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Statement of Case

For Honeyview Investments Limited | 25-459

Application ref: 23/01615/F at 10, Barnard Road, Bowthorpe, Norwich, NR5 9JB

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Project:	25-459
Site Address:	10 Barnard Road, Bowthorpe, Norwich, NR5 9JB
Client:	Honeyview Investments Limited
Date:	11 November 2025
Author:	Rawdon Gascoigne

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Contents

1. Executive Summary _____ 1
2. Introduction _____ 3
3. Propositions _____ 5
4. Site context and appeal proposal _____ 6
5. Planning policy context _____ 11
6. Planning considerations _____ 13

Appendices

AP1. Statement of Case of Andrew Bell
AP2. Statement of Case of Helen Kirk
AP3. Tree Preservation Order (TPO) 613
AP4. Tree Preservation Order (TPO) 634
AP5. Pre-application Advice Letter, dated 19 May 2023
AP6. Redacted (sensitive information) - Namco Funscape letter dated 3 April 2024 (redacted version)
AP7. Correspondence relating to land to the south of the site (redacted version)
AP8. Officer's Report to Committee
AP9. Correspondence with Highways Authority
AP10. Planning Permission for bowl unit
AP11. Fall-back plans
AP12. Judgement - Mansell v Tonbridge and Malling
AP13. Agent's Letter dated 10 November 2025 (redacted version)

1. Executive Summary

1.1 The appeal application seeks full planning permission for a foodstore (Use Class E) with associated car parking and landscaping.

1.2 The site, which is north-west of Norwich City Centre in New Costessy, currently houses a bowling alley known as Namco Funscape and is within a wider existing employment area known as Bowthorpe. The estate currently contains minimal conventional industrial uses and accommodates a range of office, storage / distribution and leisure uses.

1.3 The proposal is to redevelop the site, which proposes the demolition of the existing unit. Despite this being the preferred approach, there is a realistic (ie significantly more than theoretical) fall-back position to be factored in, since the existing unit could be converted from a bowling facility into a foodstore (both use Class E) without the need for planning permission. In the event that the appeal is dismissed then this comprises the most likely outcome – it is unlikely that the existing use would continue for reasons explained below.

1.4 The proposed removal of the existing leisure use which performs poorly against the operators other sites and which we are advised by the operator is economically unviable, as confirmed by the operator and detailed further later in this Statement, is not contrary to Local Plan Policy. By comparison the proposed retail use is policy compliant since it comfortably passes the impact and sequential tests and will actively generate significant levels of employment, both in the construction phase and throughout the site's operation as a foodstore.

1.5 Namco Funscape, Barnard Road is performing very poorly with its turnover representing a third of the average turnover of Namco Funscape facilities and just 44% of the second lowest performing Namco Funscape facility.

1.6 Unfortunately, the poor performance of Namco Funscape, Barnard Road has been this way for some time.

1.7

1.8 The proposal represents sustainable development (providing social, economic and environmental benefits), by providing a key facility within walking or cycling distance, or a short driving distance of a large resident population and by providing highways improvements to further encourage walking and cycling accessibility within the site and the wider area. Those improvements are in line with Local Authority plans and their already implemented works for improving active travel and connectivity in this location. The

proposals will also positively manage the environmental condition of the site. These are considered material benefits that will arise through the redevelopment of the site.

1.9 This Statement will demonstrate that the proposed development complies with the Development Plan and the Framework as a whole and that there are no material considerations which would outweigh this. It will also be demonstrated that the proposal would provide substantial benefits and that this would not be outweighed by any identified harm (which are assessed to be negligible – minor at most).

1.10 The appeal proposals constitute sustainable development in accordance with the Development Plan and the Framework as a whole. The Paragraph 11 presumption in favour of sustainable development therefore applies and permission should be grated without delay.

2. Introduction

2.1 This Statement of Case is submitted on behalf of the Appellant (Honeyview Investments Ltd) in support of its appeal against the decision of Norwich City Council to refuse full planning permission for:

> 'Construction of a Class E foodstore with associated access, car parking, servicing and landscaping'

at 10 Barnard Road, Bowthorpe, Norwich, NR5 9JB.

2.2 This Statement should be read alongside the appeal application submission documents and drawings, the Statement of Case of Andrew Bell (attached as **Appendix AP1**), which addresses highways matters and the Statement of Case of Helen Kirk (attached as **Appendix AP2**), which addresses arboricultural matters.

Background

2.3 The appeal application was validated by the Local Planning Authority (LPA) on 4 January 2024 and given the reference 23/01615F. The application was recommended for approval but was refused at Planning Committee on 8 May 2025. The decision notice is dated 16 May 2025.

2.4 The decision lists the following 4 reasons for refusal:

> *'1. The proposed development would result in the loss of an existing valued community facility which is contrary to policy DM22 of the Development Management Policies Local Plan 2014 and paragraph 98(c) of the National Planning Policy Framework 2024.*
>
> *2. The application involves the loss of protected trees that form part of a continuous existing landscaping feature along the southern side of Dereham Road, which makes an important contribution to the character, local distinctiveness and quality of the urban environment. The loss of the protected trees does not facilitate a substantially improved approach to the design and landscaping of the development that would outweigh the loss of the trees contrary to policy DM7 of the Development Management Policies Local Plan 2014 and paragraph 136 of the National Planning Policy Framework 2024.*
>
> *3. The proposals fail to encourage sustainable travel through a failure to provide adequate infrastructure to support and prioritise access to the site by non-car modes contrary to policies DM1 bullet 3 and DM28 of the Development Management Policies Local Plan 2014, part 1 of policy 2 of the Greater Norwich Local Plan 2024 and paragraphs 110, 115 and 117 of the National Planning Policy Framework 2024.*
>
> *4. The proposals fail to reduce car use and as a consequence fail to reduce dependency on the private car contrary to policy DM1 bullet 3 of the Development Management Policies Local Plan 2014.'*

2.5 A full assessment of the proposed development against the relevant policies and other material considerations is set out in Section 5 of this Statement.

2.6 The appeal proposals are in accordance with the Development Plan as a whole, and therefore in line with paragraph 11 of The Framework, the appeal should be allowed, and planning permission should be granted.

3. Propositions

3.1 The case for the Appellant is set out with reference to the following propositions, which directly address the reasons for refusal.

- **Proposition 1:** The existing bowling unit is not a community facility which warrants any form of policy protection and Policy DM22 does not apply.
- **Proposition 2:** The proposed removal of some protected trees is required in order to deliver significant benefits to the sustainability of the site and the wider area. The benefits outweigh the harm in respect of tree removal.
- **Proposition 3:** The proposal encourages sustainable travel by providing improvements to cycle and pedestrian accessibility to the site and the wider area.
- **Proposition 4:** The proposal complies with the Development Plan as a whole and there are no material considerations to indicate that planning permission should not be granted. The benefits of the proposal outweigh any harm.

3.2 The above propositions will be fully assessed within Section 5 of this Statement, along with any other material considerations.

3.3 The Appellant reserves the right to make an application for costs, in whole or in part at the relevant time.

4. Site context and appeal proposal

Site location and context

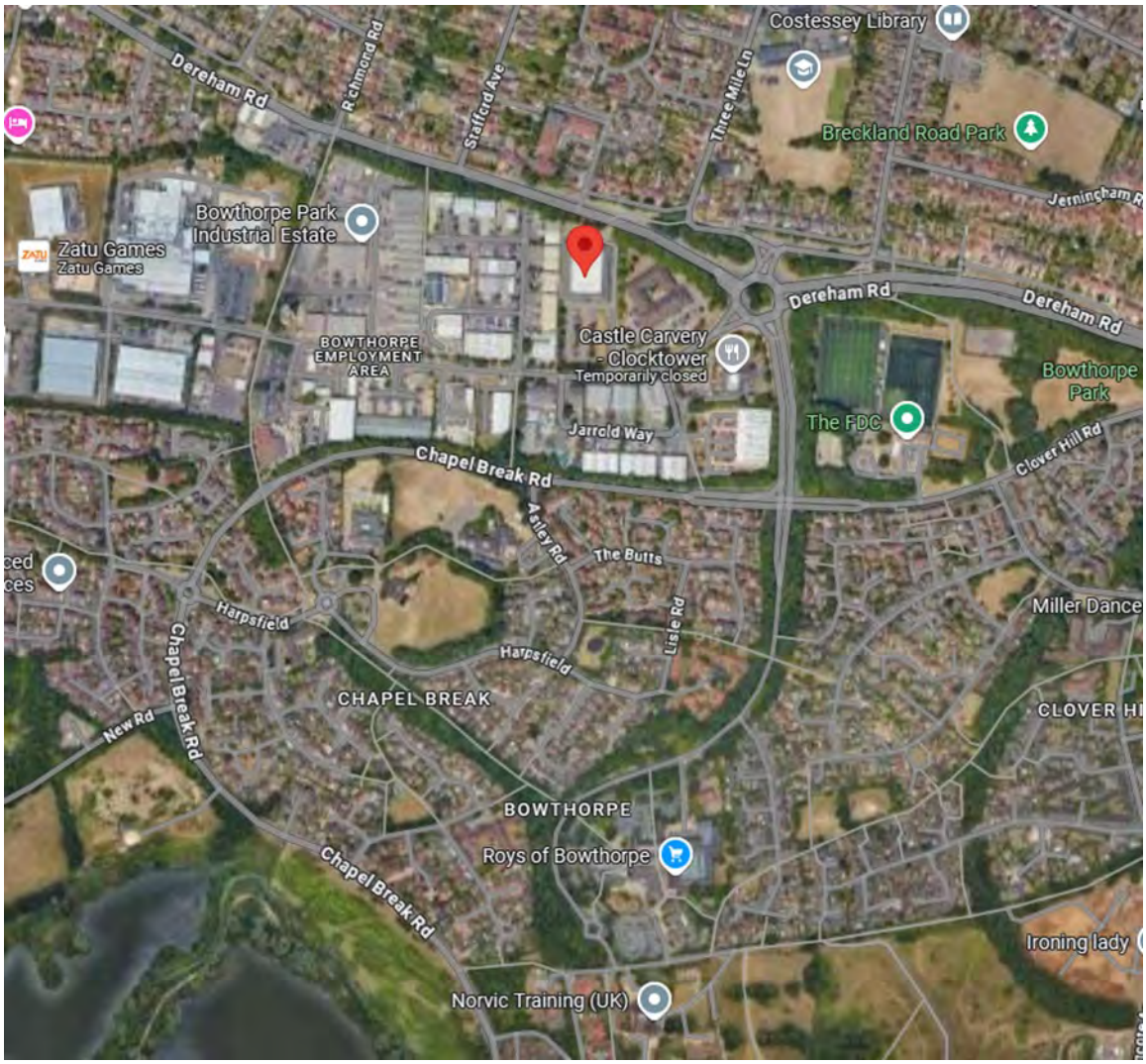
4.1 The application site is located within the New Costessey area of Norwich, which is to the northwest of the city centre. The site is 0.8 hectares in size and is part of a wider existing employment area which contains minimal conventional industrial uses and rather more office, storage / distribution and leisure uses). There is a hotel on the adjacent site and a public house on the opposite side of Barnard Road. The hotel is, we understand, currently being used to house asylum seekers, and is presently not open for general trade. The pub has recently undergone refurbishment. The site itself and the existing building is in leisure use as a bowling alley (Namco Funscape is the operator) and has been since the estate was first constructed in respect of this particular site. The bowling alley is currently operational but we are advised by the current tenant that its operations are not viable in the medium / long term. Moreover, the tenant has indicated they wish to vacate the site as soon as possible, further details of which were in the appeal application.

4.2 The two Google Earth extracts below show; **Figure 1**: the site (indicated with a red marker) in the context of its immediate surroundings and **Figure 2**: the site in the context of Norwich City Centre.

