to create unacceptable highways risk, in accordance with policies DM3.11, DM3.12 and Policy 6.

The spatial parameters of the site mean an appropriate level of parking provision could be provided on site at the reserved matters stage.

6.34 The proposal responds well to policies DM3.11, DM3.12 and policy 6, paragraphs 110 and 111 of the NPPF, and the Parking Standards, all underpinned by Case Law. There is nothing before the LPA to suggest the scheme should be refused upon highways grounds.

6.35 Landscape

6.36 Policy DM.4.5 seeks to maintain or enhance the special landscape qualities of the area, through design of the site so as to harmonise with the landscape setting. In this instance, the policy does not expressly engage, as the site is outside of the designated area. Nonetheless, consideration to the landscape is afforded.

6.37 As discussed earlier in this statement, the site is well related to built-form and as such the urbanising effects of development could be adequately managed through reserved matters. The site's location and size would ensure any subsequent scheme would be designed to sympathise with the surroundings and would not result in any overriding landscape or streetscape harm. The site would be enclosed very well.

6.38 Whilst landscaping is a matter that would be reserved for a future application, it is anticipated that a soft scheme and boundary treatment could be provided such that the current relationship between the site and its surroundings could be maintained or indeed enhanced. The illustrative plans demonstrate that the proposed development could be successfully accommodated and assimilated into the surrounding landscape without causing undue harm. Given the specific characteristics of the site, the erection of a single dwelling in the location proposed, adjacent to other existing development and within clearly defined boundaries, would not undermine the character, appearance, or role of the countryside. Thus, the application accords with local and national planning policy in this regard

6.39 Design, Layout and Character Impact

6.40 Policy DM.3.8 and policy 2 seek to encourage good design and layout in new development. The LPA will grant permission for proposals which meet the design criteria. Furthermore, the

NPPF places a strong emphasis on good design, in particular through Chapter 12 ‘Achieving well-designed places’ containing a number of policies which can support the delivery of good design and stating that planning decisions should ensure that developments at Paragraph 130; “*are visually attractive as a result of good architecture*”. Consideration must also be afforded to the NDSS.

6.41 Detailed design is a reserved matter. Notwithstanding this, the scheme could adopt similar aesthetic details of existing residential dwellings within the area, and therefore harmonise with the character and form of the locality. Certainly, the existing houses of two-storey form establish the principle of two-storey new build. It is also noted that the application site is visually unconstrained, with varying design precedent offered nearby. In terms of layout, consideration must be afforded as to the effectiveness of the site inclusive of: built form, access, private amenity space and landscaping. The site is readily capable of accommodating the amount proposed, with good spatial integration.

6.42 At this stage the proposal responds favourably to policy DM3.8 and policy 2, Chapter 12 of the NPPF, and the NDSS. There is little before the LPA to suggest the scheme should be refused upon design and layout grounds.

6.43 Residential Amenity

6.44 Policy DM3.13 seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. Paragraph 130 of the NPPF also holds regard to the protection and preservation of residential amenity, which the scheme wholly delivers. Whilst nobody has a right to keep the existing view from their home, the applicant acknowledges that the LPA will consider the effect the proposal may have on the outlook from principal windows of neighbouring property. In this instance, existing residential amenity for neighbours is protected and preserved. In any event, appropriate mitigation could be applied.

6.45 Ecology and Biodiversity

- 6.46 Regulation 9(5) of the Conservation of Habitats and Species Regulations 2010 (Implemented 1st April 2010) provides that all "*competent authorities*" (public bodies) to "*have regard to the Habitats Directive in the exercise of its functions*".
- 6.47 There are no recordings of protected species or their habitats, within the site or likely to be affected in the immediate area. It is highly unlikely that any protected species would be found within this site and as such this proposal is not considered to be harmful in terms of ecology or biodiversity.
- 6.48 Guidance on the conservation of protected species is given in ODPM Circular 06/2005. At Paragraph 99 the Circular advises that the presence or otherwise of protected species, and the extent to which they might be affected by the proposed development, must be established before planning permission is granted. However, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place before the permission is granted.
- 6.49 Nonetheless, the applicant has demonstrated commitment to protecting and preserving ecological and biodiversity value through the scheme proposed. The scheme accords with the aims of paragraph 170 of the NPPF which seeks to conserve and enhance biodiversity and the natural environment.
- 6.50 At the time of preparing this statement, it is understood that there is no firm indication of when catchment wide mitigation methods will be implemented for the catchment which applies to the appeal site. Thus, noting the importance of housing delivery, the appeal scheme can mitigate its own impacts and safeguard.
- 6.51 The use of a simple Grampian condition can ensure that the final details of the strategy for nutrient neutrality be agreed before development takes place. This was precisely the approach taken in a recent appeal in the plan area (ref. 3289198, Bunwell) where notably the GIRAMS was also secured by condition. It is important to set the Inspectors findings out in full:

