

## Local Plan Representations

# South Norfolk Village Clusters Housing Allocations Plan Regulation 19 Pre-submission Addendum

On behalf of Rainier Developments & Strategic Land  
and in respect of Land at Swan Lane, Long Stratton

**October 2024**

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## 1 INTRODUCTION AND BACKGROUND

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- 1.1. These representations on the South Norfolk Village Clusters Housing Allocations Plan Regulation 19 Pre-submission Addendum (‘the Regulation 19 Addendum’) are made on behalf of Rainier Developments & Strategic Land (‘Rainier’).
- 1.2. Rainier is actively promoting residential development on land at Swan Lane, Long Stratton (‘the Site’).
- 1.3. Rainier (via its then Planning consultants) contacted South Norfolk District Council (‘the Council’) on 4 March 2023 to stress that the Site was still available for residential development; that further work had been undertaken to demonstrate its sustainability and deliverability, culminating in the preparation of a Vision Document (a copy of which accompanied the email to the Council, and is provided here again as **Appendix A**) and emphasising that *if* the Council were to require additional sites for residential allocation in the Plan, then this represented an option that could be relied upon to contribute. A response was received from the Greater Norwich Planning Team, from which it was inferred that the Council had not understood the original email. A follow-up email was sent seeking to clarify that Rainier was not meeting to make additional formal submissions to the Plan, but rather updating the Council on progress in respect of the Site and confirming its availability *if* further sites were to be required.
- 1.4. The above exchange with the Council / Greater Norwich Planning Team is relevant given the nature of the Regulation 19 Addendum.
- 1.5. The original Regulation 19 VCHAP proposed allocation of sites to deliver 1,102 dwellings, which together with existing allocations would look to achieve 1,228 net additional dwellings, in order to meet housing requirement identified in the Greater Norwich Local Plan (GNLP).

- 1.6. The Regulation 19 Addendum proposes a greater level of housing delivery through the VCHAP to address housing requirements in the now adopted GNLP. It proposes to deliver at least 1,200 new homes through its allocations, with sites proposed to be allocated to seek to deliver 1,204 new dwellings. With existing allocations, the Regulation 19 Addendum seeks to deliver a total of 1,330 dwellings.
- 1.7. Consultation on the Regulation 19 Addendum concerns soundness and legal compliance of the changes it proposes to the original Regulation 19 draft, or moreover whether the resultant VCHAP amended by the Regulation 19 Addendum is sound and legally compliant.
- 1.8. The Site is not proposed to be allocated by the Regulation 19 Addendum.
- 1.9. We have concerns with the soundness of the Regulation 19 Addendum and the resultant VCHAP that it would result in. In addition, we have concerns pertaining to legal compliance, specifically in relation to compliance with the Environmental Assessment of Plans and Programmes Regulations 2004 ('SEA Regulations').
- 1.10. We consider that these concerns can be addressed to ensure the VCHAP is capable of being found sound and legally compliant. This will necessitate further modifications to the plan and updates / addendum to its Strategic Environmental Assessment (SEA), as detailed within this representation.
- 1.11. We would welcome the opportunity to discuss issues set out within this representation with the Council, and wish to stress our desire to work positively with the Local Planning Authority to help achieve a sound VCHAP

## 2 SITE SELECTION PROCESS

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- 2.1. Alongside the Regulation 19 Addendum, a report has been published by the Council which is understood to have informed the proposed additional and amended allocation proposed for the VCHAP by the Regulation 19 Addendum (the South Norfolk Village Clusters Housing Allocations Plan Site Assessments).
- 2.2. In the introduction to this report, it is explained that alternative and amended sites were previously included in the Regulation 18 Alternative Sites and Focused Changes Consultation between December 2023 and February 2024 to replace the losses resulting from the removal of VC ROC2 and the reduction at VC TAS1 as well as potentially make a modest increase to the numbers in the VCHAP.
- 2.3. It goes on to state that the alternative and amended sites have been subject to the *“same Site Assessment process as all other sites considered for inclusion within the VCHAP, including a review by technical consultees to determine key considerations”* (emphasis added).
- 2.4. It goes on to state that *“these Site Assessments have been updated where new information has been provided”*.
- 2.5. This report then goes on to list various parts of the report in which the assessment of individual sites can be found. These include:
- Part A: sites included in the Regulation 19 Addendum
  - Part B: other sites in the VCHAP
  - Part C: sites considered at the Regulation stage of the preparation of the Addendum
  - Part D: other sites updated since the Regulation 19 stage of the VCHAP in 2019

