

North Norfolk Local Plan Examination

Matter 5: Places and Housing Sites

Pigeon Investment Management Ltd on behalf of
Pigeon Land Ltd and Jean Margaret Clifton,
Jane Michelle Clifton and Iain David Clifton

Cromer and Fakenham

January 2024

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Land Off Overstrand Road, Cromer - PO/23/0596

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Pigeon Investment Management
PIGC 3037

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1. Introduction

- 1.1 This Matter Statement has been prepared by Turley, for Pigeon Investment Management Ltd (hereafter referred to as Pigeon) on behalf of Pigeon Land Ltd and Jean Margaret Clifton, Jane Michelle Clifton and Iain David Clifton (the Landowners). These submissions are made pursuant to Matter 5 of the North Norfolk Local Plan Examination, January 2024, in support of the promotion of Land at Runton Road / Clifton Park, Cromer (the Site) for a sustainable, high quality landscape and design-led mixed-use scheme. The promoted Site is 8 ha in area and lies on the western edge of Cromer, approximately 1km from the town centre, and forms a natural and sustainable extension to the town. The Site enjoys good walking links to the town centre and the railway station and is also well served by regular bus services, with existing bus stops located immediately to the east of the Site.
- 1.2 The Site and can bring forward 3 ha of land for the provision of around 55 new homes, including 19 new affordable homes, together with Extra Care accommodation, on land south of the A149 and to the west of Clifton Park. The majority of the remaining Site area will comprise 5 ha of new public green space, allotments, ecological enhancements and new footpath connections, with 60% of the Site retained in the public realm. The Site has no known constraints to early delivery and so can be brought forward rapidly to meet urgent housing needs. A detailed analysis of the Site and the scheme advocated by Pigeon on behalf of the Landowners at Runton Road / Clifton Park is provided within the Delivery Statement, appended to our January 2022, Regulation 19 representations, both of which, should be read in conjunction with this Matter 5 Statement, for reference.
- 1.3 Pigeon continues to support the designation of Cromer as a Large Growth Town, given its function as an administrative centre, tourist destination and its strategic road and rail connections. However Pigeon objects to the continued omission of the above promoted Site from the submission version of the Plan, given its favourable location and sustainable characteristics, which were previously recognised by the Council to justify an emerging allocation, in earlier iterations of the emerging Local plan, as set out in our Regulation 19 representations. Pigeon considers that the failure to reinstate the Runton Road / Clifton Park Site as an allocation remains a significant shortcoming of the Local Plan, which fails the test of soundness. The Site should therefore be taken forward and reinstated as an allocation in the Local Plan, in accordance with the original recommendations of Officers.
- 1.4 The site promoted by Pigeon does not have any landscape designations and is not a valued landscape. In particular, the Site does not lie within the Norfolk Coast Area of Outstanding Natural Beauty (AONB). In contrast, two of the Council's proposed allocations are located in the AONB, one of which (Land at Overstrand Road, Cromer (PO/23/0596) has recently had a resolution to grant outline permission from the Council, on the incorrect basis that no other suitable sites outside of the AONB were available (the resolution being made in advance of the Local Plan Examination and recent changes to the NPPF). These disputed site allocations are discussed further within Section 2 of this Statement. Pigeon also has significant concerns in relation to the delivery of other sites in Fakenham, as set out in Section 3 of this Statement. As such, Pigeon requests the right to be heard at the relevant Matter 5 Hearing sessions to articulate these concerns further.

2. Response to Question 5.2 - Sites in Cromer (C22/2 and C16)

2.1 This section considers whether the proposed housing allocations for Cromer are the most appropriate when considered against reasonable alternatives, in the light of identified site constraints, infrastructure requirements and potential impacts. Notably, sites C22/2 and C16, both of which, are the subject of current live planning applications.

