

Appellant's Statement of Case

Site: Great Bricett Business Park, The Street, Great Bricett, Suffolk, IP7 7DZ.

Appeal by Birch's Park Homes Ltd



Laister Planning Limited
Oddfellows Hall, Ground Floor
London Road
Chipping Norton
Oxfordshire
OX7 5AR

Email: info@laister.co.uk
www.laister.co.uk

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Prepared by: David Hancock
Checked by: Nick Laister
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1. Introduction

- 1.1. This Statement of Case (SoC) has been prepared by Laister Planning Ltd acting on behalf of Birch's Park Homes Ltd (the "Appellant").
- 1.2. This Statement has been prepared to accompany the appeal associated with:

"Appeal under Section 78(1) of the Town and Country Planning Act 1990 for Mid Suffolk District Council reference DC/20/05587 against the refusal of full planning permission regarding the 'Change of use of land for the siting of up to 72 mobile homes (following demolition of existing buildings)'".
- 1.3. The appeal relates to land at Great Bricett Business Park, The Street, Great Bricett, Suffolk, IP7 7DZ illustrated in the red line at Figure 1, and hereinafter referred to as "the Site".
- 1.4. This SoC addresses the reason for refusal (RfR) for the refused planning application (DC/20/05587) and provides the Appellant's case in response.
- 1.5. The structure of this Statement is therefore as follows: this Section 1 provides the introduction; Section 2 describes the site, the surroundings, the relevant background and the planning history; Section 3 reviews the relevant Legal and Planning Policy Context; Section 4 sets out the Appellant's case against the refusal reason for application reference DC/20/05587; and, Section 5 concludes this SoC.

2. Site Context

Description and Surroundings

- 2.1. The site is located at the Great Bricett Business Park, positioned in the hamlet of Great Bricett which contains some services and amenities including Costcutter supermarket, a church and a village hall. There is also a garage for car sales and vehicle maintenance. There is also a church at Wattisham Airfield.
- 2.2. Approximately 0.5km to the north is the settlement of Wattisham which provides local services and amenities, and the settlement of Needham Market, approximately 7.8km to the north east, contains a greater variety, including access to the Needham Market train station providing access to the national rail infrastructure.
- 2.3. Great Bricett Business Park comprises of Nissen style buildings located in a cluster on the eastern area of the site, and green space on the remainder of the site. On the site's northern boundary is Wixfield Park, which is a residential caravan site first established in the 1960s. The site is otherwise bound by agricultural land.
- 2.4. The site is not within a National Park, Area of Outstanding Natural Beauty or Green Belt designation. There are no listed buildings, conservation areas, Sites of Special Scientific Interest (SSSI) or any other natural or historic heritage assets at or near the site. The land is recognised as being within Flood Zone 1, which represents that it is at the least risk of flooding.

Planning History

Reference: 3725/07

- 2.5. The Mid Suffolk's public access facility reveals the oldest recorded planning application was refused under reference 3725/07 for the *"Proposed 1 no building for the handling of archive material"* in 2008. The Committee Report for the most recently determined planning application confirms this is the oldest recorded planning application at the site.

Reference: 1507/10

- 2.6. Subsequently the *"Erection of extension to existing buildings for the handling of archive material. Part removal of earth bund"* was approved in 2010 under reference 1507/10.

Reference: 3340/16

- 2.7. Application reference 3340/16 was submitted in August 2016 for the *"Installation of a mobile phone base station, consisting of 15m monopole supporting 6no. antennas and 2no. dishes, together with 3no. equipment cabinets and 1no. meter cabinet"*. According to the Council's public access facility, the decision was issued

in December 2016 however the decision is also recorded as “Not Available”. No decision notice is recorded online.

Reference: DC/17/03568 and DC/21/06987

- 2.8. On the 7th January 2019 consent was granted for application reference DC/17/03568 seeking “*Outline Planning Application (all matters reserved) – Residential development of up to 51 dwellings*”. The location plan confirms the outline consent is granted on all of the land subject to this appeal. The proposal accounts for the provision of 35% affordable housing by way of S106 agreement.
- 2.9. The reserved matters have been submitted under application reference DC/21/06987. The outline permission remains extant meaning there is an intact residential principle at the site.

Reference: DC/20/05587

- 2.10. The appellant submitted application reference DC/20/05587 on the 7th December 2020, validated by the Council on the 8th January 2021, and refused on the 10th February 2022. The description of development was initially for “*Change of use of land for the siting of up to 73 mobile homes (following demolition of existing buildings)*”. The number of proposed units was reduced during the determination process. The application was determined with the following description of development:

“Change of use of land for the siting of up to 69 mobile homes (following demolition of existing buildings)”

Context of the Application

- 2.11. The planning application determination process leading to this appeal submission has been somewhat unorthodox. It will not go unnoticed that the application was put forward to planning committee with an officer recommendation for approval in the months of May (Appendix 1), August (Appendix 2) and October 2021 (Appendix 3) before a fourth Committee Report recommended refusing the development in February 2022.
- 2.12. As this section advances through the chronology of events, there will be reference to the Appellant’s planning agent and separate reference to the Landowner’s agent. The Appellant is not the owner of the site. For the avoidance of doubt, Richard Boother of RPS Group represented the Appellant during the planning application process and was the agent for the application, and Ryan Jones was representing the landowner.
- 2.13. The thrust of the application subject to this appeal is contained within the application’s supplementary Planning, Design and Access Statement (PDAS; Appendix 4). In summary, the proposal recognised the principle of residential accommodation had been established by permission reference DC/17/03568, and confirmed the proposed units fall within the definition of a ‘caravan’ in the Caravan Sites and Control of Development Act 1960 (the Act). The PDAS set out the proposed development would represent low-cost housing.

- 2.14. The planning application (DC/20/05587) went to Planning Committee [A] with an officer recommendation for approval on the 12th May 2021 (Appendix 1). The committee report did not account for an amended plan reference "1601-0003-03 Site Layout Plan (69no. units)" provided on the 23rd February 2021 and showing an attenuation pond and the reduction of 4no. units for a total of 69no. units across the application area, and the report set out the Suffolk County Council (SCC) maintained a holding objection because technical matters raised in their consultation had not been resolved, however they had not reviewed the Revision 3 document, and recommended approval on the 17th May 2021 (Appendix 5).
- 2.15. At section 9.1 of the Committee Report, it was set out the proposal fits within the NPPF Affordable Housing definition. At section 9.3 it then set out the proposal does not provide affordable homes and so a commuted sum would be required. The Appellant considered the proposal to be a development of affordable units and therefore considered that no affordable housing contribution was required but, in taking a commercial decision, acknowledged to Officers that they would pay a commuted sum as a compromise.
- 2.16. Members voted to defer the determination of the application. The May Committee Action Sheet (Appendix 6) details the following matters required further information:
- a) Plans for proposed nos.
 - b) Bus service
 - c) Car parking and visitor parking
 - d) Flood and drainage details
 - e) Services, including foul water
 - f) Nos. bedroom
 - g) Open space and landscaping
- 2.17. The Appellant's planning agent responded to the matters raised in the May Committee Action Sheet, on the 28th May 2021 (Appendix 7) and also provided the Appellant's commitments with an amended plan containing a parking schedule for parking and visitor parking spaces, and the provision of a bus shelter.
- 2.18. The planning application (DC/20/05587) went again to Planning Committee [A] with an officer recommendation for approval in August 2021 (Appendix 2). Members ran out of time to discuss the application, and determination was again deferred. The case officer, Katherine Hale, wrote to Richard Boothe at RPS setting out that the application will be heard at the 1st September 2021 planning committee, and Vincent Pearce would become the case officer as Katherine would no longer be at the Council. The application was not heard at the 1st September 2021 planning committee as the case officer did not finalise the report in time.
- 2.19. On the 22nd September 2021, the case officer wrote to Ryan Jones, the agent for the landowner who had approached the case officer, and set out the proposed caravans are not affordable or low cost, as the caravans will be sold at their market

price, and not at a reduced market price for caravans. The officer said he drew on the appeal decisions Woodcote, Bracknell, Clacton on Sea, Windsor, Five Oaks and Roos. Neither reference numbers or copies of the appeal decisions were provided to Richard Boothe of RPS. We have requested the decisions or reference numbers from Vincent Pearce by email on the 8th, 12th, 19th and 22nd April 2022 but have not yet received this information.

