



APPEAL UNDER SECTION 78 OF  
THE TOWN AND COUNTRY PLANNING ACT 1990  
AGAINST  
FOREST HEATH DISTRICT COUNCIL

**In respect of:**  
The non-determination of a  
planning application for  
residential development of  
land at Broom Road,  
Lakenheath

STATEMENT OF CASE  
On Necton Management Ltd

April 2016  
LPA Ref: DC/14/2073/FUL  
EJWP197-SoC

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1. Introduction

- 1.1 Necton Management Limited (the Appellant) wishes to appeal against Forest Heath District Council's (the Council) failure to determine planning application (LPA ref:DC/14/2073/FUL) for the proposed residential development of land at Broom Road, Lakenheath.
- 1.2 This document constitutes the Appellant's Statement of Case and has been prepared in accordance with guidance set out in the Procedural Guide to Planning Appeals published by the Planning Inspectorate in March 2016. It outlines the case that will be advanced by the Appellant at the Public Inquiry.
- 1.3 The appeal application was submitted on behalf of the Appellant on 3<sup>rd</sup> November 2014 and validated by the Council on 12<sup>th</sup> November 2014, under reference DC/14/2073/FUL. The application originally sought full planning permission for construction of 147 residential dwellings, associated parking, access and amenity space on land adjacent to 34 Broom Road, Lakenheath. However, the number of units has since been reduced to 120.
- 1.4 Prior to the submission of the application, the Appellant submitted a formal request pursuant to Regulation 5 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 for a 'Screening Opinion' from the Council to confirm whether or not an EIA was required for the development. The Council confirmed by letter dated 17<sup>th</sup> July 2014, that the development proposed by the appeal application was not EIA development within the meaning of the 2011 Regulations.
- 1.5 Having been in receipt of the application for more than six months, on 10<sup>th</sup> April 2015, the Case Officer wrote to the Appellant summarising a number of issues raised during the consultation process and suggesting that the application be withdrawn to allow time for the Appellant to overcome the technical objections to the scheme and provide further information to the Council.
- 1.6 The Appellant took the decision not to withdraw the application and met with the Council on 19<sup>th</sup> May 2015, to discuss their concerns and agree a timeframe and strategy for revising the scheme and addressing the technical issues identified. Having taken full account of those discussions, a revised scheme for

120 dwellings was prepared and submitted to the Council on 15<sup>th</sup> October 2015.

1.7 A copy of the planning application, and requisite background documents are provided to the Inspector as part of this appeal. The key drawings from which the appeal proposal can be readily understood are:

- 16080/003 Site location plan
- 16080/001 Rev 0 Topographical Survey
- 16080/002 Rev G Proposed Layout Plan
- 16080/101-124 House Types

1.8 Following receipt of the Council's confirmation that the revised scheme and further information submitted was acceptable the Appellant provided their agreement to an extension of time to the period for the determination of the application by 15<sup>th</sup> January 2016.

1.9 There are six other applications for residential development around Lakenheath. Not all of these applications were subject to a formal Screening Opinion and the Council are now concerned that the cumulative impacts of these proposals trigger the need for an Environmental Impact Assessment. In each case the Council is now beyond the period prescribed by the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 to adopt an EIA Screening Opinion and has therefore made a request to the Secretary of State to provide a Screening Direction to discharge the Council's legal obligations relating to EIA screening of the Appeal application and the other applications before them.

1.10 The Secretary of State wrote to the Council on 4<sup>th</sup> February 2016 to confirm that the Council were in circumstance where a number of large scale housing developments were submitted able to re-screen the applications taking into account any potential cumulative impacts and confirming that it would be premature for the Secretary of State to exercise his discretion to issue his own screening directions pending confirmation of the completion of the LPA's rescreening.

1.11 The Council has failed to re-screen the applications including the Appeal application and has made a further request to the Secretary of State to issue a

Screening Direction on their behalf. The revised application has now been with the Council for more than 26 weeks and the Council has failed to progress the application. The Appellant has asked the Council repeatedly when it proposed to determine the application. It has failed to indicate when it would do so. The Appellant has been left with no choice but to Appeal the application

- 1.12 The Appellant's evidence will refer to the Council's pre-application advice and on-going advice during the application process with particular reference to the Council's acceptance of the principle of redevelopment of the site for residential use. Reference will also be made to the fact that all technical issues relating to the development of the site have, as far as the Appellant is concerned, been resolved as a part of the application process.
- 1.13 The Appellant requests that the appeal be heard at a Public Inquiry over a four-day period. The dates and venue for the Inquiry will be agreed with Forest Heath District Council.

