

LPA Ref: SN2119

Date: 6th March 2023

South Norfolk Place Shaping Team

South Norfolk Council
Thorpe Lodge
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Norwich
NR7 0DU

Submitted electronically:

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RE: SN2119 – Land North of High Green/West of Astley Cooper Place, Brooke. Regulation 19 consultation

Dear Sir / Madam,

I write in response to the current Regulation 19 consultation for the Village Clusters Housing Allocations Plan, and specifically site reference SN2119 and its rejection in the Updated Site Assessment: Non-allocated sites (January 2023).

This letter provides an analysis of the above-referenced site assessment for SN2119 and seeks to clarify any areas in which there appears to have been a misunderstanding.

By way of background, SN2119 was submitted as part of the call for sites process for the Greater Norwich Local Plan, and considered a 'reasonable alternative'. Following the submission of representations to inform the Regulation 18 stage, including the provision of further technical information to address concerns raised by the Council, the site was shortlisted for allocation, 'subject to demonstrating access from Astley Cooper Place'.

The Regulation 19 version of the Plan sees SN2119 rejected, for reasons we believe to be unfounded, primarily visibility, lack of a footway and heritage impact concerns.

This letter is accompanied by:

- Drawing 211962-501-P1 and 211962-500-P1 – Canham Consulting drawings showing 1.5m and 1.2m footway respectively
- 402884-30-002 – Proposed site masterplan including visibility splays
- 302952-20-100 – Transfer Plan for land to the north of 66 High Green
- Durrants Regulation 18 stage representations
- Email from Graham Worsfold confirming visibility splays

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- LS1298-01 – Tree survey, AIA and protection plan
- DSBE2_10-300119 – topographical survey (including trees)

Analysis of site assessment undertaken in 2020

Part 1 – site details

No comment

Part 2 – absolute constraints

No constraints identified

Part 3 – suitability assessment

No comments

Comments

Access to the site

HELAA score – Amber

Site score – red

'Frontage to High Green within the 30mph speed limits area. There is no footway on High Green between the site and the entrance to Astley Cooper Place, approx. 200m from the site. The site promoter has suggested that a suitable footway can be accommodated within the existing highway, although the impact on the character of the Conservation Area would need to be considered.

NCC Highways – Red, not acceptable. Limited forward visibility in vicinity of site & f/w to village centre starts at Astley Cooper Place, not clear that a facility can be provided within the highway in the existing developed area – approx. 200m. Acceptable level of visibility from site access unlikely to be achievable.

NCC Highways Meeting - poor alignment of High Green, with limited forward visibility, and very questionable whether a footway to link with the existing can be achieved. In addition to concerns about the availability of land to create this it would also result in significant damage to the vegetation which is in third party ownership.

Previous pre-app on the site suggests a direct link to Astley Cooper Place is not possible.'

Agent's response

Please refer to drawings 211962-501-P1 and 211962-500-P1, which were submitted with Durrants' representations at Regulation 18 stage in December 2018 (attached for ease). These drawings show that a suitable footway can be accommodated within highway land, and give two potential options – 1.2m wide and 1.5m wide. The former can be accommodated without any changes to the kerblines, and a 1.5m wide footpath can be achieved by a small widening of the kerblines and subsequent narrowing of the highway. No third party land is required under either option.

The Conservation Area extends over some of the area required for the footway. There is no Conservation Area Appraisal for the Brooke Conservation Area, making it difficult to objectively assess its important characteristics and therefore how to preserve and

enhance them. We would therefore argue that impact on the Conservation Area would need to be assessed by a qualified heritage consultant, which could form part of a planning application.

Regarding visibility splays, an email from Graham Worsfold on 3 November 2017 (attached) confirmed that visibility splays of 2.4m x 59m are required on this site. A drawing demonstrating that these are achievable was submitted with our Regulation 18 representations in 2018. I re-attach those drawings to these representations – please see 402884-30-002.

It is disappointing that the evidence, prepared by qualified engineers, does not appear to have been fully considered in this assessment. We would encourage the Council to re-consider the evidence submitted to them 3 years ago which clearly demonstrated that Highways and Access concerns could be fully addressed.

It is also worth noting that the Regulation 18 site assessment shortlisted the site on the condition that an access via Astley Cooper Place was achievable. This has not been a reasonable option at any stage, as the gardens to numbers 8 and 9 effectively obstruct a connection between Astley Cooper Place and the site, forming a ransom strip. Acquiring land from two different properties would almost certainly undermine the viability of the site.