- 2.20. The case officer noted that if the applicant (our Appellant) suggested 35% of the caravans will be marketed at 20% below the cost of their non-low cost same specification equivalents, then he may be able to consider the application favourably. Alternatively the case officer suggested a financial contribution may be appropriate (Appendix 8). The Appellant maintained that the proposed development was entirely affordable and therefore this arrangement would not be necessary, but in the interests of agreeing a position and getting a permission, continued to agree to a commuted sum and began drawing up a Unilateral Undertaking.
- 2.21. The application was due to do be heard at the Planning Committee [B] dated 29th October 2021 with officer recommendation to approve the development subject to a S106 (Appendix 3). The Appellant provided a Unilateral Undertaking (UU) (Appendix 9) for affordable housing provision, a bus stop shelter, open space, and a footway connection on the eastern side of Pound Hill that will extend across the site frontage and north along Pound Hill to the Wixfield Park entrance. Determination of the application was again deferred. The Action Sheet (Appendix 10) records the application was deferred for the following:
- “Deferred: Committee minded to refuse, subject to a risk assessment as the proposal fails to to [sic] deliver housing with an appropriate mixture of tenure and sizes, with particular regards to the impact as a result of the neighbouring properties”*
- 2.22. The Appellant’s agent had a meeting with Vincent Pearce on the 11th November 2021 and provided a written response on the 15th November 2021 (Appendix 11). Under the heading ‘*Contribution of mobile homes towards housing land supply targets*’, the response provides some detail on the case *Wenman v SSCLG* [2015] EWHC 925 (Admin), before setting out the appeal case of Wisteria Heights (appeal reference: APP/C3810/C/19/3222033; Appendix 12), which we understand had already been provided to the Council. The appeals at Warfield Park (appeal reference APP/R0335/W/16/3163349; Appendix 13), Hermitage Caravan Park (appeal reference; APP/R0335/W/19/3243351 Appendix 14) and Deanland Wood Park (appeal reference APP/C1435/W/20/3265476; Appendix 15) were explored and put forward as evidence in relation to a separate issue raised by the Council, which is that park homes do not contribute to the supply of housing.
- 2.23. The response also comments on the ‘*Need for development*’, whether ‘*the site is in a sustainable location for housing for over 45’s*’, ‘*Performance of mobile homes in relation to current ecological standards*’, ‘*Accessibility*’, ‘*Foul Drainage*’, ‘*Lighting*’, ‘*Traffic and Parking*’ and confirms the neighbouring Wixfield Park is a residential park home site, in ‘*Other Matters*’. The Appellant committed to provide sustainability

technologies, provision of an on site convenience shop which would be operated by the Appellant for three years, and ecology enhancements.

- 2.24. In a summary email on the 16th November 2021 (Appendix 16) from Robert Hobbs (Corporate Manager – Strategic Planning) to Richard Boother of RPS (the Appellant’s planning application agent), the Corporate Manager stated the Council does not count mobile homes in their housing supply monitoring and acknowledges the Housing and Planning Act 2016 recognises mobile homes as having a role in contributing to the supply of housing, however says the Council “only counts dwellings”. The Corporate Manager states:

“Mobile homes also do not fall within the definition of affordable housing as identified in the National Planning Policy Framework (2021) and therefore do not count towards the provision of affordable housing.”

- 2.25. In December 2021 the case officer was delayed in preparing the next committee report. The landowner then proceeded to prepare the submission of the reserved matters for the outline planning permission for 51 dwellings at the site, at the request of the Appellant, in order to keep the residential principle alive at the site.
- 2.26. The reserved matters application for the outline permission (DC/17/03568) was submitted and validated on the 6th January 2022. On the 6th January, the case officer requested an extension of time to the 10th February (Appendix 17) so that the application could be heard at the 9th February committee meeting.
- 2.27. The officer verbally explained that the issue they had was the submission of the reserved matters application. They believed that this was an indication that the Council could get the 35% affordable housing, which they considered was a better situation than the park homes. Nick Laister of Laister Planning Ltd, a planning consultant brought in by the Appellant to assist in the determination process, explained to the officer that the application was submitted to keep the permission alive so that the landowner did not lose the permission if the park homes application was successful and also to avoid going back to first principles on the acceptability of residential development at the site. The officer acknowledged in the call that he would have done the same had he been in the same position as the Appellant.
- 2.28. On the 7th January 2022, the owner of Bricett Business Park wrote to the case officer setting out that following the grant of the 2019 outline permission, the site was marketed for sale; however offers came forward lower than the value of the existing business park. On the same date, Nick Laister wrote to the case officer providing marketing material from Tom Higgins of Savills, the agent that had been marketing the site on behalf of the landowner (Appendix 18). In summary, the site was marketed from April 2018 to November 2019 using Savills typical suite of marketing methods, and only one offer was made by a non-credible developer, leading to the owner agreeing to an option with Birch’s Park Homes.
- 2.29. An email from Richard Boother to the case officer (Appendix 19) on the 11th January 2022 confirms the Appellant increased the offer of £168,000 offsite affordable housing contribution to £200,000 and committed to the inclusion and operation of

an on-site convenience shop for residents and the wider community for five years (rather than the three years previous), while remaining committed that all units would have air source heating, 100amp supply, and electric vehicle capability, and for each to have a photovoltaic option. This offer was made in advance of a meeting between Charles Birch, Nick Laister and Vincent Pearce (case officer) on the 12th January.

- 2.30. The application went to Planning Committee [B] on the 9th February 2022, for the first time with a recommendation for refusal (Appendix 20). The application was refused by the Planning Committee and the decision notice was issued on the 10th February 2022 (Appendix 21), referring to the application drawings "Defined Red Line Plan 1601-0002-1 – received 05/01/2021" and "Site Plan 1601-0003-05 – received 29/09/2022". The reason for refusal is set out in full at the Appellant's case in Section 4.

3. Legal and Planning Policy Context

- 3.1. The Legal and Planning Policy Context relevant to the consideration of these Appeals is set out below.

Decisions in Accordance with Development Plan

- 3.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004, states that planning applications must be determined *'in accordance with the plan unless material considerations indicate otherwise'*.
- 3.3. The Development Plan comprises of the Mid Suffolk Local Plan 1998; Core Strategy 2008; and the Core Strategy Focused Review 2012. The Government's National Planning Policy Framework (NPPF, 2021), and the Draft Joint Local Plan Submission (November 2020) is a material consideration.

Planning Policy Context

The following planning policies are referred to by the Council in the February 2022 Committee Report Decision Notice. These are the policies considered to be relevant to the consideration of the Full Planning Application.

Core Strategy Focused Review (2012)

- FC1 – Presumption in Favour of Sustainable Development
- FC1.1 – Mid Suffolk Approach to Delivering Sustainable Development
- FC2 – Provision and Distribution of Housing

Core Strategy 2008

- CS1 – Settlement Hierarchy
- CS2 – Development in the Countryside & Countryside Villages
- CS5 – Mid Suffolk's Environment
- CS9 – Housing Density and Mix

Mid Suffolk Local Plan 1998

- GP1 – Design and layout of development
- H4 – Provision for Affordable Housing in Larger Schemes
- H7 – Restricting Housing Development Unrelated to the Needs of the Countryside [quoted in reason for refusal]
- H13 – Design and layout of housing development
- H14 – A range of house types to meet different accommodation needs
- H15 – Development to reflect local characteristics
- H16 – Protecting existing residential amenity
- CL8 – Protecting wildlife habitats
- T9 – Parking standards
- T10 – Highway Considerations in Development
- T11 – Facilities for pedestrians and cyclists

Draft Joint Local Plan

- SP02 – Affordable Housing

- 3.4. The PDAS supporting statement accompanying the planning application briefly described the planning policy context. We now set those out now for the avoidance of doubt.

