

Mr Edward Hanson  
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Our Ref: APP/L2630/A/09/2097802

11 November 2009

Dear Mr Hanson

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)  
APPEAL BY PELHAM HOLDINGS LTD  
APPLICATION REF: 2007/2703  
LAND NORTH OF NORWICH COMMON, WYMONDHAM, NR18 OSW**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, M T O'Rourke BA(Hons), DipTP, MRTPI, who held a public local inquiry on 28-31 July 2009, into your clients' appeal under Section 78 of the Town and Country Planning Act 1990 against the decision of South Norfolk District Council to refuse outline planning permission for residential development (class C3) and 460sqm retail (class A1) with access, landscaping and public open space, on land north of Norwich Common, Wymondham, NR18 OSW.

2. On 13 March 2009 the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the appeal involves residential development of over 150 units or on sites of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

3. The Inspector, whose report is enclosed with this letter, recommended that the appeal be allowed and planning permission granted, subject to conditions. For the reasons given below, the Secretary of State agrees with the Inspector's recommendation. All paragraph references, unless otherwise stated, refer to the Inspector's report (IR).

**Policy Considerations**

4. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the saved policies of the South Norfolk Local Plan (2003) and the East of England Plan (2008). The Secretary of State considers that the development plan policies most relevant to the appeal are those set out by the Inspector at IR17-25.

5. Other material considerations include, PPS1: *Delivering Sustainable Development*, PPS3: *Housing*, PPS7: *Sustainable development in Rural Areas*, PPG13: *Transport*, PPG16: *Archaeology and Planning*, PPS25: *Development and Flood Risk*, Circular 11/95: *Use of Conditions in Planning Permission*, Circular 05/2005: *Planning Conditions*, and Supplementary Planning Guidance on Affordable Housing and Housing Mix.

6. The emerging Joint Core Strategy is a material consideration, but given that this is some way from adoption the Secretary of State affords it limited weight.

### **Main Issues**

7. The Secretary of State agrees with the Inspector that the main considerations in this appeal are those set out in IR179.

### **The Development Plan**

8. The Secretary of State agrees with the Inspector's assessment of development plan policies as set out in IR180-187.

### **Housing land supply**

9. The Secretary of State agrees with the Inspector's reasoning and conclusions on housing land supply, as set out in IR188-195. He agrees that there is an under-supply of deliverable sites for housing in the Norwich Policy Area and that where there is less than 5 years supply, planning applications for housing should be considered favourably, having regard to the policies in PPS3. Like the Inspector, he considers this to be a material consideration that weighs in favour of the scheme (IR195).

### **Compatibility with PPS3**

10. For the reasons given by the Inspector in IR196-201, the Secretary of State considers that the proposal would largely comply with PPS3, including most of the considerations in paragraph 69 (IR224)). This includes that it would achieve a good mix of housing (IR198) and that it would make effective and efficient use of land (IR200).

### **The spatial vision and policy ENV2 and impact of the development**

11. The Secretary of State agrees with the Inspector's reasoning and conclusions on the spatial vision and policy ENV2, and the impact of the development, as set out in IR202-214. He agrees with the Inspector that the proposal would have an impact on the character of the landscape but that this would be limited (IR214). He also agrees that this harm has to be weighed in the balance with the other material considerations that favour development (IR214).

### **Other considerations**

12. The Secretary of State agrees with the Inspector's assessment of those other considerations as set out in IR216-219. He agrees that the proposal is consistent with PPG13 objectives to reduce the need to travel by private car, and that it is in a sustainable location with services and facilities within walking and cycling distance and available alternative means of travel by public transport (IR217).

### Conditions and obligations

13. The Secretary of State agrees with the Inspector's reasoning and conclusions on conditions and obligations, as set out in IR220-221.

### Overall conclusion

14. The Secretary of State concludes that the proposal would be in line with relevant development plan policies and national planning policies, except with respect to local plan policies ENV2 and ENV 8. The Secretary of State is satisfied, for the reasons given, that this conflict does not outweigh the broad compliance with the development plan in all other respects - including that it would help to meet housing need (including affordable housing need), and would be in a sustainable location. Having weighed the relevant matters in the balance, he concludes that there are no material considerations of sufficient weight which would justify refusing planning permission.

### Formal Decision

15. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows the appeal and grants outline planning permission for residential development (class C3) and 460sqm retail (class A1) with access, landscaping and public open space, on land north of Norwich Common, Wymondham, in accordance with application, ref 2007/2703, dated 20 December 2007, subject to the conditions set out in Annex A.

16. An applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the local planning authority fail to give notice of their decision within the prescribed period.

17. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than that required under section 57 of the Town and Country Planning Act 1990.

### Right to challenge the decision

18. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court.