It is also important to acknowledge the amenity impacts of accessing the site via Astley Cooper Place. This is a quiet cul-de-sac of properties built in the 1970s-1980s and would likely engender significant opposition from residents if it were to serve an additional 25 dwellings.

The proposed access from High Green can be delivered safely, without the need for any third party land and with minimal impact on existing residents.

Flood risk

HELAA score: amber

Site score: Amber

'Area of surface water flood risk (inc 1:100 year) running diagonally northeast/southwest across the site, along the line of vegetation.

LFFA - Few or no Constraints.'

Agent's response

The scheme has been designed to avoid any areas of flood risk, and any application would be accompanied by a suitable drainage strategy.

Townscape

HELAA score: amber

Site score: Amber

'Frontage development on High Green is generally low density with mature planting and rural in appearance. This frontage development also forms part of the Conservation Area. However moderately higher density estate type development does exist to the rear of

properties on the north side of High Green, at Astley Cooper Place, Coniston Road, Brecon Road etc. The orientation/shape of the site would lead to a linear form of development, running roughly at a right angle to High Green.'

It is unclear why this has scored 'amber', as the comments do not raise any concerns. The site lies outside of the conservation area, and any layout can be discussed and agreed with the Planning Authority as part of a planning application. The comment regarding frontage development being within the conservation area is inaccurate. As Figure 1 shows, the conservation area does not form any part of the frontage of the site.

Biodiversity & Geodiversity

HELAA score: amber

Site score: Amber

'Small area of TPO trees (Wood Farm) along the eastern boundary with Ashley Cooper Way and other parts of the site are also heavily vegetated.'

An initial masterplan (attached) shows that all trees and existing vegetation can be preserved in its current location, with dwellings plotted outside of root protection zones. The masterplan was informed by a tree survey undertaken by Land & Sculpture Design Partnership and ASD Surveys (also attached).

Historic environment

HELAA score: amber

Site score: Amber

'The site adjoins the Conservation Area and has a listed building (66 High Green) in close proximity.

SNC Heritage - Concern at the setting of 66 High Green, which unfortunately sits at the back of its curtilage (and also within the setting). I note that there is some open space in the plan is provided but it does not really mitigate impact/harm that much.

HES – Amber'

The area of land immediately to the north of 66 High Green was sold to the owners off 66 High Green in 2020 (see attached 302952-20-100). This was in response to the concerns raised relating to potential impact of the setting of 66, in particular the fact that it sits at the back of its curtilage. This extra land now provides an additional buffer of 29m to the north of the property and 10m to the north-west. The site therefore no longer adjoins the Conservation Area on any boundary, with the Conservation Area being 10m from its eastern boundary at the closest point.

It is important to reiterate that the Conservation Area largely concerns the historic core of the village. There is no Conservation Area Appraisal for Brooke, and therefore no way to empirically assess any potential impact. In any case, proximity to a conservation area does not preclude development suitability - 2014/2041 sits within and adjacent to the Conservation Area and was granted consent. and it is important to note that the site is not **in** the Conservation Area.