Draft Allocation C22/2 - Land West of Pine Tree Farm, Cromer (PO/18/2169)

2.2 Response to Standard Questions a) – k): A hybrid application for up to 300 new dwellings and a new football club was submitted to the Council in November 2018, under reference PO/18/2169 (see our **Appendix 1**). However, this application still remains undetermined after more than **5 years**, with no consultation or other activity recorded on the Council's public planning application portal since **October 2019**. This lack of any relevant activity, which pre-dates the Pandemic, strongly suggests that there are a number of significant issues and concerns with this application which are unlikely to be able to be addressed.

2.3 For the sake of brevity, we invite the Inspector to refer to Section 6 of our Regulation 19 submissions, made in 2022, which sets out our critique of this allocation in full. Within our representations we identified that two applications had been submitted in 2018, one on the western side of the Site for 185 new dwellings (reference PO/18/1551) with the above, undetermined application, submitted on the eastern side. However, as set out in our representations, the western scheme had to be withdrawn in October 2020 as there were significant concerns relating to the AONB, from landscape officers, which could not be suitably mitigated. In addition, there were also significant concerns raised in relation to highways matters, by Norfolk County Council, as the Highways Authority.

2.4 With regards to the current, undetermined, application, we have set out a schedule at **Appendix 1** of this statement which summarises the main consultation responses and highlights the outstanding issues which, according to the available public record, do not appear to have progressed since 2019, leaving the application effectively in hibernation for more than four years. These application concerns can be summarised as follows:

- Norfolk County Council as Minerals and Waste Authority objected to the scheme unless the applicant carries out investigations to reflect the location of the site in a safeguarded area. There is no evidence that this matter has been addressed.
- The Strategic Housing section objected to the scheme as the applicant proposed only 25% affordable housing, which is substantially below the requirement of 45%. This significant reduction in the level of affordable homes was based on a site viability assessment submitted by the applicant. In addition, the indicative housing mix was non-compliant with current policy. This lack of viability strongly indicates that the basis of the allocation is therefore not sound as there is no evidence that the effective delivery of affordable housing on site C22/2 has, or can be, suitably addressed. Accordingly an alternative, more viable, site should be allocated.

- Policy C22/2 requires the provision of a new segregated cycle/pedestrian footway along the Norwich Road including a dedicated footbridge (or suitable alternative) crossing over the railway. This will require land within the control of Network Rail however there is no agreement in place between the applicants and Network Rail to deliver a crossing. Network Rail noted that the applicant proposes to widen a footway on a railway bridge that they own and applicant has indicated that this is under their ownership on their location plan. However Network Rail's Shared Value Policy* is clear that when third parties require the use of, or rights over Network Rail land, additional value in that adjacent land can be generated. As such Network Rail quite reasonably will expect to receive a share of this additional value '*as consideration for its own disposal of land, grant of rights, or the use of its land as this is a valuable source of income to Network Rail and is known as Shared Value*'. There is however no public evidence that this significant ownership issue has been addressed. Therefore, in the absence of any agreement between Network Rail and the applicants there can be no certainty over the deliverability of site C22/2.
- The Local Lead Flood Authority (LLFA) also objected to the scheme in the absence of an acceptable Flood Risk Assessment (FRA). There is no public evidence that this matter has been addressed.
- The Highways Authority objected to the scheme due to several concerns (including limited visibility from proposed southern roundabout, and lack of consideration of seasonal variability in traffic data – 31/05/19). The applicant submitted revised information, but the Highways Authority maintained their concerns when re-consulted (10/10/19). Visibility issues at the proposed roundabout were felt to be unsolvable as the applicant would require land outside of their control. It should also be noted that the Highways Authority raised the same concern as part of their Regulation 19 representations for the site.
- Notwithstanding several rounds of consultation, the Landscape Officer maintains an objection as they feel that the development is not in compliance with Core Strategy policy EN9, due to its location within the AONB. They required additional mitigation for the presence of endangered bats and birds on the site. There were also continuing issues with the effect of development on the nearby Becketts Plantation. Landscape officers also criticised the removal of several valuable trees. Notably, as stated above, there has been no additional information submitted by the applicant since these comments were made.
- The Environmental Health Officer, in their last consultation response (Oct 2019) required additional information to be submitted regarding the operation of the sports pitches and days of use, due to concerns around noise and light pollution. The scheme presented very little detail in this regard on the potential noise impacts on local dwellings. There has however again been no public evidence that this matter has been addressed in the last four years.