19. A copy of this letter has been sent to South Norfolk Council and all parties who appeared at the inquiry.

Yours sincerely,

Michael Taylor  
Authorised by the Secretary of State to sign in that behalf

## **Annex A**

### **List of conditions**

- 1) Details of the appearance, landscaping, layout and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development shall provide for a maximum of 323 dwelling units and no more than 460 square metres of gross retail floor space falling within Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).
- 5) No development shall take place until details, including samples where required, of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) Before development commences, a plan shall be submitted to and approved in writing by the local planning authority showing a programme of phasing of development to include the provision of the estate roads, footways and cycleways, fire hydrants, landscaping, open space and play areas and retail development. The phasing plan shall be implemented as approved.
- 7) The landscaping details required by Condition 1) shall provide for a scheme of tree planting and landscaping, which shall include indications of all existing trees and hedgerows on the land, all of which are to be retained, together with measures for their protection in the course of development. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accord with the phasing plan agreed in accord with Condition 6). The scheme shall include a programme for landscape maintenance for a minimum period of 5 years and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 8) No trees or hedges on the site shall be cut down, uprooted, destroyed, lopped or topped within a period of 5 years from the commencement of development, without the previous written approval of the local planning authority. Any trees or hedges removed without consent shall be replaced during the next planting season November/March with trees of such size and species as agreed in writing with the local planning authority.
- 9) Surface water discharge from the proposed development shall be restricted to a peak flow rate of 16.5l/s 1 in 1 year event, 44.3l/s in the 1 in 30 year event and 65.1l/s in the 1 in 100 year event (inclusive of an allowance for the impacts of climate change).
- 10) On-site attenuation and storage shall be provided for surface water runoff generated in all rainfall events from the current 1 in 1 year rainfall event, up to and including the 1 in 100 year rainfall event (incorporating a climate change allowance of 30% on the peak rainfall intensity).

- 11) The attenuation basin shall be located entirely outside the area at risk of flooding in the 1 in 100 year fluvial flood event, incorporating an allowance for the impacts of climate change, as in drawing number 3653/21/10.
- 12) All built development shall be located outside of the areas at risk of flooding in the 1 in 100 years (including climate change) and the 1 in 1000 fluvial flood events.
- 13) Before development commences, a scheme for the provision and implementation of surface water drainage which has regard to the requirements of Conditions 9), 10), 11) and 12), shall be submitted to and approved in writing by the local planning authority. The scheme shall be constructed and completed in accordance with the approved scheme prior to the occupancy of any part of the development. The scheme shall include a programme for the monitoring and maintenance of all components of the surface water management scheme and shall be implemented as approved.
- 14) No works shall commence on the site until such time as detailed plans of the estate roads, footways, cycleways, foul and surface water drainage have been submitted to and approved in writing by the local planning authority. All construction works shall be carried out in accordance with the approved plans.
- 15) Before any dwelling/building is first occupied the roads, footways and cycleways shall be constructed to Binder Course surfacing level from the dwelling/building to the adjoining County road in accordance with the details that have been submitted to and approved in writing by the local planning authority.
- 16) No works shall commence on site until a detailed scheme for the off-site highway improvement works as indicated on Drawings numbered 3653/03/18 Rev D and 3653/03/03 Rev C has been submitted to and approved in writing by the local planning authority. The approved scheme shall be completed prior to the first occupation of the development.
- 17) No works shall commence on site until the details of wheel washing facilities for construction vehicles have been submitted to and approved in writing by the local planning authority and the approved facilities have been installed. For the duration of the construction period, all construction traffic involved in the development shall use the approved wheel washing facilities.
- 18) None of the dwellings shall be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved in writing by the local planning authority.
- 19) The development shall incorporate the provision of water hydrants for the purposes of fire fighting at a frequency of one hydrant for every fifty dwellings.
- 20) No development shall take place within the site until the applicant, or their agents or successors in title, has:
  - a) caused to be implemented a programme of archaeological evaluation in accordance with a first written scheme which has been submitted to and approved in writing by the local planning authority; and next
  - b) submitted the results of the archaeological evaluation to the local planning authority; and next
  - c) secured the implementation of a programme of archaeological mitigation work in accordance with a second written scheme which has been submitted to and approved in writing by the local planning authority.
- 21) The dwellings shall achieve at least Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved and a copy of that certificate has been supplied to the local planning authority.

- 22) Before development commences, fencing shall be erected in the north western corner of the site in accord with details that have submitted to and approved in writing by the local planning authority for the purposes of creating an area of potential habitat as defined in red on Bioscan Drawing No. E1107F2R1.
- 23) Before development commences, an Interim Travel Plan shall have been submitted to and approved in writing by the local planning authority. No part of the development hereby permitted shall be occupied prior to the implementation of the approved Interim Travel Plan. During the first year of occupation of the 50<sup>th</sup> dwelling that is occupied, a Full Travel Plan, based on the approved Interim Travel Plan, shall be submitted to and approved in writing by the local planning authority. The approved Full Travel Plan shall be implemented in accordance with the timetable and targets contained therein, which shall include a process for annual review, and shall continue to be implemented so long as any part of the development is occupied subject to modifications submitted to and approved in writing by the local planning authority as part of the annual review.