## 2. The Appeal Site

- 2.1 Lakenheath is located west of Thetford and north west of Bury St Edmunds and is accessible from the A11 via the A1065. The village is adjacent to the Lakenheath American Air Force base.
- 2.2 The historic core of the village is attractive and displays a distinct character and local vernacular comprising red brick and flint buildings under pitched roofs. Lakenheath has a good range of services and facilities including a convenience store, post office, pharmacy, a bank and a range of takeaways. There is a primary school, doctor's surgery, community hall and extensive sports fields.
- 2.3 The site is located towards the eastern of the village of Lakenheath and comprises an area of undeveloped land extending to 5.8 hectares.
- 2.4 There is, existing residential development to the north, west and south of the site. Access to the site will be taken from Broom Road at the northern end of the site and a secondary access will be provided via Roebuck Drive at the south-western, edge of the site.

- 2.5 The eastern boundary is formed by a line of mature trees and hedgerow that provide a natural defensible boundary and a degree of screening to the open countryside beyond. The residential development on Broom Road and to the south of the site also projects to meet this natural boundary.
- 2.6 The site is predominantly flat, but sloping slightly in an east-west direction. Towards the northern end of the site is a clump of trees, these are to be retained and incorporated within the proposed public open space at the centre of the site.

### 3. The planning history

- 3.1 Necton Management has owned the land since 1977 and has over the intervening years submitted a number of planning applications for residential development. All of the applications have been refused on the basis of a policy objection that the proposals were premature to the development plan at that time. The last application was made some twenty years ago.
- 3.2 In 2012 the site was identified by the Council as a suitable location for the residential expansion of Lakenheath in their Strategic Housing Land Assessment Appraisal SHLAA under reference L22 – Broom Road, Lakenheath and carried through to the 2015 SHLAA Review under reference L/25.
- 3.3 However, the site has recently been excluded from the list of preferred sites in the Council's Site Allocations Local Plan that is currently the subject of consultation.

### 4. The Appeal Proposals

- 4.1 The revised description of the development is as follows:

*Full planning permission for 120 dwellings comprising 15 one-bedroom bungalow; 25 two-bedroom bungalow; 28 two-bedroom; 38 three-bedroom houses; 13 four-bedroom houses and 1 four-bedroom bungalow together with associated access, landscaping and open space..*

**Schedule of development and house types and tenures**

<b>Description</b>	<b>Affordable</b>	<b>Market</b>	<b>Total</b>
1 bed bungalow	6	9	15
2 bed bungalow	Nil	25	25
2 bed house	22	6	28
3 bed house	6	32	38
4 bed house	1	12	13
4 bed bungalow	1	Nil	1
<b>Total</b>	<u>36</u>	<u>84</u>	<u>120</u>

4.2 The proposal is to provide a sustainable extension to the village of Lakenheath, which integrates with the existing community. The density of the layout will be tighter at the centre of the development and more open in nature towards its edges, providing a gentle transition to the open landscape beyond. The development will provide high quality landscaping, public open space and play space for children, together with generous individual gardens to each home.

4.3 The proposed development will provide a mixture of terraced, semi-detached and detached properties. The density of the layout will be tighter at the centre of the development and more open in nature towards its edges, providing a gentle transition to the open countryside beyond and a more welcoming appearance to the village as a whole.

5. Planning obligations

5.1 The Appellant has prepared a draft Unilateral Undertaking, the principle of which it will endeavor to agree with the Council in the Statement of Common Ground. It is the Appellant’s intention that in the event of the appeal being allowed, the Unilateral Undertaking would secure the following:

Affordable housing:                      36 units 70% of which will be social rented units  
and 30% shared ownership

Pre-school Provision

Contribution:                                £73,092

Primary School	
Construction Contribution:	£462,228
Primary Capital	
Contribution:	£142,766
Temporary Classroom	
Contribution:	£106,000
School Transport	
Contribution:	£750
Library contributions:	£25,920
NHS Contribution:	£39,500
Community Works:	Contributions payable to Lakenheath Parish Council towards extension of existing Pavilion on playing field (£30,000), in addition to £X,XXX (TBA) improvements to the Parish Council's Children's Play Area and £150 towards dog bins, litter bin and notice boards
Public Open Space:	Provision of public open space and landscaping within the development and contributions to be agreed for the provision of Maintenance
Pedestrian crossing	
Contribution:	£X,XXX (TBA) towards the provision of pedestrian crossing facility within the locality of the Doctor's surgery on the High Street.