Figure 1. The site in context of Norwich Town Centre



Figure 2. The site in its immediate context of Bowthorpe and Costessey



4.3 The existing unit on the site has been operated by Namco Funscape since 2006 as a traditional (though now very outdated) bowling alley, a small arcade and ancillary food and drink offer (see Google Earth extract below, taken from Barnard Road – **Figure 3**). Consents were granted for mezzanine/additional accommodation since, historically the operator had wished to expand and provide conferencing facilities, however these never became established, and since that time patronage has significantly declined. Within the site there is also a large, dedicated car park, accessed off Barnard Road, which is the spine road for the surrounding 'Industrial' estate, known as Bowthorpe. The car park extends to both the front and rear of the building but the rear is not currently used, which presumed to be because it is not needed given the low levels of current parking demand. Indeed, this would appear to have be access is prevented through the siting of additional storage and waste containers.

Figure 3: View from Barnard Road



4.4 Although the wider site is referred to as an "industrial estate", the estate is in reality in a mix of wide ranging employment uses, with very few true industrial uses.

4.5 We are advised by the operator that the facility has been loss making for some time and that the operator intends to vacate the premises in 18 months' time at the expiry of their current Lease in 2027 irrespective of the outcome of this appeal. On this basis, and as a result of the inevitable uncertainty created by the refusal of planning permission relevant to this appeal, the appellant has engaged with a local agent on the potential for potential retail tenancies based on a straightforward re-use of the existing building with minimal alterations to facilitate the lawful retail use of the building that would not in themselves constitute any development that required planning permission. This is dealt with in more detail within proposition 4 set out later in this statement, but there is clear evidence of market interest in taking this unit and this represents a true fall back against which the proposals should be assessed therefore.

Appeal proposal

4.6 The application seeks planning permission for the demolition of the existing bowling facility and construction of a foodstore (Use Class E) with associated car parking, walking and cycling infrastructure improvements and landscaping at the site. Full details of the proposed development are presented in the drawings accompanying the submission which confirms:

- A new single-storey foodstore will be constructed;
- A high-quality landscaping plan will be delivered; and
- The provision of 102 car parking spaces (including 6 disabled spaces, 9 P&C spaces and 10 EV spaces).
- The provision of local accessibility and transport infrastructure improvements.

4.7 A personal planning permission is not sought, but the building has been designed to accommodate the needs of a discount convenience retailer with Lidl as the most likely operator. There is presently only one discount convenience store in this part of Norwich which is operated by Aldi, and there is therefore the proposal is likely to be result in an increase in choice and competition in this part of the City therefore.

4.8 On this basis, the planning application has been based upon this assumption. The foodstore will comprise 1,949 sq.m GIA with a net sales area of 1,331 sq.m of which 1,001 sq.m (approx. 80% of net floor space) will be for convenience good sales. A figure of 250 sq.m (approx. 20% of net floor space) has been identified for comparison goods sales.

4.9 The nearest foodstore operated by Lidl was located at Drayton Road, approximately 5 kilometres (by road) east of the application site. This store served a different catchment area to the proposed store; it did not serve the resident population of New Cotessey. The Drayton Road store closed on 30 April 2023, since when the building has been re-occupied by Co-op Funeral Services.

4.10 Based upon the Greater Norwich Town Centres and Retail Study update 2020 the Drayton Road store was performing above average for its size. However, it is understood that the reason for its closure related to the size constraints of the site preventing it from being upgraded to a modern format in terms of the size of the store, with the associated required servicing and parking provision unable to be provided at this site. We understand that Lidl has committed to an alternate site close to Drayton Road, on an existing retail park at Sweet Briar Road, which is subject to a live Reserved Matters Application. This further demonstrates that the appeal application proposal and the closed Drayton Road store served a different catchment area.

4.11 In any event. that store did not serve the resident population of New Cotessey. It is further understood that Lidl continue to actively seeking a replacement site for the Drayton Road store as this is still considered to be a distinctly different catchment and the performance of the previous store was related to its age and the physical constraints of the site preventing upgrades to the current Lidl format.

4.12 The new foodstore will be located to the north west of the site, close to Dereham Road and will be oriented with the entrance facing east, with the car park located immediately adjacent to the foodstore to the north and east of the site. The delivery bay will be located adjacent to the foodstore on the south elevation of the building. The building design will be of high quality, albeit that it will obviously clearly express its function, and the curtilage will contain a well designed car park with suitable landscaping, such that the composition will be a far more positive addition to the townscape than the present somewhat utilitarian appearance of the site.

4.13 Vehicular access to the store will be from Barnard Road via an existing priority junction. Both customers and heavy goods vehicles (HGV) will share the same vehicular access, as is common with many modern

foodstores. The proposed car park will provide a total of 102 car parking spaces with 9 designated for parent and child, 6 being built to a disabled standard, and 10 accompanied by EV charging points. This is a reduction of 18 spaces to the 120 originally proposed, the reduction in spaces being at the request of the LPA.

4.14 The proposals, and the overall site, will have a clean and contemporary design featuring a single height glazed entrance along the east elevation facing out on to the car park. Additional glazing is provided to the north elevation, close to Dereham Road. The more modern construction will be significantly more energy efficient than the existing building which is now approaching 50 years old and has little to no investment in that time, which is becoming increasingly obvious.

4.15 A new, dedicated pedestrian and cycle link is provided from Dereham Road to the north which will also provide links to the wider network to the north and south of the site and improve accessibility across Dereham Road which has been the subject of recent works by Norfolk County Council with the intention of improving active travel in this area and across Norwich as a whole.

4.16 The proposed layout plan shows two totem signs (one to the north of the proposed foodstore and one to the south). This is for indicative purposes and any proposed signage will be subject to a separate advertisement consent application at a later date.

4.17 The Design & Access Statement that supported the appeal application demonstrates how the proposed development represents a suitable response to the site and its setting and demonstrates that the development can be appropriately accessed by prospective customers.

4.18 The Planning Statement submitted with the application sets out the scope of the pre-application submission to the Council and the advice that was received and how it was then addressed through the planning submission.

5. Planning policy context

Development Plan

5.1 The Development Plan for the site comprises:

- The adopted Joint Core Strategy for Broadland, Norwich and South Norfolk 2011, amended 2014; and
- The Greater Norwich Local Plan 2024.

5.2 The Greater Norwich Local Plan was adopted in March 2024, during the course of the application's determination and superseded the Joint Core Strategy.

5.3 The site is designated as being within Bowthorpe Employment Area in the Development Plan Development Management Policies, Policy DM16: Supporting the needs of business.

5.4 There are no other site-specific designations.

5.5 The decision notice also refers to Policies:

- DM1 – Sustainable development principles for Norwich.
- DM7 – Trees and development.
- DM22 – Planning for and safeguarding community facilities.
- DM28 – Encouraging sustainable travel.

Other designations

5.6 The site is subject to a group Tree Preservation Order (TPO 613) which relates to 1 sycamore and 7 oak trees to the north of the site within the landscaping strip between the site and Dereham Road. The TPO was placed on the trees during the course of the appeal planning application (refer to documentation at Appendix AP3).

5.7 Following the application's determination, the second Tree Preservation Order (634) was served on 17 June 2025 (refer to Appendix AP4). This TPO, which has not yet been confirmed and relates primarily to land outside of the application site (within the blue line area to the south), however one tree to the south west corner of the appeal application site is subject to the TPO.

5.8 The site is located in an out-of-centre location in policy terms when considering 'Main Town Centre' uses, as defined by The Framework, therefore the Sequential Test applies. In addition, the proposal is subject

to Impact Assessment, as the floorspace is over the locally set threshold within Local Policy (DM16, Appendix 4) of 1,000 sq,m. The scope of the retail assessment work was agreed with the LPA Officers through the pre application process and following ongoing assessment during the consideration of the application.

National Planning Policy Framework

5.9 The current version of the National Planning Policy Framework ('The Framework') was published in December 2024.

5.10 Paragraph 10 states that …'at the heart of the Framework is a presumption in favour of sustainable development'.

5.11 Paragraph 11 states that for decision-taking this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant policies or the relevant policies are out-of-date, granting permission unless:

- specific policies in the Framework indicate that development should be restricted; or
- any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

6. Planning considerations

Proposition 1 - The existing bowling unit is not a community facility which warrants any form of policy protection and Policy DM22 does not apply.

6.1 Reason for Refusal 1 states that 'The proposed development would result in the loss of an existing valued community facility which is contrary to policy DM22'.

6.2 Local Plan Policy DM22 (Planning for and safeguarding community facilities) seeks the protection of community facilities. The policy states that development resulting in the loss of an existing community facility will only be permitted where:

> *'a) adequate alternative provision exists or will be provided in an equally accessible or more accessible location within 800 metres walking distance; or*
>
> *b) all reasonable efforts have been made to preserve the facility but it has been demonstrated that it would not be economically viable, feasible or practicable to retain the building or site for its existing use; and*
>
> *c) evidence is provided to confirm that the property or site has been marketed for a meaningful period and that there is no realistic interest in its retention for the current use or for an alternative community use.'*

6.3 Appendix 10 of the Local Plan defines 'community facilities / uses' as:

> *'Facilities and uses generally available to and used by the local community at large for the purposes of leisure, social interaction, health and well-being or learning. This will include, but not be confined to, community centres, historic and community public houses, premises for indoor sport, leisure and cultural centres, places of worship, doctor's surgeries/ health centres, crèches, playgroups, libraries, schools and other training and educational facilities.'*

6.4 The pre-application advice letter received from the LPA (see **Appendix AP5**: Pre-application Advice Letter) stated that:

> *'…..local knowledge together with historic information suggests that the business operating from the site is well attended by clubs and organised groups for structured bowling and provides a facility that meets specific demands which differ from other bowling facilities within Norwich aimed more at recreational / casual users, ensuring its continued success in this out of centre location. The proposals would therefore result in the loss of a valued indoor leisure facility, currently used by community groups which falls within the Local Plan definition of community facilities / uses'.*

6.5 Through the course of the appeal application, Council officers did not provide any evidence, current or historic, that the existing bowling facility is indeed well attended by clubs and organised groups for structured bowling. Further, whilst representations were made in respect of consultation on the application, no one representing any organised club or group attended and spoke at planning committee. It considered that Namco Funscape is not a bowling alley operation which operates in a manner which is sufficiently out of the ordinary to be properly described as a 'community facility' in any meaningful sense and in reality is just like any other commercial bowling operation. The existing bowling facility does not meet specific demands or 'the community at large' as referred to within the appendix to the Local Plan given the facilities cater to a specific and limited element of the community, any more than any other commercial bowling facility. Its design is conventional and its patronage tends to be primarily small groups and families undertaking a spontaneous leisure activity. It is managed on a commercial basis and regrettably has a declining patronage from the time when it was first opened.

6.6 It should not therefore be afforded any special or different status to any other similar facility within the city. Any clubs and organised groups which use the existing bowling facility make up a small proportion of the facilities' turnover and certainly do not contribute enough to ensure the facility as a viable entity moving forward, as Namco have indicated to the Appellant over a long period that they wish to vacate the site. It is clear that premises for indoor sport relate to leisure centres and the like where a range of opportunities for sport and recreation would be available, as opposed to any singular indoor commercial leisure facility. Irrespective of the outcome of the appeal the operation will come to an end upon the end of Namco's lease.

6.7 Both the proposed Lidl foodstore and the existing Namco Funscape at the application site, clearly fall under the definition of main town centre uses (Class E), as set out in Annex 2: Glossary, of the Framework:

> 'Retail development (including warehouse clubs and factory outlet centres); leisure, entertainment and more intensive sport and recreation uses (including cinemas, restaurants, drive-through restaurants, bars and pubs, nightclubs, casinos, health and fitness centres, indoor bowling centres and bingo halls); offices; and arts, culture and tourism development (including theatres, museums, galleries and concert halls, hotels and conference facilities).'