Core Strategy Focused Review (2012)

- 3.5. Policy FC 1 on *'Presumption in favour of sustainable development'* states that the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. The Council will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise. The Appellant considers the proposed development should be considered on its own merits. The residential principle of the site is already established, and the proposal will result in 69no. low-cost bungalow homes with substantial energy efficiency technologies, improved footpath and public transport facilities, and a shop funded for 5 years by the Appellant. The Appellant considers the proposed development accords with this Policy FC 1.
- 3.6. Policy FC 1.1 on *'Mid Suffolk approach to delivering Sustainable Housing'* explains development proposals will be required to demonstrate the principles of sustainable development and will be assessed against the presumption in favour of sustainable development as interpreted and applied locally to the Mid Suffolk context through the policies and proposals of the Mid Suffolk new style Local Plan. Proposals for development must conserve and enhance the local character of the different parts of the district. They should demonstrate how the proposal addresses the context and key issues of the district and contributes to meeting the objectives and the policies of the Mid Suffolk Core Strategy and other relevant documents. The Appellant considers that they have demonstrated the principles of sustainable development and that the proposal complies with Policy FC 1.1 through a combination of increasing the number of low-cost homes on the land compared with the existing permitted baseline and the additional benefits noted in paragraph 3.5 above.
- 3.7. Policy FC2 on *'Provision and Distribution of Housing'* makes provision for allocating green field sites for 2,625 homes and associated infrastructure in Mid Suffolk over a 15 year period from the 1st April 2012. The Appellant considers that, while the site is partly green field, it nonetheless benefits from planning permission for the development of residential homes.

Core Strategy 2008

- 3.8. Turning now to the Core Strategy 2008, policy CS1 on the *'Settlement Hierarchy'* defines the towns, key service centres, primary villages, and secondary villages of Mid Suffolk. Great Bricett is not listed in any of these categories, meaning it is

designated as countryside and countryside villages and development will be restricted to particular types of development to support the rural economy, meet affordable housing, community needs and provide renewable energy. The Appellant considers the proposed development amounts to affordable housing and that the existing extant residential consent confirms the suitability of the site for residential development. The Appellant is therefore of the view there is not a conflict with this policy.

- 3.9. Policy CS2 on *'Development in the Countryside & Countryside Villages'* explains that development will be restricted to defined categories in accordance with other Core Strategy policies. Affordable housing is allowed on rural exception sites, which are defined in the Glossary of Terms as: *"Sites solely for the development of affordable housing on land within or adjoining existing small rural communities, which would not otherwise be released for general market housing"*. On this, the proposed development does not fully accord with the policy, however it is the Appellant's view the proposal amounts to a fully affordable housing development adjacent to an existing residential park home site.
- 3.10. Policy CS5 on *'Mid Suffolk's Environment'* requires development to maintain and enhance the environment and retain the local distinctiveness of an area. Accounting for the adjacent residential park home site, the Appellant considers the proposed development accords with the policy.
- 3.11. Policy CS9 on *'Housing Density and Mix'* prescribes that new housing development should provide a mix of house types, sizes and affordability to cater for different accommodation needs. Housing developments should achieve average densities of at least 30 dwellings per hectare (DPH). The policy states that lower densities may be justified in villages to take account of the character and appearance of the existing built environment. The proposed 28DPH density is deemed to make effective use of the land and is broadly consistent with the adjacent residential park. The Appellant considers the proposal to comply with the aims of the policy.

Mid Suffolk Local Plan 1998

- 3.12. Policy GPI on *'Design and Layout of Development'* sets out poor design and layout will normally be refused in new development. The proposed layout follows the requirements of a typical caravan site licence, as well as incorporating open space, landscaping and community facilities, and is considered to represent an acceptable design and layout.
- 3.13. Policy H4 on *'Provision for Affordable Housing in Larger Schemes'* sets out that a community's need for affordable housing is a material planning consideration. On any unallocated sites in towns and villages, the district planning authority will, where appropriate, seek the inclusion of an element of affordable housing. To prevent the loss of affordable housing to the general housing market, the district planning authority will, where appropriate, expect long term safeguards to be in place to ensure the benefit of affordable housing will be enjoyed by successive occupiers. The policy does not contain any other prescription on how affordable housing will be delivered, such as by requiring a specific percentage of social rented housing as an example. In this case, the Appellant considers that the

proposed development does provide affordable housing. By the very nature of the proposed development however, and the significant difference between the cost of a mobile home and an equivalent bricks-and-mortar dwelling, the Appellant considers it is not appropriate to expect additional affordable housing or long term safeguards. Without prejudice to that, the Appellant continues to commit to offering affordable housing contribution and other site enhancements via S106 as a compromise.

- 3.14. Quoted in Reason for Refusal (RfR) policy H7 on '*Restricting Housing Development Unrelated to the Needs of the Countryside*' sets out that beyond settlement boundaries there will be strict control over proposals for new housing. The provision of new housing will normally form part of existing settlements. The Appellant considers that this policy is not consistent with Paragraph 79 of the NPPF and does not account for the existence of the adjacent Wixfield Park residential homes site. The Appellant instead considers the development represents sustainable development in the rural area where the proposal is located where it will enhance and maintain the vitality of rural communities, compliant with the NPPF. Again, the existence of the extant permission is a material consideration when responding to this policy.
- 3.15. Policy H13 on '*Design and Layout of Housing Development*' requires new housing development to achieve a high standard of design and layout, and be of a scale and density appropriate to the site and its surroundings. The Appellant's proposal is for park homes that are designed and constructed to British Standard 3632 with high specifications for insulation and energy efficiency, with additional sustainability and low energy technologies. The proposed layout incorporates green space and a layout respectful of the setting and the neighbouring residential park home development. A development of single-storey park homes would be much more in keeping with its surroundings than a development of 2-storey bricks and mortar houses.
- 3.16. Policy H14 on '*A Range of House Types to Meet Different Accommodation Needs*' confirms that in new housing development of this scale, a variety of house types and designs to cater for different accommodation needs are encouraged. The proposed units measure 20ft x 40ft; 20ft x 44ft and 20ft x 50ft, offering a variety of sizes and complying with the policy.
- 3.17. Policy H15 on '*Development to Reflect Local Characteristics*' is clear that new housing should be consistent with the pattern and form of development in the neighbouring area and character of its setting. On this, the proposal is similar to and in keeping with the existing adjacent residential park home site and complies with the aims of the policy.
- 3.18. Policy H16 on '*Protecting Existing Residential Amenity*' asserts the Council will refuse certain forms of development to protect the existing amenity and character of primarily residential areas. In this case, the proposed development will not harm the existing amenity of the neighbouring residential park home site and the introduction of improved landscaping and green space represents and improvement to the site.

- 3.19. Policy CL8 on *'Protecting Wildlife Habitats'* is explicit that the Council will refuse development likely to bring about loss or significant alteration to important habitats. No habitats will be significantly altered or lost as a result of the proposal.
- 3.20. Policy T9 on *'Parking Standards'* explains that development proposals, including change of use, will normally be required to provide for the parking and manoeuvring of vehicles in accordance with adopted parking standards. The Appellant puts forward that each unit will have adequate parking provision compliant with policy.
- 3.21. Policy T10 on *'Highway Considerations in Development'* has regard to highway matters including: the provision of safe access and egress from the site; the suitability of existing roads giving access to the development; the acceptability of traffic generation; the provision of adequate space for the parking and turning of cars and service vehicles within the curtilage of the site; and, whether the needs of pedestrians and cyclists have been met. The Appellant considers that, in conjunction with the footway and bus stop, the proposal satisfies the requirements of the policy.
- 3.22. Policy T11 on *'Facilities for Pedestrians and Cyclists'* recognises that in working in conjunction with the County Highways Authority, the District will seek improved facilities for pedestrians and cyclists. As noted above, the Appellants provision of a footway ensures the proposal is compliant with this policy.