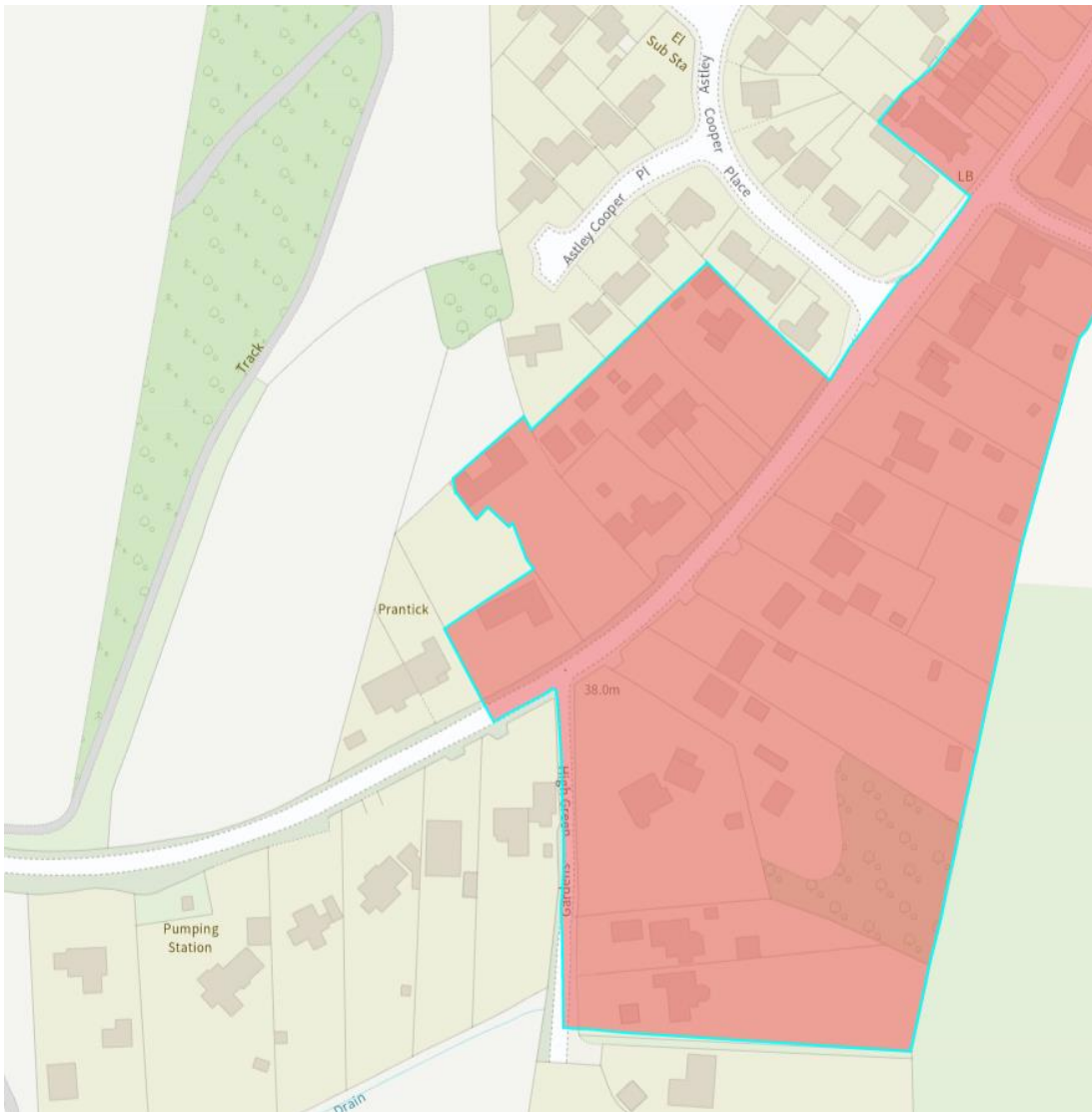


Figure 1: Plan showing conservation area

Transport and Roads

HELAA score: amber

Site score: red

'Lack of footway along High Green between the site and Astley Cooper Place. The site promoter has suggested that a suitable footway can be accommodated within the existing highway, although the impact on the character of the Conservation Area would need to be considered.

Site is within the 30 mph area with reasonable access to the main B1332.

NCC Highways – Red, not acceptable. Limited forward visibility in vicinity of site & f/w to village centre starts at Astley Cooper Place, not clear that a facility can be provided within the highway in the existing developed area – approx. 200m. Acceptable level of visibility from site access unlikely to be achievable.

NCC Highways Meeting - poor alignment of High Green, with limited forward visibility, and very questionable whether a footway to link with the existing can be achieved. Previous pre-app on the site suggests a direct link to Astley Cooper Place is not possible.'

These comments largely repeat the earlier section on Access, however, in response we reiterate our previous comments that drawings, prepared by qualified professionals, demonstrate that visibility splays and the footway can be achieved.

Part 7 – Conclusion

Suitability

'Whilst the site is well located in terms of access to local services and facilities, it also has some constraints in terms of: the proximity of the Conservation Area and the listed property at 66 High Green, which it is set at the back of its plot, and which the development is considered will impact detrimentally; extensive areas of vegetation on site, over and above the presence of TPO trees; the need to provide a footway to link to existing provision at Astley Cooper Place (the provision of which could also impact on trees within the Conservation Area; the alignment of/forward visibility on High Green at this location; and small areas of surface water flood risk within the site.'

The Conservation Area is no longer proximate to the site, and as previously stated, proximity to a Conservation Area does not preclude development. Sites within the Conservation Area have been granted planning permission for development. A suitably designed scheme can and should enhance a Conservation Area. The landowner and his family have lived in the village for several generations, and having developed an attractive scheme at High Green, is keen to see another high quality development at this site.

The potential for detrimental impact on 66 High Green has been mitigated by the sale of the land to the north, which now provides a large buffer to the dwelling.