6.8 Namco Funscape is a commercial bowling operator, with six locations within the UK. In addition to ten pin bowling, the units include facilities such as arcades, pool tables and a bar area. Whilst 'bowling clubs' may decide to use the facility, it is clear that it is a commercial bowling facility similar to Superbowl, Hollywood Bowl and the like and is not owned and operated on a 'Club' or Community Group basis. Superbowl is a similar operation, with 13 venues within the UK and offering facilities such as ten pin bowling, arcades, laser quest and adventure golf. Hollywood Bowl, again, is a similar operation to Namco Funscape, offering ten pin bowling, amusements and food and drink. The appeal application site does not differ materially from the other operations elsewhere in the City and should not be looked at as such.

6.9 The Local Plan definition of 'community facilities / uses' is set out above. It is considered that Namco Funscape at the appeal application site is a commercial bowling facility that may be used by some organised groups (albeit the size of the membership of such groups does not appear to be evidenced at any stage), in addition to the typical customers of a commercial bowling facility. It is not, however, a community facility predominantly used by organised groups. It is clear that Namco Funscape simply does not fall under the definition of a community facility or use.

Community facilities / uses provision nearby

6.10 The table below shows that there are at least 13 existing facilities that would fall under the Local Plan definition of 'community facilities / uses' within 800m of the application site. Accordingly, the immediate area is already very well served by a wide variety of 'community facilities / uses'.

Name	Type of community use	Distance from application site (in metres)
Clocktower	Public house / restaurant	320m
CrosFit RS3	Gym	480m
St. Michael's V.A. Junior School	Primary School	480m
The FDC	Football facility	640m
Norwich CBS FC	Football club	640m
Chapel Break Village Centre	Playground	640m
Watton Sports Centre Tennis Club	Sports facilities	640m
Astley Road Children's Play Ground	Playground	640m
Norwich Dementia Community Hub	Community hub	640m
Costessey Primary School	Primary School	640m
Norwich Broadside Warriors	Boxing Club	800m
Chapel Break Infant School	Primary School	800m
Upper Stafford Ave Post Office	Post office	800m

Alternative bowling facilities nearby

6.11 As the bowl is not a community facility, there would be no expectation to provide or have available a ten pin bowling facility within 800m from the site or within 800m sectors across the City. In fact, there is not to the Appellant's knowledge anywhere in the UK with this level of ten pin bowling provision. On that basis it is clear that either the policy is not designed to apply to this type of facility or alternately, the reference to adequate alternate community provision is a generic and more wider ranging one and the table above clearly demonstrates that there is adequate provision of alternate community facilities within 800m of the appeal site.

6.12 Notwithstanding this, adequate bowling provision exists elsewhere in Norwich at:

- Bowling House, 7 Dereham Rd, Norwich
- Superbowl, 18 Castle Meadow, Norwich
- Hollywood Bowl, Riverside Development, 1 Wherry Rd, Norwich

6.13 This is shown on the plan below (**Figure 4**):

Figure 4: existing ten pin bowling facilities within Norwich



6.14 It is considered that it would not make commercial sense for there to be another bowling facility within 800m of the appeal application site. To put this into context, between 3 of the largest bowling operators nationally, there are only approximately 25 facilities in the country. This demonstrates that Norwich is very well provided for in terms of ten pin bowling. Indeed, given the declining patronage at this site it may be that Norwich could be considered to be somewhat over-provided.

All reasonable efforts have been made to preserve the facility at the application site.

6.15 As set out in the letter from Namco Funscape dated 3 April 2024 within the appeal application, the following are key points in relation to the community facilities / uses issue.

6.16 Namco Funscape, including its facility at Barnard Road, does not consider itself to be a community facility / use, for the following reasons:

- Namco Funscape, Barnard Road draws trade from within Greater Norwich and the wider area, rather than being focused on trade in the immediate local area. League bowlers are not limited to the local area surrounding the facility.
- Just 7% of the turnover of Namco Funscape, Barnard Road is from local league bowlers and national tournament bowlers.
- The vast majority (93%) of the turnover of Namco Funscape, Barnard Road is derived from general bookings.

6.17 Evidence from Namco Funscape was provided with the appeal application (refer to **Appendix AP6**) confirming that they will not renew the lease at Barnard Road beyond the current period that runs until 2027 and further that they would accede to the landlord break clauses that are contained within the lease and can be activated between now and 2027. This is for the following reasons:

- Namco Funscape, Barnard Road is performing very poorly with its turnover representing a third of the average turnover of Namco Funscape facilities and just 44% of the second lowest performing Namco Funscape facility.
- Unfortunately, the poor performance of Namco Funscape, Barnard Road has been this way for some time.
- Namco Funscape, Barnard Road performs poorly because of the enhanced competition, poor public transport and an out-of-date venue which is no longer fit for purpose.
- The existing Namco Funscape, Barnard Road, has a floorspace of approximately 4,100 sq.m GIA. For Namco Funscape at a Norwich location to be viable, the unit should not exceed 1,800 sq.m GIA (less than half the size of the existing unit) and it needs to be located within the general city area, supported by other leisure facilities and good public transport.
- Namco, Funscape has tried different options at Barnard Road to diversify and support the facility through other income streams such as conferencing and function facilities and these ideas have not proved successful or viable in this location.
- A city the size of Norwich would not normally aspire to more than 1-2 bowling facilities. As set out above, Norwich is over-provided for as it contains 4 bowling facilities.

6.18 It is clear that on that basis that the Namco Funscape operation at Barnard Road, Norwich has no commercially viable and it is not feasible or practicable future in this location and that the tenant has no wish to renew its tenancy in order to retain its occupation of the building for its existing use.

6.19 In light of the above, the appellant approached the Council initially on 23 April 2024 and subsequently 13 May 2025 in the context of the potential for provision of an alternate smaller facility being constructed at the site as part of the overall re-development of the site, on the basis that the Council could take on the commercial responsibility for the operation of the facility. The Council declined to engage in any meaningful dialogue about furthering this option because they did not consider it was within their remit

to consider doing so, given the bowl currently remained open on a commercial basis. Given the evidence that was submitted in support of the application and the recommendation by Officers to approve the proposals, this approach does not suggest that the Council officers have ever considered this to be the sort of operation which should be protected in policy as a community facility, not least given that they have resisted the offer to engage in safeguarding some form of future facility. A copy of the relevant correspondence is attached at **Appendix AP7**.

6.20 It has been demonstrated that the existing bowling unit is not a community facility and Policy DM22 does not apply, and the first reason for refusal does not stand. Even if policy DH22 was engaged and breached that still should not be determinative of the appeal in all of the circumstances.

Proposition 2: The proposed removal of some protected trees is required in order to deliver significant benefits to the sustainability of the site and the wider area. The benefits outweigh the harm in respect of tree removal.

6.21 The proposed development and specifically the proposed pedestrian and bicycle ramp in between the site and Dereham Road would result in the removal of 4 trees which are subject to Tree Preservation Order (TPO) Number 613, confirmed on 25 July 2024 (**Appendix AP3**). The TPO was made on 7 February 2024, during the determination period of the application and Officers confirmed during the course of the committee meeting that its purpose was primarily to provide a stronger ability for the Council to secure adequate mitigation for their loss through the planning application process, as opposed to their intrinsic amenity value in the context of the trees' individual merits.

6.22 Following the application's determination, a second Tree Preservation Order was served on 17 June 2025 (Number 634 (**Appendix AP4**). This TPO, which has not yet been confirmed, relates primarily to land outside of the application site (within the blue line area to the south), however one tree to the south west corner of the appeal application site is subject to the TPO.

6.23 The proposal as a whole would result in the removal of 9 trees (including the 4 trees subject to TPO 613 and 1 tree subject to TPO 634).

6.24 The Arboricultural Statement of Helen Kirk provides evidence that the proposal is compliant with the relevant arboricultural policies in the Development Plan and that the proposed removal of trees can be mitigated through a comprehensive scheme of new tree planting.

6.25 The Officer's Report to committee (refer to **Appendix AP8**) at Paragraph 153 states that the proposals accord with Local Plan Policies DM1, DM3 and Policy 2 and at Paragraph 192 that the proposal will have an acceptable impact on trees.

6.26 Reason for refusal 2 asserts that the loss of the protected trees is not outweighed by other relevant factors and refers to Local Plan Policy DM7 and The Framework, Paragraph 136.

6.27 Policy DM7 states:

> *'Trees and significant hedge and shrub masses should be retained as an integral part of the design of development except where their long-term survival would be compromised by their age or physical condition or there are exceptional and overriding benefits in accepting their loss. Development requiring the loss of a protected tree or hedgerow (including preserved trees, protected hedgerows, trees in Conservation Areas, ancient trees, aged and veteran trees and trees classified as being of categories A or B in value), will only be permitted where:*
>
> *a) the removal of a tree or hedgerow will enhance the survival or growth of other protected trees or hedgerows; or*
>
> *b) it would allow for a substantially improved overall approach to the design and landscaping of the development that would outweigh the loss of any tree or hedgerow.*
>
> *Where the loss of trees is accepted in these circumstances, developers will be required to provide at least equivalent replacement in terms of biomass. This should be provided on-site unless the developer can show exceptional circumstances which would justify replacement provision elsewhere.'*

6.28 It is considered that the proposed development complies with exception b) as the proposed removal of the trees as part of an integrated approach to the landscaping and landscape management of the site for which the integrated connectivity solutions are a fundamental element, can only be assured through redevelopment of the site and this benefit would outweigh the proposed loss of 9 trees in total (albeit the reason for refusal only refers to removal of the 4 trees which are subject to TPO 613).

6.29 The proposed tree removal will result in the following overall improvements to the approach to design and landscaping, which will cumulatively result in substantial improvements to the approach to design and landscaping overall:

- Facilitate a pedestrian and cycle link from the site (wider Bowthorpe estate) to Dereham Road (substantial improvement to design) which would be available to pedestrians and cyclists beyond just customers of the shop;
- Allow the proposed store to be located in the best position within the site to ensure an efficient use of land, and maximising the potential for landscaping within the site (improvement to design and landscaping); and
- Facilitate an efficient car parking layout, maximising the potential for landscaping within the site (improvement to design and landscaping).

6.30 The reason that the pedestrian and cycle link is considered to constitute a substantial improvement to design is that the link was incorporated into the proposal as a result of a pre-application request from Norfolk County Council Highways who strongly advocated for its inclusion within the proposed development, due to the significant benefits it would bring to non-car connectivity improvements to the wider area which were already partly commenced and in particular the connection between Dereham Road (and the recently improved public transport infrastructure that has been implemented in that location), which is a main arterial route into the centre of Norwich, with the site and the wider Bowthorpe Employment Area. This link is an objective of the Highways Authority irrespective of the current proposal, however the proposal provides the only realistic opportunity for its delivery, given the site remains in private ownership and will remain so and continue to operate on a commercial basis irrespective of the outcome of this appeal, hence this aspect being considered a clear public benefit and a substantial improvement to the current situation as well as delivering on the Local Authorities objectives of improving local connectivity, in accordance with Policy DM7 b).

6.31 Policy DM7 also requires that where the loss of trees meet one of the exceptions, they will be replaced by a significantly greater number of trees and a significant uplift in landscaping generally.

6.32 The Arboricultural Statement confirms that the proposed tree replacement ratio of 3 replacement trees for every 1 removed, which was suggested by the Council would be equal or greater than the biomass replacement requirement in Policy DM7.

6.33 Although the proposed replacement trees are shown on the Landscape Plan which is part of the appeal application, the Appellant notes the proposed condition (11) requiring landscape details and details of the proposed replacement trees to be submitted and intends to fully comply with this approach.

6.34 The proposal is therefore considered to accord with this aspect of Policy DM7.

6.35 For the same reasons as the proposal has been found to comply with Policy DM7, the proposal complies with The Framework, Paragraph 136, which requires that opportunities are taken to incorporate trees in developments and ensure that the right trees are planted in the right places.

6.36 It has been demonstrated that the proposed removal of some protected trees is required in order to deliver significant benefits to the sustainability of the site and the wider area, and that the benefits of this limited tree removal outweigh the harm. The second reason for refusal does not therefore stand.

Proposition 3: The proposal encourages sustainable travel by providing improvements to cycle and pedestrian accessibility to the site and the wider area.