- 2.6. For any other sites, the report suggests that the Council relies on previous site assessment work undertaken to support the 2019 iteration of the VCHAP.
- 2.7. A number of matters arise from the above, particularly in respect of land at Swan Lane, Long Stratton ('the Site'), which is site reference GNLP3033 in the Council's plan-making process.
- 2.8. GNLP3033 was not proposed to be allocated in the original submitted version of the VCHAP.
- 2.9. However:
  - a) The Council was provided with subsequent information in respect of the Site and its potential development, including a Vision Document that was issued to the Council in March 2023.
  - b) Site GNLP3033 was assessed as being a reasonable alternative in the Long Stratton Assessment Booklet (LSAB) produced by the Council and which forms part of its plan-making evidence base.
- 2.10. From the above, it is evident that the Site has merit for consideration as an allocation, and should have been assessed as a site for which additional information had been provided to the Council since its assessment in 2019.
- 2.11. However, we can see no evidence of further assessment of the Site as part of the preparation of the VCHAP Addendum process.
- 2.12. On this basis, it very much appears that a reasonable option for allocation has been prematurely rejected without proper consideration or an assessment of its suitability based on up-to-date information. Consequently, the Regulation 19 Addendum cannot be considered justified, and is therefore unsound.

### 3 REJECTION OF GNLP3033

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- 3.1. As noted in Section 2 of this representation, the preparation of the Regulation 19 Addendum has failed to properly reappraise GNLP3033 in the context of additional information provided to the Councils, despite it having been previously identified as a reasonable alternative for allocation.
- 3.2. In this section of our representation, we consider the basis for the earlier rejection of the Site in the GNLP. This is patently relevant to the Regulation 19 Addendum of the VCHAP – the earlier rejection of the Site cannot be assumed to render it unsuitable as a potential site allocation now, given a) potential changes since its earlier assessment; and b) additional information was provided to the Council regarding the potential development of the Site subsequent to this assessment.
- 3.3. The LSAB assessed GNLP3033 as a site proposed to accommodate 80 dwellings plus a 40-bed care home. As per subsequent submissions to the Council, the Site is proposed for up to 102 dwellings.
- 3.4. At Stage 5 of the LSAB it confirms that site GNLP3033 is a reasonable alternative for allocation for development.
- 3.5. Stage 6 considered sites in further detail. As confirmed in the LSAB, the results of the Housing and Economic Land Availability Assessment (HELAA) informed the assessment of sites.
- 3.6. The HELAA conclusion in respect of the Site is cited within the LSAB at Stage 5 of the assessment; and was as follows:

*“This is a site of 5.28 ha located to the south of Swan Lane and immediately to the north of a 120 dwelling site, which is under construction, off Chequers Road (Tharston Meadow). It would form a northern extension to that scheme and is promoted for 80 dwellings and a care home. An existing care home and surgery adjoins its south eastern boundary. Initial highway advice has **not raised concerns regarding access or impact on the local road network** but advises that the site should be*

*viewed in the context of development already committed in Long Stratton. The site is **accessible to a range of core services** in Long Stratton and is on a bus route; the nearest school is around 150 metres away and whilst there is no footpath access at present, it could be provided. There are **no known constraints in relation to contamination/ground stability or utilities infrastructure**. A low lying narrow tract of land running diagonally across the site from its northeast corner is prone to surface water flooding and this would need to be addressed through design (e.g. open space provision, water features and Sustainable Drainage Systems), as has been implemented in the adjacent development. There is a public footpath across the site from north to south which should be retained; there **are no known significant impacts on other ecological sites or important landscapes**. There could be **some limited impact on the setting of the listed Spreadingoaks Farm** to the west. Subject to addressing identified constraints, the site is considered suitable for the land availability assessment. (Emphasis added).*

3.7. In the 'further comments' section of the assessment of the Site, in relation to highway it stated:

*"No, network concern at A140/Swan Lane"*

3.8. However, no further detail or explanation as to what this might mean for the suitability of the Site is provided, and no evidence is offered up as to what such concerns are.

