

Local Plan Representations

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

On behalf of Rainier Developments & Strategic Land and Octagon Farm Partnership
and in respect of Land at Norwich Road, Poringland

October 2024

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1 INTRODUCTION AND BACKGROUND

- 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') and Octagon Farm Partnership.
- 1.2. Land at Norwich Road, Framingham Earl (the Site) is being promoted for residential development. The Site was originally considered as part of the plan-making process for the Greater Norwich Local Plan (GNLP), albeit as two separate sites: GNLP0321 and GNLP1032. For the avoidance of doubt, a Site Location Plan is provided as **Appendix A**.
- 1.3. 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 GNLP)
- 1.4. 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.
- 1.5. 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.
- 1.6. The Site is not proposed to be allocated by the Regulation 19 Addendum.
- 1.7. 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').

- 1.8. We consider that 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.
- 1.9. An initial masterplan has been prepared showing how the Site could accommodate development (provided as **Appendix B**). 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

- 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"*.
- 2.4. 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
- 2.5. 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.

- 2.6. A number of matters arise from the above, particularly in relation to the lack of appropriate consideration of land at Norwich Road, Poringland ('the Site') as an option for allocation at this stage.
- 2.7. Whilst neither GNLP0321 nor GNLP1032 was proposed to be allocated in the original submitted version of the VCHAP or are allocated in the GNLP, the background to this is, as well as the Council's assessment of these sites, is considered relevant to their consideration as part of the Regulation 19 Addendum.
- 2.8. Poringland / Framingham Earl is identified as a Key Service Village in the adopted GNLP.
- 2.9. Despite this designation, no allocations for the village were proposed by the GNLP. It is explained within the Poringland Site Assessment Booklet (PSAB), which formed part of the evidence base for the GNLP, that no new residential allocations are proposed for Poringland / Framingham. Referring to existing residential development commitments for the village, it is stated *"this high level of commitment suggests limiting further growth."*
- 2.10. However, earlier within the PSAB assessment, and relevant to the Site, it is stated:
- "Sites to the north of Poringland have strategic advantages. Access is better to the schools and for traffic management purposes the north side of the settlement is nearest to Norwich. On the eastern side of the B1332 (Norwich Road), in the vicinity of Octagon Barn, GNLP0321 and GNLP1032 give opportunity for circa 160 homes and business/commercial uses."*
- 2.11. We consider that at the point it became apparent the VCHAP would have to allocate additional / alternative sites to that within the original Regulation 19 draft, the Site should have been reconsidered, given it was a reasonable alternative through the GNLP plan-making process and it is within the administrative area covered by the VCHAP.

- 2.12. The need to reconsider the potential allocation of GNLP0321 and GNLP1032 through the VCHAP becomes even more apparent when one considers the reason for their rejection through the GNLP, as discussed in Section 3 of this representation.
- 2.13. Notwithstanding its identifications as a reasonable alternative, we can see no evidence it has been considered.
- 2.14. 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 in its current form.

3 REJECTION OF GNLP0321 and GNLP1032

- 3.1. As noted in Section 2 of this representation, the preparation of the Regulation 19 Addendum has failed to properly reappraise either GNLP0321 or GNLP1032 as potential residential allocations in light of the need to identify additional / alternative residential allocations, despite these sites being identified as reasonable alternatives in the preparation of the GNLP.
- 3.2. In this section of our representation, we consider the basis for the earlier rejection of these sites which together comprise the Site through the GNLP.
- 3.3. GNLP0321 was appraised a potential site for a mixed-use development consisting of c. 60 dwellings, commercial, business and light industrial space. GNLP1032 was appraised as a site for a mixed-use development comprising business use and c.100 dwellings, landscaping and infrastructure.
- 3.4. At stage 4 of the PSAB, the following comments were provided of relevance to the sites:
- “Sites to the north of Poringland have strategic advantages. Access is better to the schools and for traffic management purposes the north side of the settlement is nearest to Norwich. On the eastern side of the B1332 (Norwich Road), in the vicinity of Octagon Barn, GNLP0321 and GNLP1032 give opportunity for circa 160 homes and business/commercial uses. Each of the sites will require further analysis of access, ecological impact and flood risk in particular but are considered to be reasonable alternatives”.*
- 3.5. The PSAB reiterated that the sites were reasonable alternatives at Stage 5 of the PSAB, and that they merited further assessment.
- 3.6. They were assessed at Stage 6 of the PSAB, within which the earlier assessment of sites through the Housing Economic Land Availability Assessment (HELAA) were considered.