6.37 Reason for Refusal 3 states that the proposal is contrary to Local Plan Policies DM1 (bullet 3) and DM28.

6.38 Policy DM 1 states:

> *'Subject to the detailed policies which follow, development proposals will be expected (through their design, configuration, visual appearance, location, means of access and spatial and functional relationship to existing uses and facilities), to: ….help to combat the effects of climate change and achieve national and local carbon reduction targets by making the most efficient practicable use of resources, minimising the overall need to travel, reducing dependency on the private car and high-emission vehicles and ensuring ease of access to facilities and services for all users both now and in the future;…'*

6.39 Policy DM28 states:

> *'New development will be expected to be consistent with the criteria for sustainable development set out in policy DM1, particularly in relation to reducing the overall need to travel. Cumulatively, development proposals must ensure, so far as is practicable, that they would not result in overall net growth across the city in travel by private car and that any anticipated increase in travel demand resulting from the development can be accommodated or diverted to non car modes.*
>
> *To this end, consistent with their scale and location, new developments must be designed to ensure that:*
>
> *a) cycle and pedestrian links and public transport corridors are incorporated to maximise the opportunity for sustainable transport, both from within the development and the wider area. Links must be an integral part of the design of the development. Where relevant, developments should take opportunities to link with, improve and enhance the strategic and local cycle network as defined within the Norwich Area Transport Strategy or any successor strategic transport planning document which may be adopted during the currency of this plan;*
>
> *b) developments maximise accessibility to and permeability within the site for pedestrians, ensuring that all new pedestrian routes proposed are coherent, convenient and legible in accordance with the design and layout requirements of policy DM3. Development proposals with a river frontage to the rivers Wensum and Yare which includes the route of the Riverside Walk (as shown on the Policies map) will be required to make provision for the relevant section of the walk as part of the overall design of the development. Design in these cases should allow for bankside access for essential river bank maintenance in accordance with the advice of the Environment Agency. Where development adjoins a navigable section of the river, opportunities should be taken to provide residential and/or commercial moorings to facilitate access by water where this is appropriate and reasonably practicable to achieve;*
>
> *c) cycle and pedestrian links to nearby services (including bus stops), are enhanced where necessary. This may include the provision of pedestrian crossing points. All parts of the development should have easy access to bus services and bus stops with*

appropriate levels of information, lighting, cycle parking (on high speed bus corridors) and other relevant services;

d) parking areas and vehicle movements do not dominate, but create convenient, safe and attractive environments;

e) travel planning is integral to the design and operation of the development, and travel plans or travel information plans are provided as part of development proposals, in accordance with the criteria and thresholds set out in appendix 3; and

f) provision is made for the inclusion of a car club parking space and car club vehicle where this is required, in accordance with the criteria and thresholds set out in appendix 3'

6.40 Policy DM1 is a general policy aimed at securing the most sustainable form of development for any particular site and it is further articulated through the more detailed policies that follow. The 6 criteria set out in Policy DM28 are therefore considered below.

Sustainable transport links

6.41 The proposal includes a new cycle and pedestrian link (also referred to under Proposition 2) between the site and Dereham Road. This link was requested by the Highways Authority at pre-application stage and is considered to be a significant benefit in relation to sustainable travel both to and from the site itself, but also for the wider area, as pedestrian and cyclists cannot current access Barnard Road will make pedestrian and cycle access between Dereham Road and the wider Bowthorpe area. The arrows on the aerial photo extract below shows the position of the proposed link and also show the current points of access to Bowthorpe via either Mayfly Way or Wendene round-a-bout.



6.42 In addition to the link, the application proposes improvements to the Dereham Road corridor and the Barnard Road Corridor. These are set out in detail within the Highways Statement (Appendix AP1).

6.43 An additional package of improvements to Chapel Break Road (to improve the crossing and access to the unadopted footpath between Chapel Break Road and Jarrold Way) is offered as part of the appeal, primarily to acknowledge and respond positively to the comments made by Members at the Committee Meeting, notwithstanding that we consider there are significant benefits and sustainability/connectivity improvements that already arise through the application that was presented to planning committee. These additional improvement measures have been subject to detailed discussions with the Highways Authority who have indicated strong support for the principle of additional connectivity improvements (refer to e-mail correspondence at Appendix AP9). Should this additional improvement scheme be accepted by the Inspector then they should be included within the same condition that would require the already formally agreed improvement works and as the proposals relate to works within the adopted highway, they would ultimately be subject to the s278 process.

6.44 These further improvements to the existing cycle and pedestrian network, make them more convenient and accessible, and thereby increase the opportunity for sustainable travel to and from the site and the wider location. The site is within private ownership and the opportunity to deliver these works, which can be looked at as plugging a gap in the wider ranging improvements within the surrounding area, can only be delivered through some form of development on the appeal site.

6.45 The proposal is considered to meet Policy DM28, criteria a).

Pedestrian accessibility and permeability

6.46 The proposed site layout has been designed with pedestrian accessibility to and permeability within the site as a priority and where it is absent at present which is a reflection of the age of the existing buildings and layout that exists on site at present. The proposed additional pedestrian link directly into the site from Dereham Road and the other pedestrian improvements to the surrounding highways network have been discussed under criteria a), however, it is clear that they add permeability where there is none at present and where there is a clear need and demand as evidenced by clear desire lines from informal access that can be seen on the ground at present.

6.47 Within the site itself, the layout has been developed using the design principles (where relevant to this site) in Policy DM3.

6.48 The proposed site layout prioritises pedestrians, and the proposed pedestrian routes within the site are coherent, convenient and legible. There was no objection from the relevant highways technical consultee.

6.49 The proposal is considered to meet Policy DM28, criteria b).

Non-car links to nearby services

6.50 The proposed new non-car link and improvements to existing routes will ensure that cyclists and pedestrians have enhanced access to the Dereham Road travel hub (red-line bus services) and also to the bus stops at Chapel Break Road / Astley Road (orange-line and blue-line bus services) as a result of the proposals.

6.51 It is considered that the Members' reservations in respect of the lack of suitable links do not appear to, indeed cannot have taken account of the proposed improvements which were seen as a positive aspect of the proposals by the Highway Authority who have been delivering improved active travel opportunities in the surrounding area.

6.52 The proposal is considered to meet Policy DM28, criteria c).

Attractive parking areas

6.53 The proposed layout achieves a suitable balance between the number of car parking spaces required (taking account of both County and Borough parking standards which are not aligned) to serve a proposal of this nature, whilst striving for a convenient, safe and attractive environment.

6.54 The total number of car parking spaces was reduced during the appeal application's determination period from 120 to 102 spaces (including 6 disabled spaces, 9 P&C spaces and 2 EV spaces). This reduction in spaces was at the Council's request.

6.55 It is considered that the resulting proposed layout achieves a design solution where parking areas and vehicle movements will not dominate and where they integrate with existing and proposed landscaping that achieves a balance of providing a functional layout that is easily managed in combination with securing attractive landscaping and integrates the provision of the parking within the established character of the area. The relationship between the landscaping and functional requirements of the car park will ensure that it is used and operated as intended and the landscape is not undermined by unmanaged circulation and access.

6.56 The proposal is considered to meet Policy DM28, criteria d).

Travel Planning

6.57 The proposed development will implement a Travel Plan and a condition is proposed in line with this requirement (condition 20 in the Officer's Report). Local Plan Appendix 3 does not require a Car Club parking space.

6.58 The proposal is considered to meet Policy DM28, criteria e) and f).

6.59 As detailed above and within the Highway Statement of Case, the proposed development includes improvements to the pedestrian and cycle network both within the site and external to the site which will link into an extensive coverage of bus services and will cumulatively constitute a significant improvement to the accessibility and connectivity of the area which is an ongoing objective of the relevant authorities. This in turn will help provide sustainable travel choices for users of the site and reduce dependency on the private car in line with Policy DM1. The redevelopment of the site provides the only opportunity to secure this, especially in respect of the new and improved crossing of Dereham Road to access the recently implemented bus hub.

6.60 Although the nature of the proposed development is such that there will inevitably be a relatively high reliance on the private car (which there would be for this use, which is a key service, irrespective of location), in accordance with Policy DM28, it is not considered that the proposed development will contribute to an overall net growth in travel by private car, as a significant portion of the trade will be clawback, i.e. trips already taking place. The nature of clawback should also result in the benefit of a reduction in trip length and time.

Proposition 4: The proposal complies with the Development Plan as a whole and there are no material considerations to indicate that planning permission should not be granted. The benefits of the proposal outweigh any harm.

6.61 This Statement specifically addresses the 4 reasons for refusal on the Decision Notice.

6.62 It is not considered that there are any other material considerations which would outweigh the benefits of the proposal by way of harm.

6.63 The Local Planning Authority agreed with this conclusion which is set out in the Officer's Report.

6.64 The principle of the development is in line with site specific policy DM16 Supporting the need of business. The Officer's Report at paragraph 56 stated: 'DMPLP policy DM16 generally confirms that "proposals which create employment and business development, … and allow accessible and equitable job opportunities for all will be permitted where consistent with the overall sustainability objectives set out in Policy DM1 and other policies of the plan". The retail use proposed represents positive economic development which would create 40 new on-site full-time equivalent jobs and in doing so would be well in excess of the job creation from the existing or any alternative use of the existing building and would thereby continue to contribute to the growth of the Norwich economy. The job creation and associated economic benefits would accord with the first criterion of DMPLP policy DM1.

6.65 The other significant consideration for the application which did not form any part of the reasons for refusal is the proposed retail use (Class E). It is anticipated that all retail planning policy matters will be

addressed through the Statement of Common Ground so it is unnecessary to go into extensive detail on those matters here, however it is considered important to set out the primary conclusions relevant to the proposals

6.66 The site is out-of-centre when considering 'Main Town Centre' uses, as defined by The Framework, therefore the Sequential Test applies. In addition, the proposed unit requires an Impact Assessment, as the floorspace is over the threshold of 1,000 sq.m set within Local Policy DM 16, Appendix 4.

6.67 Given that the application was not refused on retail related grounds and the Local Planning Authority's independent advisors confirmed that the proposal complies with the relevant retail policies in the Local Plan, all retail related considerations that will form part of the draft Statement of Common Ground will assert that:

- The retail sequential test is passed: there are no sequentially preferable sites within the catchment area of the appeal proposals that are both suitable and available for the appeal proposals.
- The retail impact test is passed: the appeal proposals will not have a significant adverse impact on existing, committed and planned public and private investment in centres within the catchment area of the appeal proposals;
- The appeal proposals will not have a significant adverse impact on existing, committed and planned public and private investment in centres within the catchment area of the appeal proposals;
- The proposals thereby accord with National and Local policy in respect of retail matters; and
- The proposals will increase choice and competition by adding a discount retailer in circumstances where there is presently a qualitative under-provision serving the local resident population which comprises a benefit of the scheme.

6.68 To conclude, the Council has confirmed that it is satisfied that both the retail sequential and impact tests are passed.

Fallback: Class E conversion

6.69 Notwithstanding the conclusion that the proposed development accords with the Development Plan, should a different conclusion be reached in the planning balance, there is a realistic (ie significantly more than theoretical) fall-back position which would mean that the existing bowling unit would be converted to retail use without the need for planning permission, given that both uses fall within Use Class E. It is considered that this fallback position should afforded considerable weight in the decision-making process.

6.70 Paragraph 92 of the Officer's Report confirms that the LPA share the view that there is a more than theoretical prospect of the fall-back being pursued, and that considerable weight should be attached to this material consideration.

6.71 The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force on 1 September 2020.

6.72 As part of the amendment, some uses that formerly fell under Class D2 use (Assembly and Leisure) became Class E, including indoor sport, recreation or fitness. The bowling alley, being indoor sport and recreation, therefore fell within Class E as of the 1 September 2020.