3.9. In addition, comments from Development Management were as follows:

*"No site-specific comments. DM officers recommend that due to the planned growth in Long Stratton through the existing allocation, the areas of 'white land' currently encompassed within this application should be considered for the purposes of allocation at this time. If an additional site is required St Mary's Rd is the reasonable option however due to the outstanding Appeal this is a politically sensitive site. The Swan Lane site is considered to be too constrained for development and we are concerned that residential development adjacent to the existing Tharston Industrial Estate would constrain future growth of this commercial site. 4 dwellings have been approved in LS since March 2018".*



- 3.10. It is noted that despite the above comment acknowledging it is not site-specific, it is opined that the Swan Lane site is *“too constrained”* but does not elaborate on this, or provide any evidence to support this assertion.
- 3.11. Stage 7 purported to provide a ‘settlement based’ appraisal of the reasonable alternatives identified at Stage 6 (of which the Site was one) and identify preferred options for inclusion in a Regulation 18 draft consultation of the GNLP.
- 3.12. However, at this stage the assessment simply dismisses all of the reasonable alternatives for allocation at Long Stratton, with the following given as explanation:

*“Three reasonable alternative sites [GNLP3033 being one] have been identified in Long Stratton at Stage 5 of this booklet. These sites were considered to be worthy of further investigation to look at their potential for allocation as the initial assessment did not flag up any major constraints that would preclude development. These sites have been subject to further discussion with Development Management, Highways, Flood Authority and Children’s Services in order to identify preferred sites for allocation and their comments are recorded under Stage 6 above*

*“Long Stratton is considered to be transitioning from Key Service Centre to Main Town and the ‘Towards a Strategy’ document identifies a requirement for 900 – 1000+ dwellings across this sector of the hierarchy. Through further discussion the scale of planned but as yet undeveloped homes in the town is considered significant. In order to allow permitted housing sites in Long Stratton to be developed and existing service capacity to be clarified, there will be no new allocations in the Greater Norwich Local Plan. There is considered to be no reasonable alternative to this approach.*

*“Sites GNLP0142, GNLP0201, GNLP0458, GNLP0509, GNLP0576, GNLP1050, GNLP3033, have been dismissed on highway and landscape grounds, as well as relation to the existing built form and ability to provide a safe route to school.”*

- 3.13. All potential options for Long Stratton have been rejected seemingly on the basis of the scale of growth already allocated to Long Stratton. However, no evidence is put forward as to why it would be unsustainable to provide any further, relatively modest additions to this growth.
- 3.14. Additionally, it should be recognised that the extent of growth allocated for Long Stratton arises from the Long Stratton Area Action Plan – a plan that was adopted over 8 years ago now. Any strategic approach to Long Stratton clearly requires reviewing, and particularly in the context of the VCHAP now needing to identify additional / alternative sites for development.
- 3.15. The failure to consider potential options for growth at Long Stratton, despite the LSAB identifying three potential sites for development there, renders the Regulation 19 Addendum unjustified. Further, given the potential for such an option to have delivered growth in what is clearly a sustainable location for residential development, the approach results in the Regulation 19 Addendum being inconsistent with the NPPF and its exhortation to delivery sustainable development.
- 3.16. We note reference to rejection of GNLP3033 on the basis of landscape and highways concerns. However, there appears no evidence for this. On the contrary, at the Stage 5 assessment of GNLP3033 it states development would result in *“no known impacts on...important landscapes”*.
- 3.17. Separately, we consider that the LSAB’s commentary on GNLP3033 within the Stage 7 assessment report is particularly noteworthy. It reported that:

*“Despite being highly accessible to schools, the council offices and a range of other services and facilities, this site is not considered to be suitable for allocation due to highway issues as there are concerns over the network capacity of the A140 and Swan Lane junction. The existing level of commitment in Long Stratton through the Area Action Plan is high, **limiting the need for additional sites**”* (emphasis added).