3.7. Citing the HELAA, the PSAB stage 6 assessment of GNLP0321 stated that:

“Although it is not adjacent to the built up part of the village, the site has good access to services and initial highway evidence has indicated that it should be possible to create a suitable access, and that any impact on the road network could be mitigated. It is likely that the sewerage infrastructure network, including the water recycling centre, would need to be upgraded, and there are several areas at risk of flood. There are no known constraints from utilities infrastructure, contamination or ground instability and there would be no loss of open space. The site would not impact on a sensitive townscape, landscape, heritage asset or ecological site. Although there are some constraints, the site is considered suitable for the land availability assessment”.

3.8. The assessment of GNLP0321 was broadly positive.

3.9. Turning to site GNLP1032, again citing the HELAA, the PSAB stated in the stage 6 assessment that the following:

“Although it is in Bixley parish, this site is (poorly) related to the built up area to the north of Poringland/Framingham Earl, being adjacent to woodland along the Norwich Road. The proposal is for mixed commercial and residential use, and there is good pedestrian access to services. There are no known constraints from utilities infrastructure, contamination or ground instability, and there would be no loss of open space. Parts of the site are at risk of surface water flooding, and parts are in grade 2 agricultural land. There are no sensitive townscapes or ecological sites nearby but there are listed buildings and scheduled ancient monuments nearby. Although there are constraints, the site is considered suitable for the land availability assessment”.

3.10. As with GNLP0321, the stage 6 assessment of GNLP1032 was broadly positive and concluded the site was suitable. Constraints identified were matters that can be mitigated, including through the layout of any future development. The concern expressed in respect of the site relating poorly to the existing built-up area would not apply if the site were to be developed in conjunction with

GNLP0321. Development of which would result in a logical extension to the existing settlement boundary.

3.11. Notwithstanding the above, all potential options for residential allocation were rejected at stage 7 of the PSAB. The reason given was as follows:

“Poringland is a Key Service Centre and the ‘Towards a Strategy’ document identifies a requirement for 400-600 dwellings across this sector of the hierarchy. Through further discussion of the infrastructure and environmental constraints, it has been decided that there are no preferred sites in Poringland/Framingham Earl, due to high numbers of outstanding dwellings still to be developed from existing commitments. There is no reasonable alternative to this approach for residential sites”.

3.12. We consider such an approach to be somewhat questionable – it is unclear why a particular ceiling to growth of the settlement has to be imposed. Regardless, in the context of having to plan to deliver a greater number of homes than previously the case, this justification is not applicable and it is necessary to look again at potential options for growth.

3.13. However, we have seen no evidence that the VCHAP has revisited potential options for growth around settlements such as Poringland / Framingham.

3.14. The stage 7 assessment also opined that, despite being assessed broadly positively at Stage 6, neither GNLP0321 nor GNLP1032 were suitable for residential development.

3.15. In respect of GNLP it stated:

“This site is not considered to be suitable for allocation as although there is a footpath and cycle link along the east side of the B1332 to local facilities there is relatively little development on the eastern side of the B1332. Development in this location would also impact on the setting of Octagon Barn. In

addition, high amounts [sic] of existing commitments and environmental/ infrastructure constraints limit the potential for additional new housing in Poringland.”

3.16. Similarly, in respect of GNLP1032 it stated:

“This site is not considered to be suitable for allocation as although there is a footpath and cycle link along the east side of the B1332 to local facilities there is relatively little development on the eastern side of the B1332. In addition, development would impact on the setting of Octagon Barn. There was some discussion over the site’s potential if allocated with GNLP0321, but the majority of the site is affected by surface water flood risk which would significantly constrain the developable area. High amounts [sic] of existing commitments and environmental/ infrastructure constraints limit the potential for additional new housing in Poringland.”

3.17. In the case of the assessment of both sites, matters raised are those that are generally capable of being mitigated (e.g. surface water and impact on setting of a listed building are matters that are commonly addressed through planning applications) and those for which no substantive evidence has been put forward to support (e.g. that existing commitments have resulted have limited the potential for additional new housing in Poringland).