Draft Joint Local Plan

- 3.23. Draft Policy SP02 on *'Affordable Housing'* clarifies that the Joint Local Plan will seek to retain and deliver a 35% requirement for affordable housing on relevant sites of ten or more dwellings or sites of 0.5ha or more. Proposals which provide a greater amount of affordable housing than that set out above will also be permitted, subject to the relevant Joint Local Plan policies. As with the Mid Suffolk Local Plan 1998 policy H4, the policy does not contain any other prescription on how affordable housing will be delivered, such as by requiring a specific percentage of social rented housing as an example. The Appellant considers that the proposed development represents a 100% affordable proposal, compliant with the draft policy.

Legal Context

Caravan Sites and Control of Development Act 1960 (as amended)

- 3.24. The original definition of a caravan is set out in Section 29 of the 1960 Act, and states:

"caravan' means any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, but does not include:

a) any railway rolling-stock... or

(b) any tent."

- 3.25. This definition was amended by the Caravan Sites Act 1968 (hereinafter referred to as the '1968 Act') to cover twin-unit mobile homes, and this states that twin-units are composed of not more than two sections separately constructed and designed to be assembled on site by means of bolts, clamps or other devices. Twin units must not exceed 60 feet (18.3m) in length, 20 feet (6.1m) in width and 10 feet (3m) in height overall. The maximum sizes were amended in 2006 by Article 3 of the Social Landlords (Permissible Additional Purposes) (England) Order 2006. The revised dimensions are: length 20m, width 6.8m and overall height (measured internally from the floor at the lowest level to the ceiling at the highest level) 3.05m.
- 3.26. For planning purposes both the Town and Country Planning Act 1990, and The Town and Country Planning (General Permitted Development) (England) Order 2015 adopt this singular definition. The definition within the 1960 Act includes all caravans within the above dimensions and as such means touring and static caravans are interchangeable.

The Town and Country Planning (General Permitted Development) (England) Order 2015

- 3.27. At Schedule 2, Part 5 on 'Caravan sites and recreational campsites', under Class B on 'development on caravan site required by conditions', permitted development is set out to be "Development required by the conditions of a site licence for the time being in force under the 1960 Act."

Other Material Considerations

NPPF Planning Policy Framework

- 3.28. The revised NPPF was published in July 2021 and sets out the Government's planning policies for England. A presumption in favour of sustainable development is at the heart of the Framework. For decision-making this means approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or specific policies in the NPPF indicate that development should be restricted (Paragraph 11).
- 3.29. Footnote 7 highlights that policies will be considered out-of-date, where for applications related to the provision of housing, the local planning authority cannot demonstrate a five year land supply of deliverable housing sites. The Mid Suffolk District Council can demonstrate at least 5 years of supply, meaning the policies of the development plan carry full weight.
- 3.30. Paragraph 12 explains that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with the development plan, the local planning authority may take decisions that divert from the plan if material considerations indicate the plan should not be followed. The Appellant does not consider that the proposal conflicts with the development plan for the reasons noted above.

- 3.31. Paragraph 60 reaffirms the Government's objective of significantly boosting the supply of homes. It is important that a sufficient amount and variety of land can come forward where it is needed. The NPPF accepts that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. Particularly in this case, the proposed development can be 'built-out' quickly, as the construction and siting of the development requires less on-site labour and development than traditional bricks-and-mortar developments.
- 3.32. It is in Paragraph 74 where the NPPF sets out that local planning authorities should identify and provide a minimum of five years' worth of housing. It is important to recognise that the five year housing land supply is a minimum target, and the objective of significantly boosting the supply of homes (Paragraph 59) remains one of the governments primary objectives.
- 3.33. Paragraph 79 establishes that, in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. The proposed development and its contributions of a bus shelter and shop are considered to enhance the vitality of the rural community.
- 3.34. Paragraph 104 relates to sustainable transport modes and seeks the promotion of developments that are focused on locations which are or can be made sustainable and offer a genuine choice of transport modes. This aim goes hand in hand with the principles set under Paragraph 118d) which says that planning decision should *"promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively"*.
- 3.35. Paragraph 105 relates to sustainable transport modes and seeks the promotion of developments that are focused on locations which are or can be made sustainable and offer a genuine choice of transport modes. This aim goes hand in hand with the principles set under Paragraph 120 (d) which says that planning decision should *"promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively"*. While the Council can demonstrate a minimum of 5 years housing land supply, the proposals footpath, bus shelter and access to a shop contribute to increasing local transport sustainability. Further, the proposal will affect presently under-utilised land, complying with the aims of these paragraphs.
- 3.36. The NPPF 2012 was explicit that *"low cost market" housing, may not be considered as affordable housing for planning purposes'*. However, in the current NPPF, Annex 2: Glossary in defining affordable housing is clear that for those whose needs are not met by the market and which, among others, *"other low cost homes for sale (at a price equivalent to at least 20% below local market value)"*, is *"housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market"* compliant with the definition of affordable housing. The Inspector in determining appeal reference APP/C3810/W/18/3214487 at Shripney Garden Caravan Site (now Wisteria Heights Caravan Park) [appendix 12]

examines mobile homes against the NPPF Affordable Housing definition part d) in Annex 2: Glossary (the 2019 and 2021 definitions are the same) through paragraphs 12 – 14, stating

14. "I consider that the mobile homes can be considered to offer an affordable route to home ownership. Moreover, they accord with the aims of the NPPF [paragraph 59] to address the needs of groups with specific housing requirements, particularly the elderly and those requiring single storey accommodation. A financial contribution towards off site affordable housing provision is therefore not justified in this instance".

- 3.37. The Appellant considers that as park homes contribute 0.6% of housing stock (as measured in the 2011 Census) and that the proposed units are other low cost homes for sale at a price equivalent to at least 20% below local market value for other homes, the proposed development represents a fully affordable housing scheme consistent with the Inspectors decision at Shripney Garden Caravan Site. This is examined in the Appellant's case below at Section 4.

4. The Case for the Appellant – Full Planning Application Appeal, Ref: DC/20/05587

- 4.1. This section sets out the case of the Appellant and responds to the Council's single reason for refusal (RfR).

Reason for Refusal

- 4.2. Unnumbered, the first and only Reason for Refusal reads:

“Whilst the Council accepts that the proposed 69 park homes may add to consumer choice in respect of the type of new residential accommodation available for purchase in Mid Suffolk, the park homes do not appropriately address the need for affordable housing across Mid Suffolk in a way that meets Adopted Local Plan Policy H4 and Draft Joint Local Plan Policy SP02.

The Council, through the above policies and its Objectively Assessed Housing Needs Assessment, expects residential developments of this scale to include a 35% component of on-site affordable housing, comprising predominantly affordable rented accommodation with some affordable shared ownership. 35% of 69 is an affordable housing content of 24 dwellings.

In determining this planning application, the Council has had regard to the applicant's offer contained in a signed Unilateral Undertaking to provide a financial contribution of £168,000 and latterly increased to £200,000 outside that Unilateral Undertaking towards off-site delivery of such affordable housing by the Council. However, the Council is of the opinion that it does not adequately outweigh the harm that will result from a shortfall of some 15 such dwellings (compared with the extant outline planning permission on the site for 51 dwellings with 35% affordable housing secured by way of a S106 Agreement) in what is a policy compliant solution. Neither does it outweigh the harm that will result from a shortfall of some 21.5 dwellings arising from the affordable housing requirement of the Council in respect of the 69 park home proposal (£200,000 equating to the build cost of approximately 2.5 affordable dwellings). The harm being a failure to adequately address the pressing need for affordable rented and shared ownership accommodation across the district that will mean the proposed development fails to produce the tenure types needed to reduce the demand for accommodation by those people on the Housing Register in housing need.