The existing trees along the eastern boundary can be retained. Minimal tree removal is required on the western side of the site. The trees on site were planted by the landowner in the last 25 years and are therefore of no historic significance. The latest masterplan retains all valuable trees.

No tree removal or third party land would be required to facilitate the footway link, and this is shown on drawings 211962-500-P1 and 211962-501-P1.

Visibility splays can be achieved and this has been demonstrated on plan 402884-30-002.

Surface water flood risk is mitigated through a design which locates dwellings outside of the risk area, and through an appropriate drainage strategy provided at application stage. Attenuation can be provided on site and is shown on the latest masterplan. It is worth noting that surface water drains into the south-western corner of the site before draining underneath the highway and into the land to the south, which is owned by the landowner and can be used for drainage purposes.

Site Visit Observations

'The site is relatively well contained, with direct access to High Green (although this is constrained, see Suitability). However, the site would impact on the setting of 66 High Green

and on the wider Conservation Area, particularly if the implementation of a footway required the loss of trees/hedging.'

As above, both of these concerns have been addressed in full.

Local Plan Designations

'Open Countryside but adjoining the current Development Boundary.'

Availability

'Landowner knows of no reason why the site could not be developed immediately, and is being promoted by an agent with a land sales experience.'

This remains the case, and the same agent remains instructed to promote and sell the site.

Achievability

'Achievable, subject to any outcomes of technical consultation.'

OVERALL CONCLUSION:

'Unreasonable - The site is within a reasonable distance of the services and facilities in Brooke, however there concerns related to: the suitability of High Green in this location and the ability to achieve a safe access; the ability to achieve a footway to link with existing provision and the impact this could have on the Conservation Area; and the impact on the setting of the Listed dwelling at 66 High Green. The site itself includes areas of surface water flood risk and extensive vegetation.'

Preferred Site:

Reasonable Alternative:

Rejected: Yes

Date Completed: November 2020

Notwithstanding the analysis above, the purpose of representations at this advanced stage of consultation is to assess whether the plan complies with the relevant legal requirements, including the duty to cooperate, and is sound. These are considered in turn below.

Legal compliance/duty to co-operate

The Guidance Note is clear that the Council must engage with 'neighbouring authorities and certain other bodies over strategic matters'.

Nutrient neutrality is undeniably a strategic matter with the potential to undermine housing delivery for both the VCHAPS and the Greater Norwich Local Plan. There is no reference to Nutrient Neutrality and its implications for housing delivery within the published version of the document. Sites have been allocated in villages within and outside of the catchment in equal measure, with no assessment of the varying deliverability of these sites provided.

It would seem prudent to exercise caution around the deliverability of sites within the catchment, and to allocate or reserve additional land outside of catchments in the very likely event that sites in the former will not come forward as planned.

SN2119 is outside of the nutrient neutrality catchment area and is therefore deliverable in the short or medium term. Its rejection represents a missed opportunity to reduce pressure on rural housing delivery within the district by directing expansion to areas outside of the catchment.

The failure to acknowledge Nutrient Neutrality and the lack of evidence of any discussion with strategic bodies about its potential implications represents a failure to comply with Section 33A of the PCPA.

Soundness

As per South Norfolk's Representation Form Guidance Note (January 2023), requires the plan to be:

Positively prepared

Under the NPPF definition, we cannot dispute that the Council has worked collaboratively with other authorities thus far.

However, in the wider presentation of 'positivity' given in the NPPF, it fails. The NPPF encourages authorities to prepare plans in a way that is 'aspirational but deliverable', and to engage with local stakeholders in order to achieve sustainable development.

This site is sustainably located. It has been confirmed as being available and achievable. And yet, the evidence provided which demonstrated that the two significant concerns raised through the assessment process could be mitigated, was disregarded.

We therefore argue that the plan has not been positively prepared and is not sound.

Justified

This requires the Plan to take into account reasonable alternatives and be based on proportionate evidence.

Having reviewed the site assessment which informed the decision to reject the site, overturning a previous designation as a 'reasonable alternative' and as a shortlisted site, it is clear that proportionate evidence was not the basis of this decision.

Words and phrases such as 'very questionable', 'does not really mitigate [x] that much' and 'not clear' contrast with the technical evidence submitted with the Regulation 18 representations. Arguably, the information provided went above and beyond the standard expected at plan preparation stage and for a site of this scale, and yet it does not appear to have been fully considered as part of the Council's assessment.

The drawings are not referenced in any of the comments, and it appears that many of the conclusions were drawn based on personal opinion of a technical issue, rather than a robust analysis of the evidence presented.