* <https://www.networkrail.co.uk/wp-content/uploads/2022/04/Shared-Value-policy.pdf>

- Natural England objected to the planning application and in representations made at the Regulation 19 stage, on the grounds of significant impact on the AONB and the non-compliance with local policy (see **Appendix 2** of this Statement). We also deal with the AONB matter separately in the response to Question I) below:

- 2.5 In summary, Pigeon maintains the position set out in their Regulation 19 submissions, in relation to the submitted hybrid application for C22/2. Namely, that in the four years since the last round of consultation responses, we can find no tangible evidence from the public record that the applicant has undertaken any work to address the cumulative concerns raised above, as expanded in the appendices of this Statement. This, combined with the acknowledged lack of viability to deliver new affordable housing in the quantity expected of a new housing allocation, strongly indicates that the allocation is not sound.
- 2.6 Response to Extra Question I) relating to the AONB: The Inspector’s question references Paragraph 177 of the now archived 2023 NPPF, which was superseded by a new version of the NPPF on 19th December 2023. Paragraph 177 is now replaced by Paragraph 183 of the December 2023 NPPF, however the tests to be applied essentially remain the same. It is common ground that the application submitted pursuant to the proposed allocation C22/2 is a major development in the AONB, as evidenced above, which therefore should be refused, other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest.
- 2.7 Pigeon’s view is that there are no exceptional circumstances which justify the allocation of site C22/2 for development in the AONB, or the approval of the current application, when other, more suitable, site alternatives exist outside of the AONB, which are less demonstrably harmful and more policy compliant, such as at Runton Road / Clifton Park. In particular, it is clear from the consultation summaries above and the matters set out in our appendices, that the development of this site does not serve the public interest.
- 2.8 This is evidenced by the fact that the site clearly cannot provide the required quantum of affordable housing, which is a matter of significant public interest, when weighing the balance of benefit versus harm on a proposed allocation or application site. It also does not serve the public interest for the related application to remain stagnant for over four years, due to other inherent deliverability issues, which should strongly signal to the Council that the site is clearly not deliverable in the manner required by the allocation.
- 2.9 In addition, there is clear evidence that the tests of Paragraph 183 are not satisfied in the responses made to the related application by Natural England and the Council’s own landscape officers. In this regard, the Inspector’s attention is particularly drawn to the precis of these responses highlighted at Appendix 1 of this Statement. In both cases, Natural England and Officers considered the (then Paragraph 172) test of the NPPF to be failed, inter alia, by reason of significant impact upon the special qualities of the Norfolk Coast AONB, conflict with the objectives of the AONB Management Plan, urbanisation of the AONB from tree removal, additional noise, lighting and highways movements, and a resultant increased pressure on the Overstrand Cliffs SPA.