The Council having approved outline planning permission for a 51 dwelling development (comprising 35% affordable housing by way of S106 Agreement) under reference DC/17/03568 on 7 January 2019 reasonably

expects 35% affordable housing delivery on this site. The fact that a valid reserved matters submission for that 51 dwelling development was received by the Council in December 2021 indicates that it is reasonable for the Council to reject the park home proposal on the ground that it fails to make adequate provision for the delivery of affordable dwellings. The Reserved Matters application represents a choate alternative that accords with Adopted Council Policy. Its delivery will be prejudiced by permission for a park home development.

It is the Council's opinion that being able to demonstrate that it has a 5-year housing land supply that does not rely on the inclusion of park home sites, it is not imperative to approve this application in order to meet a deficiency in housing supply/delivery within Mid Suffolk. No overriding case for the need for park homes within Mid Suffolk in general and this site in particular has been provided and therefore the Council is of the opinion that there is no overriding justification to support this departure from Adopted policy.

If the extant planning permission has no realistic prospect of being delivered (and if the current proposal is assessed purely on its own merits) then the application is objectionable for the above reasons and also on account of its countryside location contrary to the spatial strategy in the development plan (inc. policies CS1, CS2, H7) and where material considerations do not outweigh the direction to refuse planning permission. Taken in the round, and accounting for the specific circumstances of the application, the most important policies for its determination are considered to be up to date in so far as they are applicable. However even if the "tilted balance" were to apply, the harms significantly and demonstrably outweigh the benefits. However assessed, the application remains unacceptable and does not represent sustainable development.

In refusing this application the Council notes that in an email dated 8 January 2022 @ 18.21hrs the applicant's agent agreed to the additional payment of a £72,300 financial contribution towards the provision of school transport as required by Suffolk County Council as local education authority. Such a payment, if properly secured, will appropriately mitigate the impact of the development on education related services. Failure to secure such a sum will mean that the education impacts of the development will not be adequately mitigated adding to the reasons for refusal."

4.3. While the RfR is lengthy, it is the Appellant's understanding that it contains the following themes:

- 1) The Council perceives that it will lose the 15 affordable dwellings included as part of permission reference DC/17/03568.
- 2) The Council suggests the proposal represents a shortfall of 21.5 dwellings that does not provide affordable rented or shared ownership

accommodation identified as a need in the District. The calculation is 35% of 69 dwellings (24 units), less the 2.5 equivalent paid for by the contribution. The Council appears to accept that all of the caravans will qualify as affordable housing as low cost market housing.

- 3) If the application is examined on its own merits, without attaching any weight to the extant planning permission for 51 houses or the decision which the Council took to approve that, then the affordable housing matters above in conjunction with other matters of principle conflict with Policy CS1, CS2 and H7 result in an unacceptable proposal that does not represent sustainable development.

4.4. We now provide the Appellant's case against the RfR separated into those themes. Preceding the case against Theme 2, we also explore why the Council do not consider the proposed development to amount to affordable development.

Theme 1: The Loss of 15 Affordable Houses

4.5. The Appellant can respond to the matter that the Council considers it will lose 15 affordable dwellings already consented by DC/17/03568 and that this justifies a reason for refusal. Notwithstanding that the Appellant considers the proposed development represents a fully affordable housing development, where the planning application is acceptable on its own merits the planning authority should not take into account or give weight to whether the proposal is better than an alternative, in the absence of exceptional circumstances.. This has been established and confirmed by the courts.

4.6. The Appellant can submit the conclusions in the case of *R (Mount Cook Land Ltd) v. Westminster City Council* [2003] EWCA Civ 1346; [2004] JPL 470, (Appendix 22), where Auld LJ established the "Mount Cook" principles by stating:

- 30) *"I accept as correct statements of the law and as a useful reminder and framework when considering issues such as this [...]"*
 - 1) *In the context of planning control, a person may do what he wants with his land provided his use of it is acceptable in planning terms;*
 - 2) *There may be a number of alternative uses from which he could choose, each of which would be acceptable in planning terms;*
 - 3) *Whether any proposed use is acceptable in planning terms depends on whether it would cause planning harm judged according to relevant planning policies where there are any;*
 - 4) *In the absence of conflict with planning policy and/or other planning harm, the relative advantages of alternative uses on the application site or of the same use on alternative sites are normally irrelevant in planning terms;*
 - 5) *Where, as Mr. Corner submitted is the case here, an application proposal does not conflict with policy, otherwise involved no planning harm and, as it happens, includes some enhancement, any alternative proposals would normally be irrelevant;*

- 6) *Even, in exceptional circumstances where alternative proposals might be relevant, inchoate or vague schemes and/or those that are unlikely or have no real possibility of coming about would not be relevant or, if they were, should be given little or no weight.*"

4.7. In his judgment, Auld LJ set out:

31 *"It is enough for it [the application] to show that its proposed development would not adversely affect the character or appearance of the area and is otherwise unobjectionable on planning grounds; it is not necessary for it to show that its proposals would constitute an enhancement in planning terms; see the South Lakeland District Council case per Lord Bridge (with whom the other Law Lords agreed) at 578c-e. However, the issue raised by Mount Cook which was not realised in South Lakeland – is that the proposals in Redevco's application, if considered alongside its, Mount Cook's, alternative proposals, would or could be harmful in a wider planning sense of frustrating or endangering a more favourable solution for the Building and the Area. Put more shortly, its case is that Redevco's proposed enhancement should yield to its proposed better enhancement.*

32 *In my view, where application proposals, if permitted and given effect to, would amount to a preservation or enhancement in planning terms, only in exceptional circumstances would it be relevant for a decision-maker to consider alternative proposals, not themselves the subject of a planning application under consideration at the same time. And, even in an exceptional case, for such alternative proposals to be a candidate for consideration as a material consideration, there must be at least a likelihood or real possibility of them eventuating in the foreseeable future if the application were to be refused [...] If it were merely a matter of bare possibility, planning authorities and decision-makers would constantly have to look over their shoulders before granting any planning application against the possibility of some alternative planning outcome, however ill-defined and however unlikely of achievement. Otherwise they would be open to challenge by way of judicial review for failing to have regard to a material consideration or of not giving it sufficient weight, however remote".*

4.8. At the Court of Appeal, in judgment in the case *Lisle–Mainwaring and the Secretary of State for Communities and Local Government v Carroll* [2017] EWCA Civ 131 (Appendix 23) Lindblom LJ said that the law is clear on the circumstances in which potential future uses of a site on which development is proposed can be a material consideration drawing reference to the *Mount Cook* principles.

4.9. An application must be determined on its own merits in accordance with the statutory scheme, meaning if a proposed development is acceptable in its own right, the possibility that an alternative proposal, or in this case existing consent reference DC/17/03568 would be better is irrelevant. In his judgement, Lindblom LJ held that alternative proposals would only be material in "exceptional

circumstance” and even in such cases, only if the alternative was not inchoate or vague.

- 4.10. The RfR states the reserved matters application “represents a choate alternative that accords with adopted policy”, however does not present an exceptional circumstance by which the Council could then proceed to examine whether the extant consent is preferable to the current scheme.
- 4.11. Guided by the courts and the judgments by Auld LJ and Lindholm LJ, the Appellant submits that the proposed development should be examined on its own merits against the development plan, and the Council’s asserted baseline of 15 affordable dwellings that may come forward through the implementation of DC/17/03568 is irrelevant. The Council’s committee report posed a wrong and irrelevant question at para F5.34:

“The question for Members is now “Does the enhanced proposal now deliver sufficient benefits to offset what would be by default a loss of potential affordable housing of a type sought by the Council?””

- 4.12. The key matter relevant to the proposal is therefore whether the development represents affordable housing.