- 3.18. In short, the then lack of need for additional sites to be identified formed part of the basis for the Site's rejection. Clearly the situation has changed in that regard.
- 3.19. In considering additional / alternative sites for the VCHAP, the reasonable alternatives such as GNLP3033 clearly should have been considered. It is evidently a sustainable site for development. There is no evidence to suggest it is unsuitable. A Vision Document has been prepared demonstrating how it would contribute to sustainable development in the District, and that it is a deliverable site.

## 4 PROPOSED ADDITIONAL ALLOCATIONS

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4.1. The Regulation 19 Addendum proposes the following additional allocations:

- VC BAR2, Land at Chapel Street, Barford
- VC BRM1, Land west of Old Yarmouth Road, Broome
- VC EAR2, Land north of The Street, Earsham

4.2. In respect of all three, there are concerns regarding their sustainability and / or deliverability, demonstrated by concerns raised by various statutory consultees.

### VC BAR2, Land at Chapel Street, Barford

4.3. Looking first at VC BAR2, Land at Chapel Street, Barford we note that the Parish Council has raised what appear to be significant concerns regarding the development of this potential allocation. In its response (representation ID 3910) to the Regulation 19 Addendum, the Council states:

*“The site is unlikely to be available within 5 years. There is a 99-year lease (36 years remaining) which requires (unlikely) agreement by the villagers and the Charity Commission before it is surrendered.”*

4.4. On the basis of the above, this proposed allocation could not be considered deliverable as defined by the NPPF. Whilst the Parish Council refer to development of the site not being achievable within 5 years, based on the information they have provided it is difficult to see how it could be considered capable of coming forward during the plan period at all.

### VC BRM1, Land west of Old Yarmouth Road, Broome

4.5. At paragraph 3.18 there is reference to a potential constraint to development of this proposed allocation, as Anglian Water infrastructure crosses the site. It states that *“the developer is encouraged*

*to enter into earlier engagement with AW*". We note the objection from the Broads Authority (representation ID 3900) stating that wording should be strengthened such that a developer 'must' enter into early engagement with Anglian Water over this matter. Regardless, whether text states 'should' or 'must' it is unclear at this juncture from the Regulation 19 Addendum whether the proposed allocation is deliverable.

- 4.6. Separately, we note an objection from Norfolk Wildlife Trust (representation ID 3959) in relation to the proposed allocation's proximity to Broome Heath County Wildlife Site (CWS) and Broome Heath Pit Site of Special Scientific Interest (SSSI), and the potential impact of development on these.
- 4.7. Whilst Norfolk Wildlife Trust recommend additional policy text is added to require mitigation of any impact, it is again not clear if development of the site as the current draft policy envisages and incorporating the requisite mitigation is deliverable.

#### **VC EAR2, Land north of The Street, Earsham**

- 4.8. We note the objection from Norfolk County Council in its capacity as the Mineral Planning Authority (representation ID 3989). The County Council notes this proposed allocation is located within the consultation area for the safeguarded mineral extraction site (Earsham Quarry), that this quarry is on 25m from the boundary of the proposed allocation, and that it has permission for mineral extraction and processing until 2040.
- 4.9. The County Council requests additional policy text that includes a requirement that the development of the site *"must not prevent or prejudice the use of the existing mineral extraction site unless suitable alternative provision is made, or the applicant demonstrates that the site no longer meets the needs of the aggregate industry"*.
- 4.10. However, it is not clear from the Regulation 19 Addendum if development of the site as the current draft policy envisages and incorporating the requisite mitigation is deliverable.