## 6. Planning Policy Context

- 6.1 The planning policy context will be set out in full in the Statement of Common Ground. That will identify the Development Plan and other policy documents, and the specific policies within them, which may be considered relevant to the determination of the appeal. Evidence will be presented to determine the weight to be attached to those policies in light of the National Planning Policy Framework (NPPF) and other material considerations, and to consider how the appeal proposals accord with them. The evidence will also identify the relevant policies within the NPPF and determine how they apply to the appeal site and proposals.



- 6.2 In summary, the development plan comprises the Forest Heath Core Strategy of 2010 and the Joint Management Policies Document of 2015. The preparation of a Core Strategy Single Issue Review in relation to Policy CS7 that is concerned with overall housing provision and distribution, and a Site Allocations Development Plan Document are proceeding in tandem. The Site Allocations Development Plan Document is the subject of a current consultation that is due to end in June 2016. These emerging documents are still at an early stage and of limited weight in the decision making process.
- 6.3 The spatial strategy states that the majority of development within Forest Heath will take place in the towns and key service centres, with a small amount of development of a level to support rural communities in a number of primary and secondary villages. Lakenheath is identified as a Key Service Centre where at least 600 new dwellings will be provided for through the delivery of a number of greenfield urban extensions.
- 6.4 The Appellant's evidence will demonstrate that the proposal is wholly acceptable having regard to the key objectives of national planning policy and the provisions of the Development Plan.

### The National Planning Policy Framework

- 6.5 The National Planning Policy Framework (NPPF) was published in March 2012.
- 6.6 At the heart of the National Planning Policy Framework is a presumption in favour of 'sustainable development'. This is seen as the 'golden thread' running through both plan making and decision-making. The overarching intention of the NPPF is to promote development and introduce a more positive approach to planning decisions.
- 6.7 With regard to applications for housing, the NPPF states that these should be considered in the context of the presumption in favour of sustainable development. Paragraph 47 states that Local Planning Authorities are required to significantly boost the supply of housing. In doing so they are required to meet the full, objectively assessed needs for market and affordable housing in the housing market area.

- 6.8 The NPPF sets out to ensure the delivery of a wide choice of high quality homes. In so doing it considers (at paragraph 47) that where there has been a record of persistent under delivery of housing Local Planning Authorities should, in addition to identifying a five-year supply of housing, include a buffer of 20% to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.
- 6.9 The footnotes to this section provide the definition of deliverable sites. To be considered deliverable sites should; be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on site within five years and in particular that development of the site is viable.
- 6.10 The application site is immediately available, it provides a suitable location and would contribute to the maintenance and enhancement of a sustainable mixed community.
- 6.11 In accordance with paragraphs 47 and 49 of the NPPF, the Council's policies relating to the supply of housing are considered out of date and this appeal should be considered in accordance with the principles of sustainable development set out in the NPPF.
- 6.12 The Appellant's evidence to the Inquiry will refer to the policies contained within the NPPF including and not limited to paragraphs 47-51, 56-58, 158, 159, 186, 187, 196 and 197.

#### The National Planning Practice Guidance

- 6.13 The National Planning Practice Guidance (NPPG) was formally published on 6 March 2014 by the Government to update national planning practice guidance to support the NPPF. The NPPG supports and informs the national policy and provides further guidance into the provisions of the NPPF. The Appellant's evidence will refer to the NPPG, particularly the section headed 'Housing and economic development needs assessment' and 'How Local Authorities should support sustainable rural communities'.