6.73 The former A1 use class also became part of Class E on 1 September 2020

6.74 The planning permission for the bowling use on the site (refer to **Appendix AP10**: Planning Permission for Bowling Use) did not remove permitted development rights nor restrict the use of the building or site to any specific use. On this basis, the existing unit could be converted to retail, and in this case, into a foodstore under permitted development rights, without the need for planning permission. The only requirement for planning permission would relate to any material proposed external changes to the unit, however floor plans and elevations have been provided with this Appeal (refer to **Appendix AP11**) which show how the existing united could be converted without the need for any material external alterations.

6.75 The plans show three fall-back scenarios:

- Option 2: conversion to single retail unit, with no external alterations.
- Option 3: conversion to two retail units (different sizes), with no external alterations.
- Option 4: conversion to two retail units (equal size), with no external alterations.

6.76 Given the permitted development position and the fact that the existing unit is larger in floor area than the proposed unit (approximately 3,258 sqm), and the fact that the existing building could be converted without any external changes that require planning permission, this represents a robust 'fall-back' position which should be afforded substantial weight in the context of the proposed development for a new foodstore.

6.77 In terms of the correct approach to the fall-back position in the decision-making process and the weight to be attributed to it, case law is set out in: R v Secretary of State for the Environment and Havering BC [1998] Env LR 189 and Gambone v Secretary of State for Communities [2014] EWHC 952 (Admin). The test is also referred to in the more recent judgment (refer to **Appendix AP12**) in Mansell v Tonbridge and Malling [2016] EWHC 2832 (Admin) (subsequently upheld in the Court of Appeal) sets out that there is a 2 or 3-staged process (stages 2 and 3 essentially being that set out in 2 below:

1. The first stage is to establish whether or not there is a Fallback Position. That question can be answered with reference to there being a realistic (i.e. more than theoretical) prospect of a particular scenario coming to pass in the event that a development proposal is not permitted; and
2. The second stage is to attribute weight to the Fallback Position and this will involve an assessment to the extent to which the Fallback is more or less harmful than the proposed development and the degree of likelihood of the Fallback Position taking place.

6.78 In this instance, if planning permission was not granted for the proposed redevelopment of the site for a foodstore, there is a realistic (i.e. more than theoretical) prospect that the site owner (our client) would pursue the conversion of the existing unit into retail use that could include a food store as well as potentially other retail uses given the additional floorspace that would be available through the use of the existing building. The realism of this prospect is more than adequately demonstrated by the extent to which foodstore operators have established new stores within former pubs and similar leisure type buildings over recent years to meet the needs of local neighbourhood areas and catchments such as that proposed here.

6.79 However, in this case it is given further credence by clear evidence of local demand for such floorspace, set out in the letter prepared by Roche, local commercial agents, who have been provided with copies of the conversion option plans referred to above and have confirmed that in their view there are a number of retailers actively looking for opportunities of this nature at present and that in their considered opinion, there is strong demand for additional retail provision of this type. A copy of their letter is attached at Appendix AP13.

6.80 The obvious reason that the fall-back would be pursued by the Appellant is that a future retail use is the most viable and feasible option for the future of the site in the light of the current operator wanting to relinquish their use of the site, a lack of interest for ongoing solely leisure use of the building and the greater returns offered by alternate uses, in particular retail. If this appeal is dismissed then the Appellant would not simply leave the existing building empty but would seek a tenant so as to secure a beneficial use of the site and to negate any holding costs.

6.81 The existing floor area is larger than typically required by Lidl. However, it may not necessarily be Lidl who pursue the unit if our client had to revert to a conversion, and if Lidl was not the operator, then some of the other convenience foodstore operators would likely have a requirement for a larger floor area.

6.82 Secondly, even if Lidl or another operator wished to occupy the conversion based on the same floor area as the appeal proposals, the unit could be sub-divided to provide another complementary retail or other E Class use alongside the foodstore.

6.83 Furthermore, the smaller nature of the proposed foodstore alongside the size of a potential conversion feeds into the second consideration which is the weight to be afforded to the fall-back. There are many benefits to demolishing the existing building, which is old, unattractive and inefficient, with a purpose-built building conforming to modern standards and this needs to be considered against the benefits of the replacement building when considering the fallback and in assessing the merits of the proposed development when compared against the fallback. In addition to this, weight should be attached to the fact that the proposed foodstore is smaller than the existing unit and the fall-back scenario. A smaller proposed unit will also attract less traffic movements, which is a further consideration when comparing the proposed option with the fall-back option which is a further benefit of the proposed scheme. In addition, the fallback scenario would not deliver any of the suite of improvements to the site and the wider area such as the pedestrian and cycle connectivity improvements or the landscape and biodiversity enhancements.

6.84 In Mansell, the weighting to be attributed to a fallback development was considered. In that case the LPA had granted planning permission for redevelopment of an agricultural building and a bungalow, with 4 large dwellings, justified in part, by a fallback potential to undertake alternative development, including converting the agricultural building using PD rights. The decision was challenged by a neighbour on various grounds. In particular, we refer to paragraphs 11 – 41 of the judgment.

6.85 The substance of the challenge in relation to the fallback issue is summarised at paragraph 28, including that it had not been shown that there was any real prospect of the alternative development occurring as no application for prior approval had been submitted; and the fallback scheme would additionally involve development requiring planning permission, for which no application had been submitted either. Consequently, it was claimed to be no more than a theoretical prospect.

6.86 The judge stated that it was crystal clear from discussions between the Council and the applicant's planning agent that the intention was to develop the site in one way or another, which mirrors the position here. He found it wholly unrealistic to imagine that if permission was refused, the owner would not take advantage of PD rights to the fullest extent possible. In fact, he determined it would have been unrealistic to conclude that the interested party would do nothing to develop the site. The implication is clear – the fallback was more than a theoretical prospect, as the site had clear development potential, even though the details had not been approved.

6.87 In this case our client has considered redevelopment of this site on a number of occasions since the mid 2000's both through a formal application and appeal and latterly through pre application and appeal application submissions. It is clear that they are not 'doing nothing' in terms of seeking to develop the site and the change in circumstances in terms of permitted development gives them an alternate route to re-development. The fallback is directly comparable to the example in Mansell, and it is more than a

theoretical probability that our client would look to use those rights if that is what they were faced with, and they do not need to have made any formal submissions to that effect for weight to be increased.

Overall, it is considered that the fall-back position set out above is not merely realistic but is a likely scenario and should be afforded significant weight for the reasons provided. In the light of the above analysis in this Statement of Case it is not considered that the proposal would result in any harm, but in the event that any harm is identified, then such harm would not outweigh the significant weight afforded to the fall-back position.

Planning Balance

6.88 In summary, the benefits of the proposal are:

- The redevelopment of a previously developed site, which is unviable, outdated and visually unattractive (moderate benefit);
- provision of a key facility (foodstore) within a highly populated location (substantial benefit);
- provision of short term (construction) and long term (retail) jobs (significant benefit);
- highways improvements to benefit cycle and pedestrian access to the site and the wider area (substantial benefit);
- the provision of electric charging points, for use by the public (minor benefit); and
- a comprehensive landscape scheme, including significant tree planting and management of the existing landscaping (moderate benefit).

6.89 Cumulatively, for the reasons set out in this Statement, it is considered that the above factors constitute substantial benefits.

6.90 In summary the harm as a result of the proposals relate to:

- The loss of the existing bowling facility and associated jobs (negligible harm);
- The loss of 9 trees (minor harm).

6.91 For the reasons set out in this Statement, it is considered that cumulatively the above factors constitute negligible - minor harm. The negligible harm afforded to the loss of the bowling facility is based upon the facility being commercially unviable and destined to close irrespective of the application, and the loss of the facility not being contrary to the Development Plan.

6.92 The benefits of the proposals therefore clearly outweigh the harm.

6.93 It is considered that the appeal proposals accord with the development plan, taken as a whole, and any harms of the proposal do not outweigh the benefits when weighed in the statutory balance in favour of the development plan.

6.94 Notwithstanding that conclusion, should a different view be reached in the assessment of conformity with the development plan the benefits of the proposals would significantly outweigh that conflict and not be outweighed by the limited harms which arise. Moreover, there is a realistic (ie significantly more than theoretical) fall-back position of considerable weight which would mean that the existing bowling unit could be converted to retail use without the need for planning permission, as both uses fall within Use Class E. On a s.38(6) balance if there is conflict with the development plan taken as a whole then there are therefore other material considerations to warrant a decision in favour of allowing the appeal.

6.95 The appeal proposals constitute sustainable development in accordance with the Development Plan and the Framework as a whole. The Paragraph 11(c) presumption in favour of sustainable development therefore applies and permission should be granted without delay.

Appendix 1

J000420-HSoC01b
November 2025

Land off Barnard Road, Norwich, NR5 9JB

Construction of a Class E Food Store with Associated Access, Car Parking, Servicing and Landscaping.

(Planning Application Ref: 23/01615/F)

Highways & Transport Matters: Statement of Case

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CONTENTS

1.0 INTRODUCTION & MATTERS CONSIDERED IN THIS STATEMENT

2.0 REVIEW OF SITE LOCATION AND RELEVANT PROPOSED APPEAL SCHEME ELEMENTS
2.1 Introduction
2.2 Site Location & Existing Accessibility
2.3 Appeal Scheme Principles & Supporting Highway Improvements
2.4 Fall-Back Position: Class E Conversion

3.0 REVIEW OF TECHNICAL CONSULTATION AND DESIGN LIAISON IN THE DEVELOPMENT OF THE APPEAL SCHEME PROPOSALS
3.1 Context
3.2 Extent of Technical Liaison with NCCLHA
3.3 NCCLHA Formal Response to Planning Application

4.0 RESPONSE TO COUNCIL STATED REASONS FOR REFUSAL
4.1 Introduction
4.2 Response to Reason 3 – Failure to Encourage Sustainable Travel Through Failure to Provide Adequate Infrastructure
4.3 Response to Reason 4 – Failure to Reduce Car Use and Dependency on Private Car

5.0 MATTERS RELATING TO FORMER LIDL STORE AT DRAYTON ROAD

6.0 SUMMARY AND CONCLUSIONS

TABLES (In Statement Text)

Table HSoC1 Bus Services Available from Dereham Road Travel Hub Bus Stops
Table HSoC2 Bus Services Available from Chapel Break Road / Astley Road Bus Stops

FIGURES

Figure HSoC1 Appeal Site Location & Key Local Connecting Active Travel Corridors
Figure HSoC2 1km Practical Walk Catchment from the Appeal Site
Figure HSoC3 2km & 5km Cycle Catchment from the Appeal Site
Figure HSoC4 Enhanced Walking Connections Between New Costessey & Bowthorpe / Chapel Break Delivered By Appeal Scheme
Figure HSoC5 1km Walk Catchment & Segregated Active Travel (Pedestrian) Connections
Figure HSoC6 Comparable Routing Options to Appeal Site from Mayfly Way
Figure HSoC7 Proposed Walking Connections to the Appeal Site from Local Bus Stops

APPENDICES

Appendix HSoC1 Planning Application Scheme Masterplan
Appendix HSoC2 Proposed Package Off Site Works to Support the Appeal Scheme
Appendix HSoC3 Additional Proposed Crossing Works at Chapel Break Road
Appendix HSoC4 Chronology of Appellant / NCCLHA Liaison

1.0 INTRODUCTION & MATTERS CONSIDERED IN THIS STATEMENT

1.1 This Statement of Case document has been prepared to consider highways and transport matters in support of the appeal by Honeyview Investments Ltd ("the appellant") against the refusal of planning permission by Norwich City Council (NCC – "the Council") to proposals for a new Class E food store including associated access, car parking, servicing and landscaping (LHA Planning Ref: 23/01615/F) at land off Barnard Road, Norwich. The scheme proposals envisage the demolition of the existing site buildings and the delivery of a new 1,949sqm GIA food store building, to be supported by a new car parking area of 102 spaces and integrated servicing / delivery zone. For ease of reference, a copy of the submitted proposed site plan is included as **Appendix HoSC1** to this evidence.