Preliminary Matter to Theme 2:

- 4.13. As a preliminary matter, the Appellant first draws attention to the May, August, and October 2021 committee reports which recommended approval and which stated the proposed development fitted the NPPF definition of affordable housing. The Appellant will also address the Corporate Manager – Strategic Planning’s assessment (Appendix 16) leading to the February 2022 Committee Report setting out the proposal did not amount to affordable housing.
- 4.14. In the 12th May 2021 Committee Report (Appendix 1), at Chapter 9 on Housing Contribution, the report set out:

“9.1 The proposal is not your usual ‘bricks and mortar’ housing development. The development provides low cost, affordable housing that fits within the NPPF affordable housing definition: ‘housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes ...other low cost homes for sale (at a price equivalent to at least 20% below local market value)’. The proposed dwelling typology is a relatively uncommon type of housing in Mid-Suffolk, with only 0.6% of the total stock in the district comprising park homes/caravans (2011 Census). The addition of 73 homes of this type would therefore increase local housing choice and add variety to the local housing stock, in support of Policy HS14 and Policy CS9.”

- 4.15. The Appellant deduces that the report refers to part (d) of the NPPF definition of Affordable Housing, which states:

“Other affordable routes to home ownership: is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant

equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision, or refunded to Government or the relevant authority specified in the funding agreement."

4.16. At 9.3, the report contrastingly set out:

"9.3 Whilst the site does not provide affordable homes, it is considered that a commuted sum would be required for the development, particularly given the fact that a commuted sum was indeed provided for the existing adjacent development. Ongoing negotiations with regards to a commuted sum figure are currently taking place and Officers would hope that this could be provided to Members through tabled papers prior to committee."

4.17. To this, the Appellant deduces the report refers to part (c) of the NPPF definition of Affordable Housing, which states:

"Discounted market sales housing: is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households."

4.18. The Strategic Housing comments are recorded as follows on page 7:

"Having considered the proposal and noted in the design and access statement that these are a form of residential housing we consider that this triggers the requirement for an affordable contribution. A proposal of 10 dwellings or more or site size 0.5 hectares or over is defined as major development. In this instance we recommend a commuted sum as the mechanism for the affordable contribution. We will need to discuss this further with you and the applicant as we require further information on the financial aspects of this proposal to establish the commuted sum".

4.19. The Appellant considers that the paragraphs 9.1 and 9.3 are contradicting, where 9.1 refers to the proposed development meeting the NPPF definition of affordable housing, whereas 9.3 sets out the site does not provide affordable homes. The Appellant considers the development adheres to the definition prescribed at part (d) which establishes the proposal constitutes Affordable Housing.

4.20. The Appellant also considers that the reason set in 9.3 for a Commuted Sum for affordable housing *"particularly given the fact that a commuted sum was indeed provided for the existing adjacent development"* is not consistent with the examination of a planning application on its own merits.

4.21. On the Strategic Housing comment, the Appellant believes the Council in this aspect are considering the proposal is seeking a C3 Use Class development. The Appellant was hopeful that when defining the proposal, it remained in the Council's

mind that the proposed development is for a change of use of land, and not for a C3 development proposal for the erection or building of residential houses.

4.22. The May 2021 Committee Action Sheet (Appendix 6) noted the application was deferred for further information on various matters. Affordable housing was not one of them.

4.23. At section 13.2 of the Committee Report, it is set out:

"13.2 The benefits in social terms are not insignificant, with the provision of 73 low cost affordable homes offering a very good level of local housing choice and variety, albeit acknowledging the district's five plus year residential land supply position. A different housing typology than the typical 'bricks and mortar' housing estates, the development offers a refreshingly different residential outcome, one that can be delivered in a much quicker timeframe than conventional housing"

4.24. In the August 2021 Committee Report (Appendix 2), the sections 9.1 and 9.3 and the Strategic Housing comment from the May Committee Report are repeated. An email from the case officer to Ryan Jones (the agent for the Landowner) who was assisting RPS who were acting for the applicant (Appendix 8) puts forward that caravans are not affordable or low-cost housing, and cited appeals "Woodcote, Bracknell, Clacton on Sea, Windsor, Five Oaks and Roos". The appeals or the reference numbers were not provided and the Appellant is searching for those now and will submit evidence on their validity in this case through the proofs of evidence. The Council has been requested to provide the decisions or reference numbers but has not yet done so.

4.25. In the October 2021 Committee Report (Appendix 3), the May 2021 report is reiterated. Under the heading 'Supplementary assessment for the 29th October 2021', the Committee Report sets out in section S7.1 that the Appellant's case is that the proposed development is "low-cost and therefore 'affordable' product when compared to an equivalent sized 'brick built' permanent dwelling", but that the Officers are not inclined to accept that argument. The report sets out:

"S7.3 In the intervening period since the item was last deferred it has been possible to secure a financial contribution payable to the Council for the delivery of off-site affordable homes.

S7.4 The starting point for officers in those discussions was that if low-cost housing is being provided but in the form of mobile homes then it should represent a 20% reduction on purchase price of that product on 35% of the overall stock

S7.5 If that was achievable how would the discount system operate and who would get access to it? It doesn't fit the normal model for delivering homes for those in housing need.

S7.6 Based on the principle set out in S7.4 above and working on a payment to the Council for the provision of off-site affordable housing in lieu of access to that discount the figure of £168,000 was arrived at."

4.26. As noted above, the October Action Sheet noted the Committee was minded to refuse the application “*subject to a risk assessment as the proposal is now considered to fail to deliver housing with an appropriate mix of tenure and sizes, with particular regards to the impact as a result of the neighbouring properties*”. None of those were cited in the RFR.

4.27. Robert Hobbs, Corporate Manager – Strategic Planning provided to the Appellant’s agent on the 16th November 2021 in Appendix 16 that:

“Babergh and Mid Suffolk District Councils do not count mobile homes in their housing land supply monitoring. It is acknowledged that The Housing and Planning Act 2016 recognises mobile homes as having a role in contributing to the supply of housing. However, Mid Suffolk District Council does not rely on mobile home pitches to meet its identified housing needs evidenced in the Strategic Housing Market Assessment and therefore does not count the provision of mobile homes in its housing land supply. The Council only counts dwellings.

Mid Suffolk District Council published a housing land supply position statement in October 2020, which demonstrated a 7.67 year supply. The draft Mid Suffolk housing land supply position statement published in November 2021 for consultation, identifies a 9.54 year supply.

Mobile homes also do not fall within the definition of affordable housing as identified in the National Planning Policy Framework (2021) and therefore do not count towards the provision of affordable housing.
[Appellants emphasis]”

4.28. The Appellant therefore considers that the ‘Corporate Manager – Strategic Planning’ has decided (incorrectly, in the Appellant’s view) that the proposed development does not fall within the NPPF 2021 definition of affordable housing, and for this reason does not count towards the provision of affordable housing. It is unclear why the Council in their May 2021 Committee Report confirmed that the proposed units do comply with the NPPF definition, and why the ‘Corporate Manager – Strategic Planning’ then set out they did not. It appears to the Appellant that part (d) of the NPPF definition has been ignored.

4.29. Moving forward with the understanding the Council does not consider the proposed development falls within the definition of affordable housing prescribed in the NPPF, the Appellant turns to the February 2022 Committee Report (Appendix 20). The Risk Assessment section of the report confirms that “*Members indicated that the application was considered unacceptable on the grounds that it fails to deliver housing with an appropriate mixture of tenure and sizes, with particular regards to the impact as a result of the neighbouring properties*” (Section RA2.3). The Risk Assessment also notes that “*material changes in circumstances*” (Section RA2.1) allowed officers to now recommend refusal of the application.

4.30. At section RA5.10 officers report that it is reasonable for the Council to argue that by the proposal not delivering the type of affordable housing required by the Council to meet the demand from its housing register, the proposal is unacceptable.