Such a decision-making process cannot reasonably be considered sound. The proportionate evidence was provided but not fully assessed.

We therefore argue that the Plan fails the test of soundness in this area.

Effective

Plans are effective if they are 'deliverable over the plan period'. As already stated above, it is quite clear that the Plan cannot be delivered as set out, because planning applications for housing within nutrient neutrality catchments are currently on hold and will be for the foreseeable future. A large proportion of the projected housing within the VHCAPS is within the catchment and will therefore not come forward within the projected timescales.

As set out above, a more reasonable approach would have seen additional allocations, or alternative allocations made in areas outside of the catchment to compensate for under-delivery in other areas.

Consistent with national policy

The rejection of this site contradicts national policy in several areas in addition to those highlighted above.

Paragraph 111 states that 'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'. Development of this sustainable, and previously deemed 'reasonable', site is being prevented on unreasonable grounds with regards to highways and access.

Evidence has been provided that visibility splays and a footway connection can be achieved, but this has been disregarded on the basis of doubt on the part of the authority. There is no evidence to reinforce their position, and no suggestion that the impact of developing the site would be 'severe'.

Paragraph 190 requires authorities to have a 'positive strategy for the conservation and enjoyment of the historic environment'. Equally, paragraph 192 requires authorities to maintain 'up-to-date evidence about the historic environment in their area' in order to 'assess the significance of heritage assets'. Paragraph 193 requires authorities to gather information about the historic environment as part of policy-making and to make this information public.

Brooke Conservation Area is one of very few CA's in South Norfolk to not have an appraisal document available. This in itself fails the tests of Chapter 16 of the NPPF. However, the absence of such an appraisal renders it very difficult to draw any meaningful conclusions on the significance of, and impact on, the conservation area. It is therefore unreasonable to conclude that the development would have an impact on the conservation area, and to use this as a reason to reject it for allocation.

The assessment of heritage/historic environment provided in the site assessment gives no analysis of the level of harm, nor of the significance of the Conservation Area. Paragraph 207 acknowledges that 'not all elements of a Conservation Area [...] will necessarily contribute to its significance.' Without a character appraisal, it is impossible to assess which areas of the CA are of significance, and therefore to draw any conclusions as to the possible harm that this development could cause.

It is also worth noting in general that the 2023 assessment which concluded in the site's rejection is an exact copy of the assessment published at Regulation 18 stage, which concluded that the site could be shortlisted. The wording of the conclusion is exactly the

same as the 2020 version, with only the addition of 'unreasonable', and the removal of the final line, 'The deliverability is subject to demonstrating access via Astley Copper Place'.

Conclusion

The land North of High Green/West of Astley Cooper Place, Brooke (SN21 19) was first put forward for consideration as far back as 2016. It was first considered a 'reasonable alternative', then shortlisted for allocation in the last consultation, only to be rejected at this late stage.

This letter, and the accompanying documents, demonstrate that the assessment of the site's suitability was flawed, and failed to take into account the evidence provided by the landowner and agent in 2018.

The site appears to have ultimately been rejected for three reasons, all of which can be mitigated: doubt that a footway link can be delivered; poor visibility; and impact on the setting of 66 High Green. It is also evident that the preference for access via Astley Cooper Place informed the decision to reject the site, but Astley Cooper Place was never a reasonable access solution.

To summarise, the footway link can be delivered, and this is shown on drawings 211962-500-P1 and 211962-501-P1, prepared by Canham Consulting, chartered structural and civil engineers. These drawings in fact show two possible options for the footway – one which is deliverable without any modification to the highway, and one which moves the kerb line slightly into the road to deliver a 1.5m wide footway.

Visibility is not a constraint. Drawing 402884-30-002 shows that visibility splays of 2.4m x 59m can be achieved.

Impacts on the setting of 66 High Green have been fully mitigated by the sale of land to the north to the owner of that property. A copy of the transfer plan is provided with these representations. All masterplans provided to date also show public open space along the eastern boundary, providing additional buffering to the listed building.

The disregard for the evidence provided and the relevant areas of the NPPF, combined with the negative approach to overcoming technical constraints, make the plan unsound. The failure to acknowledge potential implications of Nutrient Neutrality contradicts the aims of Section 33A of the PCPA and therefore undermines the Plan's legal compliance and duty to co-operate.

We would encourage the Authority to reconsider their assessment of SN21 19, which has been attached to this letter, and to review their conclusion that the site is 'unreasonable'.

Yours faithfully,

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Planner

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