1.2 The appeal scheme is proposed to be supported by a range of connecting off-site highway network improvement works, primarily targeted at enhancing active travel accessibility and facilitating direct connections to local public transport facilities. This agreed package of works, the details of which are included as **Appendix HoSC2** for reference, was developed in agreement with the local highway authority (Norfolk County Council – NCCLHA). Indeed, the proposed pedestrian / cycle toucan crossing facility to A1074 Dereham Road to the immediate north of the appeal site has been specifically designed to directly tie into the recently completed Dereham Road improvement works delivered by NCCLHA under the Transforming Cities Fund (TCF), with these connecting scheme details directly reviewed by the NCCLHA Highway Design team responsible for the TCF works.

1.3 The planning application for the appeal scheme was originally submitted in December 2023 (validated by the Council on 4 January 2024), with the planning application, including for a formal Transport Assessment (TA) report, which incorporated a Framework Travel Plan (FTP). The TA report was prepared on the basis of a detailed assessment scope & methodology agreed with NCCLHA and informed by a package of bespoke traffic surveys, the scope of which was also tailored via direct discussion with highway authority officers. During the

consideration of the planning application, additional highways and transport information was submitted to the Council & NCCLHA (via Focus TP Report Ref: J000420-HTN02a & related technical plans) to respond to comments / queries received from the Council, NCCLHA and other interested third parties. This work included a Stage 1 Road Safety Audit for the proposed Dereham Road toucan crossing improvements.

1.4 The planning application was considered by Council members at the planning committee meeting of 8 May 2025. No highways and traffic objections to the application were raised either by Council offers or the Local Highway Authority (NCCLHA), subject to a recommendation that the development be delivered and operated to accord with the following highways related conditions:

- No works to be commenced on site until such time as detailed plans of the roads, footway, cycleways, foul and surface water drainage have been submitted to and approved in writing by the Local Planning Authority. All works to be carried out in accordance with approved plans.

- Prior to first occupation / use of the development, visibility splays shall be provided in full accordance with the details indicated on approved plans.

- Development shall not commence until a scheme detailing provision of parking for construction workers has been submitted to and approved in writing by the Local Planning Authority. This scheme to be implemented throughout the construction period.

- Prior to the commencement of any works a Construction Traffic Management Plan which shall incorporate adequate provision for addressing any abnormal wear and tear to the highway together with wheel cleaning facilities shall be submitted to and approved in writing by the Local Planning Authority.

- For the duration of the construction period all traffic associated with the construction of the development will comply with the Construction Traffic

Management Plan and use only the 'Construction Traffic Access Route' and no other local roads unless approved in writing with the Local Planning Authority.

- No works above slab level shall commence on site unless otherwise agreed in writing until detailed drawings for the off-site highway improvement works have been submitted to and approved in writing by the Local Planning Authority. Prior to the first occupation of the development these off-site highway improvement works shall be completed to the written satisfaction of the Local Planning Authority.

- Prior to first use a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include a monitoring programme to ensure that the identified travel plan targets are met. The Travel Plan shall be implemented in accordance with the timetable and targets contained therein and continue to be implemented as long as any part of the development is occupied subject to approved modifications agreed by the Local Planning Authority.

1.4.1 The Council planning officer's report to Planning Committee concluded the following with respect to highways and transport matters:

"142. The highway authority does not object to the development and support the delivery of a new Toucan crossing on Dereham Road where crossing demand is currently evident from observed trodden tracks across the highway verge adjacent to the site. Following engagement with the highway authority, the applicant has produced an accepted package of off-site highway improvements to support active and sustainable travel to the site from the wider community. A number of conditions are recommended to secure the necessary highways elements.

143. The on and off-site highway measures proposed provides enhanced active travel measures to the site which are more appropriate to the use proposed. They encourage public transport use and provide significant improvement to pedestrian and cycle access to and through the site and in particular within the wider employment area. The measures in turn help to reduce dependency on private car usage to access the site. The development proposed is therefore considered to broadly comply with the provisions of policy GNLP2, bullet 3 of policy DM1, DM28 and paragraphs 110, 115 and 117 of the National Planning Policy Framework 2024."

1.4.2 Despite this clear technical recommendation, the application was subsequently refused by Council members at the 8 May 2025 Planning Committee Meeting, with the formal decision notice (dated 16 May 2025) identifying two reasons for refusal that directly referenced highways and transport maters, viz:

> ***"3. The proposals fail to encourage sustainable travel through a failure to provide adequate infrastructure to support and prioritise access to the site by non-car modes contrary to policies DM1 bullet 3 and DM28 of the Development Management Policies Local Plan 2014, part 1 of policy 2 of the Greater Norwich Local Plan 2024 and paragraphs 110, 115 and 117 of the National Planning Policy Framework 2024.***
>
> ***4. The proposals fail to reduce car use and as a consequence fail to reduce dependency on the private car contrary to policy DM1 bullet 3 of the Development Management Policies Local Plan 2014."***

1.4.3 It is noted that no objections to the application scheme were raised by the Council or NCCLHA with respect to highway network operational capacity or safety issues and such matters are not referenced in the Council's stated reasons for refusal. At the time of writing – it remains wholly unclear what the evidential basis was for the conclusions that permission should be withheld. Nor is it clear what other measures members wished to see or why the information presented to the local highway authority was considered to be inadequate.

1.4.4 This document has therefore been prepared to address the Council's core stated traffic and highways reasons for refusal (i.e. failure to deliver adequate non-car infrastructure & failure to reduce dependence on the private car) and will demonstrate that there is no material justification for the refusal of the appeal on these grounds. This position will be established through an audit of the locational sustainability of the site, a review of the comprehensive package of sustainable transport works proposed to support the appeal scheme, including how these works were developed in direct liaison with the local highway authority NCCLHA, and consideration of the wider accessibility benefits delivered by the appeal scheme.

1.4.5 The remainder of the document is divided into a further four sections as outlined below:

- A review of the appeal site location, key proposed on-site elements and the extent & nature of the off-site works proposed to support the appeal scheme.
- A review of the extent of technical consultation and design liaison carried out to identify the final package of proposed supporting off-site active travel improvements.
- Response to the Council's stated reasons for refusal.
- Summary and conclusions.

1.4.6 The statement ultimately concludes that the appeal scheme is well sited for the use proposed, so as to allow access via range of sustainable travel modes and that there would be no barriers to access to the site using active travel or from nearby public transport facilities. Indeed, the package of highways and transport measures proposed to support the appeal scheme would deliver active travel connectivity improvements that would benefit the wider community, providing new 'missing link' connections between local residential and employment zones and formalising existing informal walking routes. Evidence in this statement will also demonstrate that under the existing fall-back position, the existing appeal site buildings could realistically be re-used for alternative food retail based development, without the requirement for the delivery of the comprehensive package of highway improvements proposed to support the appeal scheme. The appellant' submissions on planning matters will demonstrate that such a re-use option is a realistic and more than theoretical alternative option to the appeal scheme and therefore the fall-back position represents a material consideration that needs to be given significant weight.

1.4.7 Based on all of the available technical evidence, it is concluded that the Council's highways and transport related reasons for refusal are not substantiated and that

there is no justification for the refusal of the appeal scheme on the grounds of failing to deliver adequate sustainable transport infrastructure, or that the or the proposals have not been designed to encourage reduced dependence on the private car.

2.0 REVIEW OF SITE LOCATION AND RELEVANT PROPOSED APPEAL SCHEME ELEMENTS

2.1 Introduction

2.1.1 A detailed description of the appeal site location and existing access arrangements are set out in sections 3 & 4 of the formal Transport Statement (TS) document prepared to support the original planning application (Document Ref: J000420-TA01b). The following paragraphs provide a summary of the key points identified by the TA report with respect to baseline site accessibility, including relevant updates to reflect contemporary public transport services and frequencies.

2.2 Site Location & Existing Accessibility

2.2.1 The appeal site is located to the western edge of the built-up area of Norwich and is currently occupied by a large building used for the 'Namco Funscape' family leisure development (bowling and amusement arcade), associated landscaping areas and car parking.

2.2.2 Pedestrian, cycle and vehicle access to the site is currently via a private access road connection, shared with an adjacent hotel development (Brook Hotel - currently not open to the public), connecting to the local industrial access road of Barnard Road. No formal access or connections are available to the immediate north of the site via Dereham Road, albeit site visits have identified that an informal walking route from the site, up the embankment with Dereham Road, appears to be being used by some members of the public, suggesting a demand for north-south active travel trip movements.

2.2.3 To the west of the application site access, Barnard Road provides local cul-de-sac access to a range of employment and industrial premises forming part of the Bowthorpe Employment Area. To the east of the site access connection junction, Barnard Road provides a direct link to the Wendene roundabout (circa 175m between the site access and roundabout entry point). The Wendene roundabout is

a circa 70m diameter 5-arm priority roundabout accessed by Barnard Road, A1074 Dereham Road (east & west approaches), Wendene and Breckland Road. A1074 Dereham Road is a key east-west distributor road route linking Norwich town centre to the east with the A47 Norwich southern bypass to the west and serves a number of local communities including New Costessey and Earlham. Wendene is an important district distributor road serving the local residential areas of Clover Hill and Bowthorpe.

Local Walking & Cycling Connections

2.2.4 A wide range of local foot, cycle and public transport connections are available within the immediate local catchment of the appeal site, a number of which have been recently upgraded to provide a high standard of provision as part of the Dereham Road and Mayfly Way improvement schemes. Existing local active travel connections to the site include the following:

- *Barnard Road* – minimum circa 1.8m - 2.0m wide footway route to the site-side of the route to the west, ultimately linking to Mayfly way, approximately 430m from the appeal site access to Barnard Road. No tactile dropped crossing points are available at side road crossings or at the appeal site access junction. The extent of adopted highway boundary is such that further widening / improvement of this western section of Barnard Road is not possible without the need for land in third party control. Barnard Road also offers a segregated footway connection towards Wendene to the west, requiring the crossing of Barnard Road adjacent to site access junction (no tactile dropped crossing point). Additional footway connections are available from Barnard Road to the south towards Bowthorpe & Clover Hill (via Chapel Break Road) via two formally adopted routes (Mayfly Way and path opposite Morgan Way) and an unadopted route from Jarrold Way – see **Figure HSoC1**.

- *Mayfly Way* – recently upgraded (2024) segregated walk / cycle route linking Bowthorpe to western sections of Dereham Road. Recent route improvements included provision of a two-way cycle track along its length, 'tiger' crossing

points of Barnard Road & Chapel Break Road (including traffic calming) and a cycle priority crossing of Harpsfield to connect to the wider cycle route connections. The route terminates to the north at Dereham Road, approximately 330m to the northwest of the appeal site, at a recently upgraded traffic signal-controlled crossing facility. To the southwest, Mayfly Way offers connecting onward links via Hawkmoth Way, Dragonfly Way & Grasshopper Way (see **Figure HSoC1**). These routes offer convenient 'off-road' walking & cycling routes linking to nearby residential areas within Bowthorpe & Clover Hill.

- *Dereham Road* – recently upgraded (2024 / 2025) east-west segregated walk / cycle route between Longwater & Earlham, delivered as part of a wider TCF funding package. Works included new segregated walk / cycle route, improved side road crossing points, new at-grade walk / cycle crossing of Dereham Road to east of Wendene roundabout and new 'travel hub' facility with supporting bus priority works off Breckland Road to the immediate north-east of the appeal site. As noted above, at present there is no direct connection from Barnard Road or the appeal site to Dereham Road other than via footpath links via Wendene to the east or Mayfly Way to the west. The current arrangements mean that existing pedestrian access from the centre of the appeal site to the new travel hub located off Breckland Road requires a circa 600m walk, including the need to cross Barnard Road (via an uncontrolled crossing), Wendene (via an uncontrolled crossing) and Dereham Road (via an underpass or traffic-signal controlled crossing). The appeal scheme proposals, which include for a new toucan crossing point of Dereham Road to the appeal site's northern frontage (see section 2.3 to this document) would therefore reduce this walk distance to the travel hub to around 400m and only require the crossing of Dereham Road (at the proposed new toucan crossing).