- 4.31. The committee report does say the caravans are not affordable housing: para F3.2, F3.4, F4.1.2, F4.2.1. However the reason for refusal does not make that complaint. It objects instead that affordable rent or affordable shared ownership are not provided, despite the Council asserting that it would not seek to accommodate people in housing need in park homes (para F5.25).
- 4.32. The Appellant will now set out, supported by a recent appeal decision, that the proposed development does offer affordable housing within the definition of the NPPF, Local Policy H4 and Joint Local Plan Policy SP02, and that as the Council would not use the proposed development as a source of affordable housing for residents on the housing register (as confirmed in the Officer's Report and Reason for Refusal), it is appropriate for this development to be considered as offering low cost market housing in compliance with part d of the Affordable Housing definition of the NPPF Glossary.

Theme 2: Whether the Proposed Development Amounts to Affordable Housing

- 4.33. In support of this SoC is an Affordable Housing Supplementary Statement (AHSS) enclosed at Appendix 24 defining affordable housing and providing research on the cost of two-storey and bungalow traditional homes, and park homes within a local range of 10 miles of the application site. The figures referred to within this theme reflect a summary of calculations derived through the AHSS.
- 4.34. As noted above and at Section 2.1 of the AHSS, the NPPF 'Glossary' at Page 64 defines affordable housing as including:
- "[...] housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes [...] other low cost homes for sale (at a price equivalent to at least 20% below local market value)".*
- 4.35. The NPPF therefore includes as affordable homes which are 'at least 20% below local market value'. The 20% is taken from the 'local market value', not the market value of the units themselves. The units must therefore be cheap compared to what is available in the local market. That is because affordable housing caters for those who are financially disadvantaged in the market. 'Discounted' market units are under paragraph (c) of the definition.
- 4.36. The proposed units are park homes, which tend to be lower cost to the buyer than an equivalent sized brick-and-mortar home, and as such, they enable buyers to both release equity and to release their existing home into the housing market.
- 4.37. The Appellant's research on Rightmove.co.uk on the 22nd April 2022 reveals the median selling price of 1-3 bedroom park homes is £149,950 (AHSS Table 1) based on the sample size of 15 properties for sale within 10 miles of the site location. Of note, there are four properties for sale at the neighbouring Wixfield park, being comprised of 3no. second hand and 1no. new park homes. The median price of the second hand units is £149,950, equal to the median price for all park homes. The new park home has a price of £209,950.

- 4.38. In contrast, the Appellant's research on Rightmove.co.uk on the same day revealed the median selling price of 1-3 bedroom traditional detached bungalows is £425,000.00 (AHSS Table 2). In this scenario, there were 80 results for bungalows, however many listings were for maisonettes and park homes. The sample is therefore a selection of the 15 newest listed detached bungalows for sale within 10 miles of the site location, in order to be relatable to this assessment. A breakdown of all 15 units is provided below.
- 4.39. In the knowledge that bungalows can often be more expensive than multi-storey developments, the Appellant repeated the exercise for 1-3 bedroom traditional detached multi-storey dwellings. The median price in this case is £375,000 (AHSS Table 3), lower than the cost of a bungalow but still substantially higher than the cost of a park home.
- 4.40. If the selling price of traditionally built detached bungalows and multi-storey dwellings are combined, the median selling price of the 30no. properties identified is £402,500.
- 4.41. The AHSS concludes then, that with a median selling price of £149,950 for 1-3 bedroom park homes:
- The median selling price of 1-3 bedroom traditional detached bungalows is £425,000.00, a difference of £275,050 against the median and £215,050 against the new park home at Wixfield Park. When considering how much cheaper the cost of the median park home is compared to the median traditional detached bungalow, the difference is approximately **64.71%** ($\frac{£275,050}{£425,000} * 100$). When assessed against the price of the new park home at Wixfield Park, the difference is approximately **50.6%** ($\frac{215,050}{425,000} * 100$).
 - The median selling price of 1-3 bedroom detached traditional multi-storey house is £375,000.00 a difference of £225,050, and £165,050 against the new park home at Wixfield Park. When considering how much cheaper the cost of the median park home is compared to the median traditional detached multi-storey house, the difference is approximately **60.01%** ($\frac{£225,050}{£375,000} * 100$). When assessed against the price of the new park home at Wixfield Park, the difference is approximately **44.01%** ($\frac{165,050}{375,000} * 100$).
 - The median selling price of 1-3 detached traditional bungalows and multi-storey homes combined is £402,500 a difference of £252,550, and £192,550 against the new park home at Wixfield Park. When considering how much cheaper the cost of the median park home is compared to the median traditional detached house (combined bungalow and multi-storey), the difference is approximately **62.74%** ($\frac{£252,550}{£402,500} * 100$). When assessed against the price of the new park home at Wixfield Park, the difference is approximately **47.83%** ($\frac{192,550}{402,500} * 100$).
- 4.42. As such, the Appellant considers that their research therefore shows mobile park homes in the local area fall within the definition of affordable housing as set in the

NPPF (a price equivalent to at least 20% below local market value). This is because the median price equivalent is approximately 60%-64% of the local market value of detached 1-3 bedroom traditionally built homes. With direct examination of the price of a new park home at the adjacent Wixfield Park, the price equivalent against traditionally built homes (thus we are examining a specific new home rather than the median price) is approximately 44%-50% cheaper.

- 4.43. It is a significant benefit that the proposal will introduce the provision of a type of single storey affordable market housing product which can accommodate people to a high standard and make use of a parcel of brownfield land which already benefits from planning permission for residential use. At section F3.2 however, the February 2022 Committee Report explains that the Council's Officers do not consider the proposal is for low cost housing because:

"the units are not being offered at 20% below the price of the standard park home product on site. Officers remain of the opinion that the applicant by seeking to compare the purchase price of a park home with a brick built equivalent is trying to compare apples and oranges".

- 4.44. This appears to consider only part (c) of the NPPF definition and the Appellant is preparing a viability assessment to be submitted in due course examining whether the development could viably delivered in accordance with the part (c) definition. Nonetheless, the Appellant considers the proposal complies with the definition prescribed in the NPPF para (d) facilitating home ownership of other low cost homes for sale at a price equivalent to at least 20% below local market value. These are different to discounted units. The NPPF does not restrict the assessment to being homes of a particular construction type (i.e. bricks and mortar compared to a home that is fabricated in a factory. The idea of only comparing park homes with park homes is an artificial approach designed to enable an argument that the NPPF discount is not achieved on the site. It has no merit, in the Appellant's view.

- 4.45. For absolute clarity, the Appellant considers the development proposal will result in the provision of low-cost, affordable market housing which is a view ratified in the Appeal decision under reference APP/C3810/W/18/3214487 at Shripney Garden Caravan Site (Appendix 12). In this case, where the extension to an existing caravan park for the provision of 12no. additional mobile homes was sought, the Inspector expressly commented on affordable housing. At paragraph 11, the Inspector states:

11. "For all developments of 11 residential units or more, ALP Policy AH SP2 requires the provision of a minimum of 30% of the total site number of units proposed to be provided as affordable housing. This should be on the same site in the first instance, with provision by way of a commuted sum only in very exceptional circumstances. The removal of condition 4 would create 12 units of permanent residential accommodation. While the mobile homes are not 'bricks and mortar' homes, they provide dwellings for people to live in on a permanent basis. The policy does not differentiate between types of homes and therefore I am satisfied that it applies to mobile homes".

- 4.46. In assessment of the average price of a traditionally built dwelling and a park home, the Inspector at Paragraph 13 states:

13. "While the category of 'detached houses' would clearly encompass a range of house sizes and types, the average selling price of a park home is substantially more than 20% below local market value based on the median price. I have also had regard to the limitations of mobile homes when compared with 'bricks and mortar' homes, such as the generally restricted garden space with less privacy than conventional housing, their elevated ground floor level requiring an access ramp, as well as their advantages in terms of their modular form and construction."

- 4.47. The Inspector finalises at paragraph 14 that mobile homes can be considered to offer an affordable route to home ownership and, moreover, they accord with the aims of the NPPF to address the needs of groups with specific housing requirements, *"particularly the elderly and those requiring single storey accommodation"*. The wording used by the Inspector shows that she was referring to NPPF paragraph 59.