“In addition to the above, since the appeal application was determined, South Norfolk and Broadland Councils have resolved to adopt the Norfolk Green Infrastructure and Recreational impact Avoidance and Mitigation Strategy (GIRAMS) and to begin collecting contributions from development in accordance with the requirements of Policy 3 of the emerging Greater Norwich Local Plan. These contributions will be sought from 1 April 2022 and comprise payment of the Recreational Avoidance Mitigation tariff of £185.93 per dwelling. The collection of these contributions enable the Council to conclude through a Habitat Regulation Assessment (HRA) that a development will not have any adverse impact on the integrity of a Habitats Site as a result of increased recreational usage. In such cases the council requires entry into a unilateral undertaking to secure the required payment.

I have sought the views of the appellant on this, and the council's response to those views. Having taken account of both, I deal with recreation impact avoidance first. I note that the GIRAMS would not require refusal of the application as the council policy allows for financial contributions to address the impacts. Whilst the council uses unilateral undertakings to collect payment for this requirement, the appellant asks for the matter to be dealt with by a condition. Government guidance includes the statement that it may be possible to use a negatively worded condition to prohibit development authorised by the planning permission until a specified action has been taken (for example, entering into a planning obligation requiring the payment of a financial contribution [Paragraph: 005 Reference ID: 21a-005-20190723]).

Thus the condition suggested on behalf of the appellant would ensure that, for the development to proceed, the council's preferred unilateral undertaking would have to be entered into. I am satisfied that this would deal with the matter, such that, as the competent authority, the council would be able to satisfy itself that the duty upon the local planning authority to ensure that sufficient mitigation is provided against any impacts which might arise upon the designated sites has been met, having had regard to Regulation 63 of the Conservation of Habitats and Species Regulations 2017.

I am also satisfied that this condition would meet all 6 tests set out in paragraph 55 of the Framework, including test 6 - reasonable in all other respects.

Turning to nutrient neutrality, the council dismisses a condition, as suggested by the appellant, on the basis that imposition of a condition without sufficient information/mitigation upfront would not meet the requirements of the regulations based on current understanding because insufficient information would be available to make the decision.

However, Regulation 63(6) states "In considering whether a plan or project will adversely affect the integrity of the site, the competent authority must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which it proposes that the consent, permission or other authorisation should be given". And Regulation 70(2) states "Where the assessment provisions apply, the competent authority may, if it considers that any adverse effects of the plan or project on the integrity of a European site or a European offshore marine site would be avoided if the planning permission were subject to conditions or limitations, grant planning permission, or, as the case may be, take action which results in planning permission being granted or deemed to be granted, subject to those conditions or limitations"

Bearing in mind these regulations, a pre-commencement condition requiring the submission of a water efficiency calculation, and a mitigation package addressing the additional nutrient input from the development, together with a requirement for its implementation would ensure that no permitted development could take place in the absence of a satisfactory scheme and its implementation. It would be for the council as appropriate authority to determine whether or not the mitigation package would meet the requirements of the regulations. In the event that was considered that it did not meet the regulation's requirements, the permission would be of no effect unless and until an alternative scheme was put forward."