Local Public Transport Connections

2.2.5 The closest bus stops to the application site are located on Breckland Road / A1074 Dereham Road to the immediate northeast of the Wendene Roundabout. These stops have recently been upgraded (shelters, live service information, etc.) to form

a travel hub facility delivered as part of the Dereham Road TCF works. This travel hub is typically served by four buses per hour to / from Norwich city centre and directly serving the local residential areas of North Earlham, Costessey and New Costessey as summarised in the table below (routes details / frequency as at 01/08/25):

Table HSoC2.1: Bus Services Available from Dereham Road Travel Hub Bus Stops

Service	Route	Mon-Sat / Sun Daytime Frequency
23 'Red Line'	Longwater – Costessey – City Centre - Heartease	1 per hr day & 1 per hr eve / 1 per hr day & 1 per hr eve / 1 per hr day & 1 per hr eve
24 / 24A 'Red Line'	Queens Hill – Longwater – Costessey – City Centre – Heartease – Thorpe St Andrew	3 per hr day & no eve service / 2 per hr day & no eve service / No Sunday service

2.2.6 These improvements substantially enhance the accessibility of the local area and underscore the suitability of the appeal site as a location for the use proposed.

2.2.7 Connections to other local bus services are available at nearby bus stops at Chapel Break Road / Astley Road to the south of the appeal site (a circa 400m walk, using an adopted footpath link between Barnard Road & Chapel Break Road). These stops are characterised by a simple 'flagpost' stop with bus-boarder kerb at Chapel Break Road and a flagpost, passenger shelter and bus-boarder kerb stop at Astley Road and are typically served by five buses per hour to Norwich city centre and offering other local connections to Conney, Bowthorpe, Clover Hill and West Earlham.

Table HSoC2.2: Bus Services Available from Chapel Break Road / Astley Road Bus Stops

Service	Route	Mon-Sat / Sun Daytime Frequency
21 / 21A 'Orange Line'	N&Nu Hospital – Bowthorpe – West Earlham – City Centre – Fiddlewood – Old Catton	3 per hr day & 1 per hr eve / 3 per hr day & 1 per hr eve / 2 per hr day & 1 per hr eve
26A 'Blue Line'	Bowthorpe – University – Earlham Road – City Centre – Rail Station	2 per hr day & no eve service / 2 per hr day & no eve service / No Sunday service

2.2.8 These local public transport services cover much of the core local residential areas that would represent a local 10-minute drivetime car trip catchment and therefore are considered to represent a realistic and practical alternative option to private vehicle use, if deciding to travel to a new food store at the appeal site.

2.2.9 Based on the above review, it is considered that the appeal site benefits from a strong baseline active travel and public transport accessibility position, a situation that was highlighted by the Council planning officer in the report to committee, albeit it is accepted that there is a clear need to connect the site directly to the Dereham Road corridor to the north. This northern 'missing link' is considered relevant not just for the successful future accessibility of the appeal scheme but also for encouraging wider local community active travel journeys, as currently there is no formal north / south walking connection between New Costessey and the Bowthorpe Employment Area between Richmond Road and to the east of the Wendene roundabout - a distance of over 650m between crossing points. This low frequency of available north-south connections likely currently acts as a potential barrier for active travel trips, especially local employment related trips, and has resulted in an informal walking route being established across the site frontage at Dereham Road.

2.2.10 The implications of the delivery of a new northern active travel connection is illustrated in predicted walk / cycle catchments to the appeal site, assuming that a formal walking link to Dereham Road was available. **Figure HSoC2** Illustrates a 1km walk catchment, considered a reasonable proxy for regular walking trips to a local food store, and **Figure HSoC3** illustrates the extent of 2km and 5km cycle catchments. This exercise demonstrates that a new food store at the appeal site, if supported by appropriate active travel connections, would lie within a practical short walking distance for residents of New Costessey, Bowthorpe, Chapel Break & parts of Clover Hill and within a realistic cycle journey of much of the eastern built-up area of Norwich. This represents a significant benefit of the scheme.

2.3 Appeal Scheme Principles & Supporting Highway Improvements

2.3.1 The appeal scheme envisages the demolition of existing buildings and the delivery of a new food store building of 1,949sqm along with ancillary car parking and landscaping. The proposed store is anticipated to primarily serve a local catchment, including the nearby residential areas of Chapel Break, Bowthorpe, Clover Hill and New Costessey, but could also be expected to attract 'pass-by' trips associated with existing journeys on both the adjacent Dereham Road and Wendene distributor road corridors and trips to / from the Bowthorpe Employment Area. The appeal scheme was amended during the planning application consultation period in response to comments from stakeholders to include for 102 car parking spaces (6 disabled, 9 parent & child and 10 EV spaces), representing a reduction in proposed site parking supply from the 120 spaces originally proposed.

2.3.2 In addition to the food store building and associated car park / delivery areas, the appeal scheme would provide 42 cycle parking spaces at a covered and visible location close to the main store entrance. Additional staff cycle storage would be also possible within the main building, in non-public areas of the store. It is also proposed that the final site operator would implement a Travel Plan at the site to encourage maximum staff and customer trip making using sustainable alternative travel modes to the private car. A copy of a Framework Travel Plan, setting out likely travel initiatives to be pursued, was included as part of the planning application documents (Appendix TA9 to the Planning Application TA report).

2.3.3 The appeal scheme also identifies a package of off-site highway network improvement works, primarily targeted to support and encourage active travel journeys to / from the site and to improve connections to local public transport facilities. These improvements are illustrated on the plans included in **Appendix HSoC2** to this report and include for works to both the Dereham Road corridor to the north of the site and the Barnard Road corridor & other connecting routes to Chapel Break Road to the south. These works are supported by the delivery of a continuous 3m wide walk / cycle corridor through the site, connecting between

Dereham Road to the north and Barnard Road to the south. Key elements of the identified off-site work package are as follows:

Dereham Road Corridor

- New toucan crossing facility of Dereham Road and adjacent bus gate lane at the northern site frontage, allowing direct connection to recently delivered segregated walk / cycle corridor. The design of the proposed crossing feature was informed by direct discussions with NCCLHA as delivery agents for the wider Dereham Road TCF improvements and has been subject to a Stage 1 Road Safety Audit (RSA1) review.

- Connecting ramp / steps feature (within site) from the site car parking area to proposed new Dereham Road crossing point. Ramp designed to meet minimum requirements to allow for access by disabled / mobility impaired users.

Barnard Road Corridor

- New zebra crossing on Barnard Road (circa 31m (centre to centre) to west of site access road connection) to provide safe pedestrian crossing opportunities to Barnard Road in the immediate vicinity of the application site access.

- Revision / extensions to existing double yellow line parking restrictions to local sections of Barnard Road to respond to the proposed new zebra crossing and to ensure safe large delivery vehicle access to / from the application site.

- New dropped crossings, including tactile paving, across the site access road connection to Barnard Road, plus an additional tactile crossing point of Barnard Road to the east of the application site access road junction, connecting to the current termination of the northern footway.

- New dropped crossing points and tactile paving across formal side roads connections to the northern side of Barnard Road (i.e. Francis Way & Morgan

Way), improving pedestrian connections from the application site towards Mayfly Way (and onwards to Chapel Break and Bowthorpe Centre).

- New dropped crossing points and tactile paving across the Jarrold Way side road to the southern side of Barnard Road, therefore improving pedestrian connections between the application site and the existing public footpath that links towards Chapel Break Road.

- Improved crossing point of Chapel Break Road (new tactile paving) and relocation of existing street lighting column to reduce conflict with pedestrian movements at this crossing to enhance links on foot between the site and Chapel Break Road / Bowthorpe and the local bus stops on nearby Astley Road.

2.3.4 A further pedestrian connection link towards the site (Jarrold Way - Chapel Break Road) is available, however, this does not represent an adopted walking route and the land associated with this path is not in the ownership of NCCLHA. It would therefore not be to directly improve this walking corridor, however, the appellant has indicated, that it would be prepared to deliver additional crossing improvements at the connection point of this unadopted route to Chapel Break Road, if considered appropriate by the Inspector. The nature of such improvements are illustrated in drawing ref: J000420-SK505 to **Appendix HSoC3** and would include for a) management of existing boundary vegetation to the northern side of Chapel Brake Road, to improve sightlines from the crossing point, b) introducing tactile crossing dropped kerbs, c) minor re-shaping of the central traffic island to improve pedestrian refuge width. Discussions with officers of NCCLHA have identified that the LHA would be supportive of the principle of any such improvement.

2.3.5 Delivery of the above identified package of off-site works, in combination with the 3m segregated north - south walk / cycle corridor through the site as part of the site masterplan arrangements, would deliver a new direct active travel connection between Dereham Road and Barnard Road, thereby addressing the identified ‘missing link’ between New Costessey and Bowthorpe residential and employment

areas. The appeal scheme would therefore offer wider local community accessibility benefits, in addition to simply improving connections to / from the food store itself.

2.4 Fall-Back Position: Class E Conversion

2.4.1 Irrespective of any fall-back position in terms of the lawful reuse of the existing building, my assessment of the appeal proposals is that they are wholly acceptable in transportation terms.

2.4.2 Nonetheless, as set out in the appellant's planning evidence, the appeal site benefits from a permitted development fall-back position (under Class E of the Town & Country Planning Act) that would allow the existing building at the site to be converted into a food store or other retail use, without the need for planning permission. The fall-back plans submitted in Emery Planning's Statement of Case show three fall-back scenarios; one for a single unit, one with a larger unit and a smaller unit and one with two equally sized units. It is understood that the Council accept this technical fall-back position as representing a realistic redevelopment option for the site and this material consideration was reported to members at the May 2025 planning committee meeting.

2.4.3 The identified fall-back back position is considered to be of relevance to the consideration of the highways and transport implications of the appeal scheme in two main ways:

- Any additional traffic demand associated with the site associated with conversion of the existing building to retail land use could take place without any attendant highway or accessibility improvements and therefore any wider network operational and safety effects resulting from such a change in use, would not need to be directly addressed by the site operator. It is also relevant to note that the existing building is significantly greater in size than the appeal scheme (3,258sqm existing building, when compared to 1,949sqm proposed new food store building). There is therefore the potential that the appeal site

could lawfully generate even greater levels of traffic movements than predicted for the appeal scheme.

- Thus, any retail re-use of the existing building could be delivered without the need for the implementation of the package of active travel improvements specifically identified to support the appeal scheme, in particular the new pedestrian / cycle access to the north and associated new toucan crossing of Dereham Road. Under such fall-back site re-use circumstances, the potential for the identified wider local community accessibility benefits achieved by the delivery of a new formal north-south active travel route through the site and associated dedicated connecting infrastructure would effectively be lost.

2.4.4 Both of these matters are plainly directly relevant to the consideration of the Council's reasons for refusal, which appear to have been determined without any recognition of the fall-back position in respect of highways and transport matters. As set out further in this evidence, it is considered that the Council's position fails to recognise the potential for much greater site accessibility and the encouraging of greater use of sustainable alternative travel modes to the private car that the appeal scheme offers, when compared to the baseline / fall-back position of re-use of the existing building for similar food retail purposes.

3.0 REVIEW OF TECHNICAL CONSULTATION AND DESIGN LIAISON IN THE DEVELOPMENT OF THE APPEAL SCHEME PROPOSALS

3.1 Context

3.1.1 The technical assessment of the appeal scheme and the identification and design of the package of off-site highway improvements to support the proposals, was informed via detailed liaison with the key local highways and transport stakeholder organisation, NCCLHA. This liaison was initiated at the earliest stage of the project (feasibility and scoping, i.e. pre-application) by the appellant and continued throughout the planning application process, including post the formal submission of the planning application itself. The following paragraphs set out a summary of this liaison process and reviews the NCCLHA response to the appeal scheme.