- 2.10 In terms of the three assessment criteria set out at Paragraph 183 of the NPPF (a-c) we therefore arrive at the following logical conclusions: In terms of a) there is no overriding need for development in the AONB at site C22/2, due to the availability of other local alternatives which do not lie within the AONB, such as Pigeon's site, which the Council has simply chosen to ignore. Furthermore, there can be no benefit to the local economy of an application which cannot be suitably delivered, which is inherently the case.
- 2.11 In terms of assessment criteria b) there is scope for developing outside of the designated AONB area, as set out in the vision document attached to our Regulation 19 submissions. Finally, in terms of NPPF assessment criteria c) the identified detrimental effects on the local environment and local landscape and the extent to which these can be moderated has not been able to be addressed for over four years, which strongly indicates that in overall assessment, the test set out at Paragraph 183 of the NPPF is clearly failed.
Draft Allocation C16 - Land at Overstrand Road, Cromer (PO/23/0596)
- 2.12 Pigeon previously made representations at the Regulation 19 stage in relation to Draft Allocation C16 (Section 5 of our submissions) and our comments still stand in principle. However, in the interim period, an outline application for up to 118 dwellings and up to 60 units of specialist elderly care accommodation was submitted in March 2023. Thereafter, in December 2023 the Council resolved to grant planning permission, subject to the completion of a Section 106 Agreement (to secure, inter alia, 45% affordable housing) plus appropriate conditions and any other matters considered necessary.
- 2.13 It is not our intention to challenge the Council's resolution to grant at the forthcoming Matter 5 Hearing, however we do have relevant observations and wish to draw some comparisons and contrasts with site C22/2 at the hearing. For reference, the relevant committee report is attached at **Appendix 3** of this Statement. The matter of whether the proposal is a major application (and therefore subject to the tests set out in the NPPF) is settled at paragraphs 127/128 of the report. This reinforces the fact that site C22/2, by implication, must also be major development. The officer thereafter proceeds to deal with the assessment criteria of (the then) Paragraph 177 of the NPPF.
- 2.14 In terms of justifying the need for the development, the officer places reliance on the identification of Cromer as one of the districts three Large Growth Towns and the fact that North Norfolk cannot demonstrate a 5YHLS, notwithstanding that as a starting point, the AONB status of the site would provide a clear reason for refusal in the context of Paragraph 11(d) of the NPPF. The officer also notes that the housing allocation to Cromer is far lower (at 1,024 dwellings) than to either Fakenham (at 2,168) or North Walsham (at 3,011) which is stated as a reflection of *'the fact the sea is to the north of Cromer and the fact the southern side of Cromer is dominated by an extensive AONB designation.'*
- 2.15 The officer further suggests that *'if the Council were to discount this site due to its AONB status, or for any other reason, then that would increase pressure on other sites that aren't allocated within the draft Plan'*. The point we wish to make here is that although the officer considers that these (non AONB) sites *'by implication'* will be less appropriate than the application site, at the time of the Council's resolution to grant, the evidence for this had not been properly tested by examination.

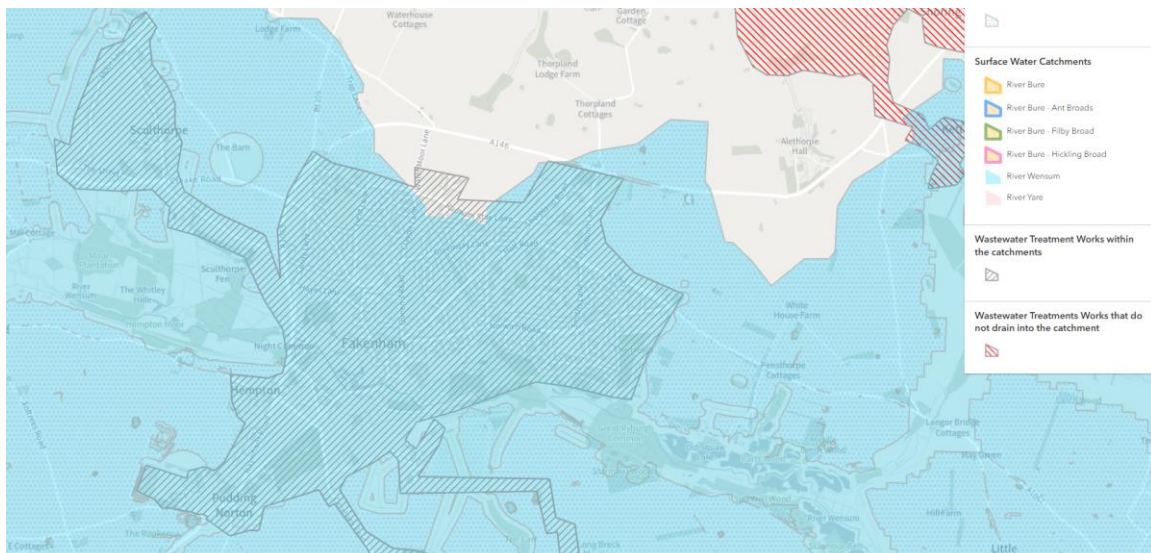
- 2.16 We also note that the approval of an application in the AONB on the basis of remedying the Council's lack of a 5YHLS does not appear to be particularly logical or justified, as the approval of the scheme would only increase the supply calculation by 0.25 years from 4.13 to 4.46 years (using the September 2023, five Year Land Report). Therefore, at the time of the resolution to grant, even with the permanent sacrifice of land in the AONB, the Council's exposure to Paragraph 11(d) of the outgoing NPPF would have remained.
- 2.17 However, since the publication of the new NPPF, which was imminent at the time of the resolution, the current status of the North Norfolk emerging plan, affords the Council a reduced rolling housing land supply requirement down from five years, to four years, for a transitional period. Therefore the officer's primary rationale of the Council needing to approve a speculative, departure, application in the AONB, against the advice of Natural England and the Council's own officers, to help ward off further speculative development was unjustified by reference to both the current and the outgoing versions of the NPPF.
- 2.18 Accordingly, as the resolution to grant was predicated on a scenario that has now been effectively negated by the new NPPF (the intentions of which were clearly signposted by the Levelling Up and Regeneration Act - October 2023) it can be reasonably argued that this resolution to grant was prematurely considered.
- 2.19 We also note at Paragraph 138, an attempt to further justify the recommendation, by stating that *'there is very little land in the Cromer area that might be available for development that is outside the AONB'*. This is however again not a correct assessment of the prevailing situation, as other sites are clearly available, such as the site promoted by Pigeon, which does not lie within the AONB and which has previously been the subject of a recommended site allocation by officers (see Paragraph 1.5 and footnotes from our Regulation 19 submissions).