3.18. Separately, it should be noted that since assessment of the Site through the PSAB, the Poringland Neighbourhood Plan (July 2021) has been made. The Site is located only partially within Poringland Parish (the southern element is within Framingham Early Parish, and the Site straddles the boundary between the two). The PNP is still of relevance in the consideration of future proposals for the Site, particularly given that the Site a strong functional relationship with Poringland village itself.

3.19. The PNP acknowledges that South Norfolk District Council may determine that larger allocations for the village are suitable through the Local Plan-making process, stating at 1.2, that:

“Whilst regard will be had to the Neighbourhood Plan policies in any local plan review, it remains possible for the local planning authority [South Norfolk District Council] to promote larger allocations of land for residential development if it considers there are good reasons to do so in order to ensure the need for homes is appropriately met across the local plan area.”

3.20. Separately at paragraph 1.3, on page 19, the PNP states:

“The natural attraction of Norwich [to the north of the village] as a key destination for people, especially for commuting, has resulted in an increase in traffic through the village centre on the B1332. This would suggest that there should NOT be major development to the south of the existing village settlement” (original emphasis).

3.21. Therefore, if growth is to be directed to Poringland, it is logical that it is located at the northern end of the village, such that traffic movements associated with journeys to and from Norwich are not directed through the centre of the village.

3.22. In addition, Policy 8 (Landscape) states that landscape to the south of Poringland is a valued landscape, and that proposals for major development that result in the growth of the village further southward will not generally be acceptable. Policy 9 (Long views) and its supporting text seek to protect views to the south of the village in particular.

3.23. Consequently, the PNP indicates that future growth of the Poringland / Framingham Earl should be directed towards the northern end of the village.

3.24. Having regard to all of the above, we consider that in order for the Regulation 19 Addendum to be sound, it will be necessary to reconsider potential allocations to villages such as Poringland / Framingham Earl. The adopted Development Plan points towards the northern end of the village as being the most suitable area to accommodate growth of the village. The Site is not only located

within this strategically advantageous area, but, as the PSAD confirms, it is a reasonable alternative meriting consideration.

4 PROPOSED ADDITIONAL ALLOCATIONS

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

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*¹), 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.

¹*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, GNLP0321 and GNLP1023 (which together constitute the Site) were expressly identified earlier within the plan-making process as reasonable alternatives. Despite this, it appears that they have not been considered as potential allocation through 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 these site-specific alternatives 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 Poringland / Framingham Earl, 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 Poringland / Framingham Earl, when the need to find additional / alternative sites arose, considering options at Poringland / Framingham was at the very least a reasonable alternative.

Addressing defects

- 5.9. The *Cogent*² 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

²*Cogent LLP v Rochford District Council* [2012] EWHC 2542 (Admin)

Cogent was that additional required 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.

- 5.10. In considering the Site (i.e. GNLP0321 and GNLP1023 combined, as a single site) in relation to the SA objectives and framework in the Regulation 19 Addendum SA, we consider it would be assessed as having a number of positive impacts and identified as a sustainable site for residential development.
- 5.11. The Site is located in a sustainable location, on the edge of a settlement which benefits from a number of services and facilities. The village centre, in which most of the village's service and facilities are located is c.800m to the south of the Site. Framingham Earl High School (secondary school) and its accompanying sports centre open to the community, is located closer.
- 5.12. A number of bus services pass along Norwich Road, in front of the Site, via which Norwich is accessible in c.20 minutes.
- 5.13. The Site is not covered by any statutory ecological designations and no direct impacts to local statutory and non-statutory designations are considered likely.
- 5.14. In terms of agricultural value, Natural England's Agricultural Land Classification map for the Eastern Region suggest the area in which the Site sits is predominantly Grade 3, with area of Grade 1 or 2 agricultural land located more to the south and east of the village.
- 5.15. The Site is not located within or in proximity to a Conservation Area. Similarly, no listed buildings are located in or in proximity to the Site.
- 5.16. Having regard to all of the above, in the preparation of an Environmental Report that properly considered the Site, as required given that it is an amalgamation of two reasonable alternatives, and assessed it to the same level of detail as required, the Site would represent an eminently sustainable

option for growth. It is submitted that it would be a more sustainable option than the additional sites that the Regulation 19 Addendum proposes to allocate.

5.17. 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.