4.11. Additionally, it is not clear what the impact of the existing quarry on the amenity of future occupiers of the proposed allocation would be, or whether this would be acceptable.

### Summary

4.12. Statutory consultees have raised issues in relation to each of the additional allocations proposed by the Regulation 19 Addendum, which give rise to concerns regarding the deliverability of any of them.

4.13. Furthermore, it is unclear how such issues have been considered as part of any comparative assessment between the sites proposed to be allocated and other reasonable alternatives, i.e. whether there are any reasonable alternatives that are not subject to such constraints as consultees have identified and are potential more sustainable and deliverable.

## 5 STRATEGIC ENVIRONMENTAL ASSESSMENT

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5.1. European Directive 2001/42/EC ('the SEA Directive'), the plan-making aspects of which are transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004 (Statutory Instrument 2004 No.1633) ('the SEA Regulations'), is very much relevant to the VCHAP and the Regulation 19 Addendum.

### Concerns with current Environmental Report

- 5.2. The SEA Regulations require that for plans such as the VCHAP, an Environmental Report is prepared.
- 5.3. The Environmental Report is required to identify, describe, and evaluate the likely significant effects on the environment of proposed options, as well as on reasonable alternatives (Regulation 12(2) of the SEA Regulations). Regulation 12(3) further sets out the information required to be included within the Environmental Report, referencing Schedule 2 of the SEA Regulations. Schedule 2 states that SA/SEA should consider short, medium and long term effects; permanent and temporary effects; positive and negative effects; and secondary, cumulative and synergistic effects.
- 5.4. As confirmed through case law (see *Heard*<sup>1</sup>), whilst it is not necessary to keep open all options for the same level of detailed examination at all stages, at each stage the preferred option and reasonable alternatives must be assessed to the same level of detail. This includes considering alternatives for any modifications to a plan, even if late in the plan-making process.

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<sup>1</sup>*Heard v Broadland District Council* [2012] EWHC 344 (Admin)

- 5.5. In the case of the Regulation 19 Addendum, the relevant Environmental Report is the Sustainability Appraisal of the South Norfolk Village Clusters Housing Allocations Plan SA Report Update (June 2024) ('the Regulation 19 Addendum SA').
- 5.6. As set out in Section 3 of this representation, GNLP3033 ('the Site') was expressly identified earlier within the plan-making process as a reasonable alternative. However, it does not appear to have been assessed at all as part of the Regulation 19 Addendum SA, let alone to the same level of detail as the sites that are proposed for allocation.
- 5.7. The lack of assessment of this site-specific alternative is a concern in terms of compliance with the SEA Regulations.
- 5.8. Additionally, no consideration appears to have been given as part of the SEA process as to whether Long Stratton, as a settlement, should accommodate some of the new residential site allocations required for the VCHAP. Even if one to put to one side over concerns with neither the GNLP nor the original Regulation 19 VCHAP directing any growth to Long Stratton, when the need to find additional / alternative sites, considering options at Long Stratton was at the very least a reasonable alternative.
- 5.9. Separately, Regulation 13 concerns the procedural requirements of consultation on the SEA. It requires *inter alia* that, as soon as reasonably practicable after the preparation of the SEA, the responsible authority should bring it to the attention of persons who are affected or likely to be affected by, or have an interest in its findings.
- 5.10. The *Kendall*<sup>2</sup> judgment confirmed that the SEA Regulations require there to be direct consultation

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<sup>2</sup> *Kendall vs Rochford District Council* [2014] EWHC 3866 (Admin)



with such persons, and for it to provide effective opportunity to comment.