## 7. The Case for the Appellant

- 7.1 At the heart of the NPPF is the presumption in favour of sustainable development. The NPPF identifies that there are three dimensions to sustainable development: economic, social and environmental. The Appellant's evidence will demonstrate that the proposed development will deliver social, economic and environmental benefits.
- 7.2 It is acknowledged from the outset that the site is not within the current settlement boundary and is no longer identified for development in the emerging Site Allocations Local Plan. However, it is contested that the relevant adopted policies in the Forest Heath Local Plan and Core Strategy are in the majority now in full, or partial conflict with the NPPF as:
- Policies that refer to settlement boundaries and the supply of land for housing are out-of-date; and
  - There is a shortfall in five year housing land supply
- 7.3 The provisions of Paragraph 14 of the NPPF apply and therefore planning permission should be granted without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 7.4 If, in the intervening period before the appeal sits it is considered that a five year housing land supply can be demonstrated, through reasons the Appellant is currently regards as tenuous, it is contended that development of the site would on balance still represent sustainable development under the terms of the NPPF when read as a whole.
- 7.5 The Appellant will also demonstrate that the proposal would not undermine the adopted or emerging Local Plan policies, albeit recognising the limited weight to be afforded to these in the decision making process.
- 7.6 The Appellant's evidence will in addition address the following key issues:
- i. The principle of development and sustainability of the site,

- ii. The acceptability of the proposed development in terms of density, scale, appearance and overall design and its impact on the landscape and character of the local area,
- iii. The delivery of housing which will significantly boost the supply of both market and affordable housing,
- iv. The benefits of the scheme.

i) The principle of development and the sustainability of the site

7.7 The site is not within the settlement boundary and not allocated for development. This does not preclude its development for housing, as the site is adjacent to existing residential development and offers a natural extension to the village. In that context, the appeal site's locational characteristics add to its particular sustainability. It is within easy walking distance of facilities within the village that provides a post office, bank, doctor's surgery, convenience store as well as a public house and community facilities.

7.8 The principle of residential development is supported through a range of planning policy and objectives:

- Increasing housing land supply – the delivery of 120 new homes will 'significantly boost the supply of new homes' in accordance paragraph 47 of the NPPF.
- Sustainable development - Paragraph 55 of the NPPF seeks to promote sustainable development in rural areas by locating housing where it will enhance or maintain the vitality of rural communities. The location of the site within close proximity of services within the village would constitute sustainable development that would help maintain the vitality of the rural community. The proposal therefore accords with paragraphs 14, 49 and 55 of the NPPF.
- Lakenheath is identified by the Council as one of its most sustainable locations for housing growth.

- Residential use of the site – with residential neighbours adjoining the north, west and south of the site, residential use of the site respects neighbouring uses and the residential character of the area.
- As such, residential development is not only appropriate in terms of the growth of Lakenheath and meeting housing need, but it is also appropriate in the context of its proximity to services and facilities within Lakenheath and as a response to the residential context of the locality.

7.9 The Appellant’s evidence will make reference to pre-application discussions with the Council and the Council’s identification of the site within the SHLAA both of which confirm that the site is eminently suitable for a development of the scale proposed in this location.

ii) The acceptability of the proposed layout in terms of density, scale appearance and overall design and its impact on the landscape and character of the local area

7.10 Having established that development needs to take place outside of the existing settlement boundary, the Appellant will demonstrate how the design of the development proposed has been influenced by the pattern of existing development and in a direct effort to moderate any detrimental effect on the landscape and character of the area. It will in particular point to the fact that this area is bordered on three sides (north, west and south) by existing development with those developments providing a form of enclosure to the appeal site, which makes the appeal site a natural location for infill and consolidation of this pattern of development.

7.11 The Appellant will demonstrate that during the application process it has worked with Officers to ensure that the design of the appeal scheme has evolved to ensure that, in accordance with best practice, the appeal scheme offers a range of house types including the appropriate level of affordable housing and has been designed to integrate with the existing settlement.

7.12 Evidence will include an assessment of the appeal proposals in the context of Policy DM23 of the Joint Development Management Policies. It will be shown that by virtue of the screening effect of nearby development, the proposed layout, low density of development and space allocated for landscaping, the

effects of the development of the appeal site on the setting of this part of the village would not be unacceptable.

7.13 The Appellant will conclude that whilst the proposal would introduce further built-form into this currently undeveloped location it has been designed to be sensitive to its surroundings, and to complement and enhance the character of the village, whilst ensuring that there will be limited impact on the open landscape to the east of the site.

iii) The delivery of housing that will significantly boost the supply of both market and affordable housing, and in particular will contribute to meeting an acute need for affordable housing

7.14 The need to plan for and provide adequate land for housing is underpinned by the Government's strategic housing policy objectives. It is therefore a policy requirement and an important material consideration in the determination of this appeal.