3. Response to Question 5.3 – Fakenham (FO1/B)

Draft Allocation FO1/B Land North of Rudham Stile Lane, Fakenham

- 3.1 As part of our Regulation 19 representations, Pigeon questioned the deliverability of new homes on site FO1/A (and by implication the future delivery of FO1/B), the former of which, has a planning permission granted in October 2021 under PO/17/0680, following a lengthy determination period of nearly five years. For the sake of brevity we draw the Inspector’s attention to the lengthy chronology of the principal site (FO1/A) as set out in paragraphs 3.16 – 3.33 of our 2022 representations, and the issues raised, which forms the primary case that we wish to discuss at the hearing.
- 3.2 In summary, a Reserved Matters application has still not yet been submitted on this site and so we reiterate that as none of the 950 homes originally forecast on Site FO1/A were delivered during the period 2001-2021, it is highly questionable how much of the FO1/A allocation can be realistically delivered during the plan period 2016 - 2036. Therefore, on the basis of this non delivery on site FO1/A, the Council’s expectation of an additional 560 homes and 100 units of specialist elderly accommodation on site FO1/B by 2036, has no credible justification. As such, any reliance upon such delivery from this second phase of the allocation is considered to be unsound.
- 3.3 We also note that as the site is within the River Wensum catchment area, the issue of Nutrient Neutrality may be an additional factor which could potentially further constrain the deliverability of the site, which we will discuss in context at the forthcoming hearing. However, in short, there is currently no mitigation scheme available for the River Wensum catchment (the first environmental credits expected to be available for sale by Norfolk Environmental Credits being in the River Waveney catchment). There are also no current timescales for any such mitigation becoming available. We further note the letter from Natural England, dated 16 March 2022, which effectively prevents planning permission from being granted for any development that includes overnight accommodation.

River Wensum Catchment Area. Source: [Wensum and Broads Nutrient Neutrality Catchment Map \(arcgis.com\)](https://arcgis.com)



Appendix 1

**Application Reference PO/18/2169
Land at Pine Tree Farm, Cromer
Schedule of Consultation Responses ***

* Matters highlighted within the schedule indicate that these issues had not been resolved at the time of writing (January 2024).

Appendix 2

**Land at Pine Tree Farm - Site C22/2
North Norfolk Regulation 19 Local Plan
Representations Received from Statutory Consultees**

Appendix 3

Committee Report - December 2023

Land Off Overstrand Road, Cromer - PO/23/0596