- 5.11. Two concerns arise from this relating to the Regulation 19 Addendum SA .
- 5.12. Firstly, it is not clear if an Environmental Report was prepared to support the Regulation 18 iteration of the Addendum to the VCHAP. If it was, then Rainier should, as interested persons, have been consulted on this. If it was not, then this would give rise to a different concern, given the need for plans to be informed by sustainability appraisal which meets legal requirements throughout their preparation (NPPF paragraph 32).
- 5.13. Secondly, it is not clear from the information available via South Norfolk District Council's website that comments are being invited on the Regulation 19 Addendum SA itself. Whilst it is clear that interested parties may comment on the Regulation 19 Addendum, the Environmental Report which accompanies this is simply listed as one of many supporting documents. The online consultation portal does not appear to have a facility for commenting on the Regulation 19 Addendum SA, only the Regulation 19 Addendum.
- 5.14. Whilst we are aware of the opportunity to comment on the Regulation 19 Addendum SA, other interested parties may not be.

### Addressing defects

- 5.15. The *Cogent*<sup>3</sup> judgment confirms defects in the SEA process can be resolved, even at a very late stage in the plan-making process. However, it is important to recognise that an important lesson from

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<sup>3</sup>*Cogent LLP v Rochford District Council* [2012] EWHC 2542 (Admin)

Cogent was that additional requirements to ensure the SEA process complies with the SEA Regulations does not simply amount to an *ex post facto* exercise which merely justifies the strategy already proposed.

- 5.16. As part of the measures to ensure a legally compliant SEA, we suggest it will be necessary to appraise all reasonable alternatives, including directing growth to Long Stratton and, specifically, appraising GNLP3033.
- 5.17. For the reasons described above, even if appraisal of additional sites and options through SEA was not required, it would nevertheless be necessary to undertake consultation on the Regulation 19 SA Addendum, given the apparent lack of consultation on the Environmental Report itself to date.
- 5.18. In considering the Site / GNLP3033 in relation to the SA objectives and framework in the Regulation 19 Addendum SA, it is evident that it would score positively.
- 5.19. The Site is located in a sustainable location, on the edge of Long Stratton, and connected by both public transport and routes accessible for pedestrians and cyclists.
- 5.20. The nearest facilities are located adjacent to the Site, providing close access to local convenience shops, restaurants and other facilities. The closest secondary school to the Site is Long Stratton High School, c.600m from the eastern access to the Site on Swan Lane, and as such well within reasonable walking and cycling distance.
- 5.21. Bus services connecting the Site with the centre of Norwich as well as small local villages is available via Swan Lane, which forms the eastern and northern boundaries of the Site. These connections provide links to the wider region and the rest of the UK.
- 5.22. Proximity to ecological designations form an important element of the SA Framework of the Regulation 19 Addendum SA. The Site comprises two arable field compartments of low ecological

value and a central low-lying area with mixed scrub and ruderal vegetation along a drainage ditch of moderate, local level ecological value. The Site borders existing residential development to the east and south, with the shared boundaries comprising mixed species hedgerows and fencing. The eastern and northern boundary along Swan Lane was generally open with only hedgerow fragments present. A site survey and desktop study of the Site identified no protected species within the proposed development footprint. The Site is not covered by any statutory ecological designations and no direct impacts to local statutory and non-statutory designations are considered likely.

- 5.23. In terms of agricultural value, Natural England's Agricultural Land Classification map for the Eastern Region reports that the land around Long Stratton is predominantly Grade 3, and lacks Grade 1 or 2 agricultural land.
- 5.24. The Site is not located within or in proximity to a Conservation Area. In terms of other heritage considerations, there is a Grade II listed building located c.90m to the west of the Site. However, existing residential dwellings separate the Site from this heritage asset. Consequently, any impacts of development of the Site on the setting of this listed building are unlikely to be any more than minimal.
- 5.25. Having regard to all of the above, in the preparation of an Environmental Report that properly considered GNLP3033, as required as a reasonable alternative, and assessed it to the same level of detail as required, the Site could not feasibly be found to be anything other than a highly sustainable option. It is submitted that it would be a more sustainable option than the additional sites that the Regulation 19 Addendum proposes to allocate.
- 5.26. As noted earlier within this section, *Cogent* confirms that updates to the SEA process to cure any defects must not simply be an *ex post facto* exercise which simply supports an existing strategy. In this case, it will be vital that the Regulation 19 Addendum is revisited to reflect the findings of an updated Environmental Report and its appraisal of the Site.