7.15 The Council's Five Year Supply of Housing Assessment 2015 clearly shows that the Council should be taking action to supplement their supply. Furthermore, it will be demonstrated that a significant shortfall to the 5-year requirement exists beyond that which the published Assessment demonstrates as the Council's housing trajectory makes unrealistic assumptions regarding build rates, and there is uncertainty regarding the deliverability of a number of sites included within the Council's supply.

7.16 Evidence will show that the resultant shortfall should further be set in the context of the fact that the housing requirement upon which the Council's supply is calculated is not sound on the basis that:

- The shortfall of delivery compared with the requirement to meet the full objectively assessed need for housing should be applied to the annual requirement before application of the buffer,
- The Sedgefield method should be applied to ensure historic under-delivery is accounted for in the next five-year period in accordance with nation guidance and appeal decisions,

- The Council has not provided compelling evidence that it can rely on windfalls.
- 7.17 Evidence will set out the implications of these factors in detail and explain that in such circumstances the Council should, in the context of the clear and uncompromising messages from the Government regarding the need to boost housing supply, be taking every opportunity to provide sustainable new housing.
- 7.18 In addition to showing that there is a pressing need to release such a site on the edge of a local service centre, evidence will, with reference to the Council's evidence base that the appeal site represents a suitable and sustainable location for housing being a viable and deliverable option that benefits from the backing and support of an established local house builder, and would make an important contribution towards meeting local identified needs for open market and affordable housing.
- 7.19 Evidence will conclude that the lack of a demonstrable five-year supply of housing land is a significant material consideration in favour of the Appeal scheme.
- iv) The benefits of the scheme
- 7.20 The site is deliverable, is available now and will deliver 120 homes (including 36 affordable homes), within the next five years.
- 7.21 The site is within a sustainable location and its development will increase housing choice for those wishing to live and work in the area. It will bring about economic benefits both during the construction phase and following completion, as a result of increased spending in local shops and through the use of local services and facilities that will help to sustain local service provision. It will deliver increased Council Tax revenue and New Homes Bonus payments, part of which could be re-invested in the local area.
- 7.22 The Appellant will conclude that when assessed against Section 38(6) of the Planning and Compulsory Purchase Act 2004 with regard to the Development Plan and other material planning considerations the planning benefits of the proposal outweigh any perceived harm to the character of the local area.

## 8. Conclusions

8.1.1 The Appellant's evidence will demonstrate how the appeal proposal would constitute sustainable development as defined by the NPPF and contribute to economic, social and environmental objectives. It will be shown that the proposal would not cause any material harm to interests of acknowledged importance and that the Council's delay in determining the application is unreasonable. Evidence will be presented in respect of the benefits that would arise from the development, notably in respect of the supply of housing in an area of housing need, occupying a sustainable location at the edge of a village with good access to local facilities. The scheme is technically sound, deliverable, well designed and viable.

8.2 The Appellant will therefore respectfully request that the appeal is allowed and that planning permission is granted.

## 9. Documents to be referred to in Evidence, or at the Appeal

1.1 Planning policies and guidance at the national and local levels relevant to the consideration of the appeal comprise the following:

### National:

- The Planning Acts;
- Ministerial Announcements and Statements;
- The National Planning Policy Framework (NPPF) (March 2012); and
- Planning Practice Guidance (March 2014).

### Development Plan:

- Saved policies Forest heath Local Plan 1995
- Forest Heath Core Strategy 2010
- Joint Development Management Policies Document 2015
- Emerging Core Strategy Single Issue Review
- Emerging Site Allocations Development Plan Document



Evidence Base and supplementary planning documents:

- Forest Heath Assessment of Housing Land Supply 2016
- The Cambridge Sub-Region's Strategic Housing Market Assessment 2013
- Strategic Housing Market Assessment for Forest Heath 2016
- Joint Affordable Housing Supplementary Planning Document 2013

9.2 In addition, the Appellant will rely on the application paperwork submitted with this appeal and the policy extracts and consultation responses that will be provided with the LPA questionnaire. In addition to the principal paperwork, documents, including plans and drawings, which are listed in the Appeal submissions, the Appellant may refer to other relevant applications or appeal decisions.

9.3 The Appellant reserves the right to add to, or amend this statement in the light of any material changes in the planning circumstances of this case.