- 4.48. The Mid Suffolk Home Housing Strategy 2019 (Appendix 25) sets out in the introduction that:

"house prices are around 10 to 11 times (latest, April 2018, House price to workplace-based earnings ratio: ONS: Table 5a) above the average earnings of residents, making rural parts of the districts unaffordable for many to buy, especially younger and first time households. This means an increase in demand for affordable housing options and private rented accommodation, and acts as a brake to a previously buoyant housing market."

"Some residents are concerned that their current homes may not be suitable for their changing needs ten years from now. Many also tell us they are very concerned about the lack of new homes in their villages for local people and the affordability of homes, both of which are causes of outward migration of young people – the next generation."

- 4.49. If it is the Council's complaint that the proposed development represents affordable housing that is not for social rent or shared ownership, then the Appellant draws attention to Policy H4 of the Mid Suffolk Local Plan 1998 and Draft Policy SP02 of the Draft Joint Local Plan. As set out in paragraph 3.13, Policy H4 does not contain any prescription on how affordable housing will be delivered. It does not require, for example, a specific percentage or ratio of affordable homes to be for social rent or shared ownership. Draft Policy SP02 equally does not require particular types of affordable housing. In addition, the Council has asserted that park homes are not suitable for affordable or social rented accommodation or anyone they would place on the housing register (February Committee Report section F5.31 [Appendix 20]), and therefore it is inappropriate for the Council to comment on this as a justification for refusal. Indeed, the Appellant is knowledgeable of the park home industry, and does not believe there is a registered

provider offering social rent or shared ownership accommodation, and no interest has been provided.

- 4.50. The Appellant believes there is an opportunity to provide low cost housing, compliant with the definition of affordable housing and the aim of affordable housing policy. The PDAS submitted in support of the planning application recognises only 0.6% of the housing stock is comprised of this proposed type of housing, and the proposed development represents an opportunity to increase the District's offer. The affordable housing will be provided by the site operator, on the basis that all of the units are at least 20% below the local market value.

Theme 3: Whether the Proposed Development is Unacceptable and does not Represent Sustainable Development

- 4.51. It is the Appellant's case that the application should have been determined on its own merits. The baseline for examining the application is therefore to account for the existing consent reference DC/17/03568 for:

"Outline Planning Application (all matters reserved) - Residential development of up to 51 dwellings"

- 4.52. While indicative only, the submitted drawing *"Proposed Typical Elevations"* demonstrates typical terraced, detached and semi detached houses with 1.5- and 2- storey elevations with pitched roofs. The valid reserved matters application (reference DC/21/06987) is accompanied by detailed proposed plans and elevations which also detail a variety of multi-storey dwellings in conjunction with some proposed bungalows.
- 4.53. The Appellant considers that, with the DC/17/03568 application being approved by the Council which concluded that it was a proposal *"where the 'tilted balance' and the presumption in favour of sustainable development are engaged"* (paragraph 117 of DC/17/03568 Committee Report (Appendix 26)), and where the principle of residential development is extant, it is not at all clear why the Council now considers a similar proposal to be unacceptable and not representing sustainable development. There has been no material change to local and/or national policy, and while the Council can now demonstrate a 5 year housing land supply where it could not in the determination of DC/17/03568, the residential principle of the land has now been established and the proposed development introduces sustainability measures that were not included in the outline consent. Indeed, permission DC/17/03568 forms part of the Council's housing land supply, which would remain the case if this application is allowed. The consent of DC/17/03568 which exists as a fallback and the decision of the Council to approve DC/17/03568 are relevant to the principle of residential development in this location. In addition, the proposed development is for homes that are entirely bungalows, which is consistent with the adjoining Wixfield Park and is much more in keeping with surrounding development when compared to the indicative outline plans and the valid reserved matters plans. On this, the Appellant is of the view the proposed development is acceptable and does represent sustainable development.

- 4.54. The RfR explicitly claims that the proposed development conflicts with Policy CS1, CS2 and H7. The report for DC/17/03568 sets out with specific regard to those policies:

Policy CS1 and CS2 of the Core Strategy and H7 of the Local Plan form part of a suite of policies to control the distribution of new housing. They can be afforded weight, since they contribute to ensuring that development is sustainably located and unsustainable locations are avoided. This planning objective remains important and is consistent with the NPPF presumption in favour of sustainable development, by limiting development in less sustainable locations with a limited range of services to meet the needs of new residents in a sustainable manner. However, in the absence of a five-year supply and significant weight afforded to the provision of housing as to address the housing shortfall, Officers are of the view that these policies should be afforded limited weight as they restrict housing development in the countryside to solely exception housing. This is not consistent with the NPPF.

- 4.55. Notwithstanding the Council can now demonstrate the minimum required supply of housing land, the principle of residential development is established and the proposed development will introduce homes on land already consented for residential development, while introducing significant environmental, social and economic benefits. The planning permission remains extant and in any event, the Council had recently granted planning permission for that development. Both the extant permission and the decision to grant permission are material considerations to which considerable weight should be attached. Policies had not materially changed since the decision was taken.
- 4.56. The NPPF at Paragraph 79 states “housing should be located where it will enhance or maintain the vitality of rural communities” in order to promote sustainable development in rural areas. In assessing outline permission reference DC/17/03568 for 51 dwellings, officers concluded that, while there would need to be some reliance on private motor vehicles for some facilities and services, there is a range of facilities that can be accessed in the locality by means of travel other than a private car. In that case, the Officers view was that the site is not isolated. In this case, the supporting planning statement for the application subject to the appeal set out in detail the available local facilities, their distance from the site and the sustainable transport options on offer (Appendix 26). The main offer are four local bus services (111, 405 (school service), 461 and 462). The services are available located 100m to the north of the site on Pound Hill. The applicants proposed development of a footpath and bus shelter will facilitate accessible use of these bus services from a distance of approximately 70m south east of the sites access. The footpath and proposed bus shelter were also proposed as part of DC/17/03568, meaning the application subject to this appeal and the sustainably located DC/17/03568 share these same accessible qualities. In addition, the offer of an on-site shop will provide occupants and local customers with on site access to daily essentials, reducing their reliance on the Costcutter supermarket which is accessible by bus or car. The Appellant considers that the location of the proposed development achieves the

requirement of enhancing or maintaining the vitality of rural communities in order to promote sustainable development, and there are no detailed reasons for refusal against this position.

5. Conclusion

- 5.1. This Statement of Case (SoC) has been prepared by Laister Planning Ltd acting on behalf of Birch's Park Homes Ltd, (the "Appellant"), in relation to the refusal of planning application reference DC/17/05587 at Great Bricett Business Park, the Street, Great Bricett, Suffolk, IP7 7DZ
- 5.2. Following an officer's recommendation for approval in the committee reports for May, August and October 2021, officers were minded to recommend refusal in advance of the fourth committee meeting date in February 2022. In refusing this application, the Council gave one Reason for Refusal (RfR). This has been comprehensively discussed in Section 4 of this SoC and for the purpose of this conclusion, have been summarised below.
- 5.3. The RfR concludes the proposed development does not provide the correct type of affordable housing while the committee report explores that the scheme is not affordable housing. The RfR sets out the proposal represents a shortfall of 21.5 affordable dwellings and, if permitted, it would replace the extant consent (DC/17/03568) which incorporates 15no affordable homes. The Appellant provides evidence that DC/17/03568 should not be used as a comparison in terms of which development provides the better outcome; the application should be determined on its own merits. Extant Permission DC/17/03568 does provide a fallback, and therefore confirms the acceptability of a residential development on this site. The Appellant provides evidence that the proposed developed does fit within the definition of affordable housing as defined in the NPPF.
- 5.4. The proposal is in considered to accord with the development plan at this land benefitting from consent to implement a residential development.
- 5.5. Accordingly, the Appellant respectfully requests that the appeal is allowed.

Appendices