6.52 The two conditions imposed by the Inspector which covered both the GIRAMS, and nutrient neutrality issues were as follows:

1. *The development hereby permitted shall not be commenced until:*
 - i. *A water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings has*

been undertaken which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to, and approved in writing by, the local planning authority; all measures necessary to meet the agreed waste water efficiency calculation must be installed before first occupation and retained thereafter; and

- ii. A mitigation package addressing the additional nutrient input arising from the development has been submitted to, and approved in writing by the local planning authority. Such mitigation package shall address all of the additional nutrient load imposed on protected European Sites by the development when fully occupied and shall allow the local planning authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected European Sites, having regard to the conservation objectives for those sites; and*
- iii. The mitigation package shall be implemented prior to the first occupation of the development hereby permitted and the mitigation package shall be retained and maintained thereafter.*

- 2. The development hereby permitted shall not be commenced until proposals for the mitigation of the impact of the development on protected Norfolk European Sites have been submitted to and approved in writing by the local planning authority, which shall include evidence of completion of the required legal agreement to secure the proposed mitigation. Such proposals must provide for mitigation in accordance with the Norfolk Green Infrastructure and Recreational impact Avoidance and Mitigation Strategy, or for mitigation to at least an equivalent effect.*

6.53 As a recent decision from an appeal Inspector this is a material consideration of great weight. There is no reason to suggest why conditions cannot apply in this case and the applicants would commend the above considerations to the Council here.

6.54 Flood and Water

6.55 There is nothing before the LPA or LLFA to suggest a flood and water compliant scheme couldn't be delivered.

6.56 Land Contamination

6.57 There is no known land contamination issue, with an extremely low contamination potential. The site is not considered to present risk to future owner / occupier through land contamination as outlined in the Land Contamination Report.

6.58 Delivery and Construction

6.59 The deliverability of a development is an important factor in an assessment as to its sustainability (in terms of its benefits) and in terms of its contribution to the supply of housing land in the district.

6.60 The NPPF defines deliverable:

“To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years” and; “Sites with outline planning permission... should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years”.

6.61 The NPPG gives further guidance on those considerations under the chapter heading ‘*Housing and economic land availability assessment*’ and includes three, important concepts; suitability, availability, and achievability. Whilst primarily aimed at aiding the plan-making process, the principles are no less useful when considering the deliverability of this development. The NPPG also identifies information relating to site viability, ownership constraints or infrastructure provision, and a statement of common ground between the LPA and the developer confirming the anticipated build-out rates.

6.62 The site is considered to be suitable for development. There is a reasoned expectation that the development would make a valuable and positive contribution to the housing land supply in the short term and at an expeditious rate.

6.63 Construction Management

6.64 Turning to the construction implications of the proposed development, the arrival of construction vehicles and materials is likely to have a temporary impact on the road network that surrounds the site. It is recommended that the developer produce a detailed Construction Management Plan (CMP) in conjunction with any contractors and sub-contractors employed on the site prior to construction commencing. A competent contractor will have a better idea of the actual site constraints and necessities post detailed design than can be described at this stage. This CMP should be agreed with the LLHA and take into account that:

- Parking on Low Road by vehicles associated with the construction of the development should not be permitted for the duration of the working day. Similarly parking in surrounding streets, should also not be permitted. It is therefore recommended that an allowance is made for these vehicles within the site during the construction phase.
- It is recommended that deliveries are, where possible, delivered in bulk to site and from a single supplier.
- Facilities should be provided on site to allow wheel cleaning before vehicles exit the site. This should assist in the control of dust and dirt from leaving the site.

7.0 **Planning Balance**

7.1 The proposal seeks planning permission for; Outline - Erection of 1 no. equestrian dwelling (with access). The applicants acknowledge the LPA's position concerning planning conditions and welcomes discussion around agreement of conditions.

7.2 Whilst the development plan is the starting point, it is not the end point. Policy supports the principle of development, and the introduction of built form to the site would be read coherently, without undue harm to the character and appearance of the area. Harms to ecology and protected sites can be avoided through compliance with the GIRAMS and a nutrient neutrality strategy that can be secured by condition.

7.3 The proposal is a wholly deliverable prospect, making effective use of land, without undue harms. The scheme is robustly supported at a local and national level offering a sustainable scheme which is heavily aligned to local and national planning policies.



- 7.4 Overall, therefore, the principle of development is satisfied and would accord with the development plan. This is because overriding benefits allow for development to proceed.
- 7.5 In light of this and taking account of all the considerations set out above, it is hoped that the LPA will support this sustainable development by granting planning permission in the terms requested.