3.2 Extent of Technical Liaison with NCCLHA

3.2.1 **Appendix HSoC4** sets out a chronology of the discussions & correspondence between the appellant's design team and NCCLHA officers. This review demonstrates that officers indicated at an early stage that NCCLHA was generally supportive of the principle of a new northern active travel connection from the site, including toucan crossing of Dereham Road, and provided 'work in progress' plans of the, at that time, emerging Dereham Road TCF scheme, to assist in ensuring the best integration of the crossing scheme into these works. NCCLHA officers were also briefed as to the package of traffic surveys proposed to be undertaken by the appellant to inform the TA analysis and were consulted directly when developing the package of active travel measures to the south of the site via Barnard Road.

3.2.2 Key elements of the highways and transport liaison process are as follows:

- *March 2023* – Appellant submits TA scoping note to NCCLHA as part of formal pre-application request, in line with NCCLHA pre-application scoping procedures.

- *April 2023* – NCCLHA provide response to pre-application information and confirms that proposed scope of TA network analysis and required traffic survey work is acceptable.

- *June 2023* – Appellant shares collected baseline traffic survey data with NCCLHA, to highlight key trends and to confirm core study methodology assumptions and extent of technical assessment work.

- *July 2023* - NCCLHA confirms details of other committed development schemes to be considered in TA network assessment work. NCCLHA provide copy of 'work in progress' details for Dereham Road TCF works to allow appellant to design appropriate connecting works to the appeal site.

- *August 2023* – NCCLHA formally respond to proposed TA methodology and identify requirement for consideration of supporting active travel works south of the appeal site.

- *December 2023* – Appellant formally submits planning application to NCC.

- *March 2024* – NCCLHA provides initial formal planning application consultation response to NCC, highlighting the need to further consider pedestrian and cycle connectivity to the site to the south.

- *March 2024* – Appellant and NCCLHA meet to discuss principles of necessary improvement package to south of site (Barnard Road and connecting links to Chapel Break Road). NCCLHA confirms extents of adopted highway ownership along the Barnard Road corridor to assist the review of options.

- *May 2024* – Appellant submits plans of active travel improvements to Barnard Road. NCCLHA accept the principle of these supporting highways works, subject to validation of Barnard Road traffic conditions via traffic speed / volume survey and incorporation of suggested minor design details.

- *June 2024* – Appellant submits Technical Note HTN02a to NCCLHA to set out details of supporting work and to formally present the speed / volume survey analysis. HTN02a also includes response to comments on application as submitted by Norwich Cycle Campaign.

- *June 2024* – NCCLHA provide detailed 'as built' scheme drawings of Dereham Road TCF works, to allow appellant design team to prepare more detailed scheme for proposed toucan crossing scheme and connecting on-site ramp.

- *August 2024* – Appellant provides detailed layout plans for proposed Dereham Road toucan crossing, alongside supporting RSA1 and Designers Response report.

- *September 2024* - Appellant updates Dereham Road toucan crossing plan including for alternative traffic signal-controlled crossing of adjacent bus gate lane (rather than proposed 'tiger' crossing) at request of NCCLHA.

- *December 2024* – NCCLHA provide formal highways consultation response to the planning application to NCC.

3.2.3 It is therefore clear that the appellant has engaged in significant consultation discussions with the key highways and transport stakeholder over the full planning application process, including pre-application feasibility. Indeed, the final appeal scheme presented to Council members, included for additional off-site works, agreed with NCCLHA and tailored to directly respond to identified active travel requirements to serve the scheme and to address existing wider local network deficiencies. At the time of determination there was no outstanding request for either further information, nor any additional mitigation measures. As I note above – I remain unclear as to what exactly members are seeking in relation to the reasons for refusal in transportation terms, and would question the reasonableness of their approach.

3.3 NCCLHA Formal Response to Planning Application

3.3.1 NCCLHA ultimately did not raise any technical objections to the appeal scheme. Three formal written responses were provided by NCCLHA to the Council during the planning application consultation process, viz:

- *15 March 2024* – Preliminary review of the application scheme proposals and holding response requesting that the appellant consider additional active travel works to the south of the site.

- *6 September 2024* – Interim response identifying those submitted amendments to the application scheme that addressed initial NCCLHA points of concern and identifying that further detailed design work for the Dereham Road crossing was being prepared by the appellant in liaison with NCCLHA.

- *11 November 2024* – Confirmation of the NCCLHA raised no objection to the appeal scheme with respect to highways and transport matters, subject to imposition of range of standard conditions.

3.3.2 The 11 November 2024 NCCLHA consultation response concluded:

> ***"Following engagement with the Highway Authority, the applicant has produced an accepted package of offsite highway improvements to support active and sustainable travel to the site from the wider community.***
>
> ***A preliminary design of a toucan crossing to the north of the site has been produced. The applicant has liaised with colleagues in Highway Design who have been leading on the recent Dereham Road highway improvement scheme to ensure that the design of the crossing integrates with the recently completed works."***

3.3.3 Both of the Council's highways and transport reasons for refusal (reasons 3 & 4) of the appeal scheme are therefore considered to be in direct contradiction to this clearly identified NCCLHA position.

4.0 RESPONSE TO COUNCIL STATED REASONS FOR REFUSAL

4.1 Introduction

4.1.1 This section of the statement considers in detail the Council's formal stated highways and transport related reasons for refusal (reasons 3 & 4 to the Council's decision notice) and the appellant's response. As identified in section 1 to this statement, the reason for refusal wording stated in the formal planning decision notice is as follows:

> ***"3. The proposals fail to encourage sustainable travel through a failure to provide adequate infrastructure to support and prioritise access to the site by non-car modes contrary to policies DM1 bullet 3 and DM28 of the Development Management Policies Local Plan 2014, part 1 of policy 2 of the Greater Norwich Local Plan 2024 and paragraphs 110, 115 and 117 of the National Planning Policy Framework 2024.***
>
> ***4. The proposals fail to reduce car use and as a consequence fail to reduce dependency on the private car contrary to policy DM1 bullet 3 of the Development Management Policies Local Plan 2014."***

4.1.2 In both cases the reasons for refusal are considered to contradict the clear written advice provided to Council members by both the Council's own planning officer and NCCLHA.

4.2 Response to Reason 3 – Failure to Encourage Sustainable Travel Through Failure to Provide Adequate Infrastructure

4.2.1 The text of stated Council reason 3 provides no meaningful detail as to the specific sustainable transport deficiencies that Council members considered to be of sufficient concern to constitute a formal reason for refusal. It has therefore been necessary to review the recording of the May 2025 Council planning committee meeting, in order to better identify the matters of main concern raised by members at that time. This suggests the following:

- Concern over the general accessibility of the appeal site by sustainable forms of the transport from origins to the south, i.e. connections from 'Greater Bowthorpe', including reference to perceived poor standard of existing crossing infrastructure on Wendene in the vicinity of both the Wendene roundabout and junction of Wendene / Chapel Break Road.

- Concerns regarding the safety and attractiveness of cycle use on Barnard Road and that alternative access via Mayfly Way or Butterfly Way would be too long and therefore discourage cycle access to the appeal scheme.

- Concerns over pedestrian access to the appeal site from local bus stops at both the Dereham Road travel hub and Chapel Break Road.

4.2.2 Each of these matters will be considered in turn.

Concern over general accessibility to the site using sustainable travel modes from the south, i.e. link from 'Greater Bowthorpe'.

4.2.3 As identified in section 2.3 to this statement, the appeal scheme includes for a range of supporting off-site active travel improvements to the south of the appeal site, primarily focusing on Barnard Road, but also including some works on Chapel Break Road, in order to provide improved onward connections into neighbouring Bowthorpe residential areas. This package of works was discussed directly with NCCLHA and followed a feasibility review which investigated the ability to incorporate extended segregated cycle facilities within available highway land boundaries.

4.2.4 A key element of the appeal scheme proposals is the improvements to the walking connection to Bowthorpe using the segregated footpath route between Barnard Road and Chapel Break Road (connecting to Barnard Road opposite Morgan Way and Chapel Break Road, near to the junction with Astley Road). Enhancements of this route would include new tactile paving dropped crossing facilities at relevant crossing points and proposed zebra crossing and associated speed table at Barnard

Road. This walking connection allows for direct links to the Bowthorpe local highway network and, via Astley Road, would provide comprehensive wider segregated walking / cycle connections across the Bowthorpe residential area via Hawkmoth Way to the east, Dragonfly Way to the south (via Montgomery Close) and Grasshopper Way to the west. These wider connections are illustrated in **Figure HSoC4** to this statement and it is clear that these links offer an excellent network of onward traffic-free walking routes to key immediate residential areas to the appeal site.

4.2.5 This key central walking connection to the south of the appeal site is supplemented by further walking options from Barnard Road to Chapel Break Road using either the segregated walk / cycle route of Mayfly Way to the west or the unadopted footpath route from Jarrold Way to Chapel Break Road to the east.

4.2.6 It is also worth noting that the delivery of the proposed new toucan crossing facility to the north of the appeal site would also directly link the food store scheme to the recently improved Dereham Road walk / cycle corridor and in so doing, provide opportunities for fully segregated walk / cycle connections to the Clover Hill residential area, through Bowthorpe Park via Butterfly Way. This route includes for controlled crossing opportunities of the Dereham Road corridor to either side of the Wendene roundabout.

4.2.7 This comprehensive nature of this wide range of connecting segregated active travel routes is such that there is little requirement for regular pedestrian journeys to / from the appeal site from Bowthorpe to need to utilise the Wendene road corridor or pass through the two specific junctions of concern highlighted by Council members. Indeed, the design of the Bowthorpe & Clover Hill residential areas is such that pedestrians are clearly encouraged to utilise the network of segregated walking routes for their journeys in preference to the Wendene distributor road corridor, which is a route that provides limited active development frontage and, as a consequence, has no direct footway provision along much of its western side.

4.2.8 **Figure HSoC5** to this statement demonstrates that the majority of the local 1km walk catchment to the appeal site would be better served by formal segregated walking routes through Bowthorpe, connecting to Barnard Road via the proposed improved pedestrian linkages, than access via Wendene. It is therefore not considered appropriate or necessary for the appeal scheme to deliver additional funded active travel improvements at junctions or crossing points on Wendene. It also relevant to note that at no point during the planning application process did NCCLHA highlight any requirement for the appellant to consider pedestrian access to the appeal site via these locations, with NCCLHA ultimately concluding in their consultation response to the Council, that the proposed package of connecting active travel works to support the appeal scheme would appropriately support sustainable travel to the site from the wider community.

4.2.9 Furthermore, it is important to note that the proposed package of active travel improvements to be delivered by the appeal scheme, could be expected to offer opportunities for improved wider general sustainable transport access from Greater Bowthorpe, via the provision of a new direct walk / cycle connection between Bowthorpe and New Costessey, alongside associated improved links to, and within, the Bowthorpe Employment Area. These infrastructure improvements may encourage local residents to utilise active travel modes for other additional local journeys, over and above trips directly to / from the food store appeal scheme. This is particularly likely to be the case for trips from New Costessey to the Bowthorpe employment area, as the appeal scheme would deliver a key missing active travel link connecting these areas.

Concerns regarding safety and attractiveness of cycle use on Barnard Road and that alternative access via Mayfly Way or Butterfly Way would be too long and therefore discourage cycle access to the appeal scheme.

4.2.10 During the May 2025 planning committee meeting discussions, some Council members raised concerns that Barnard Road did not represent a suitable route for regular cycle use, due the route corridor being too busy and regularly used by HGV traffic, thereby potentially representing a barrier to cycle access to the appeal site

from the south. The appellant does not agree with this position and it is considered that Barnard Road represents a reasonable cycle route to / from the site, particularly for use by a confident cyclist. Whilst it is acknowledged that the route is utilised by commercial traffic from the local businesses to the Bowthorpe Employment Area and can become busier during key 'rush hour' periods, the route is typically quite lightly trafficked across the majority of the day and is very quiet during evening and weekend periods.

4.2.11 As part of the planning application assessment process, detailed traffic survey work was undertaken on Barnard Road during both June 2023 and June 2024 for the approach section to the Wendene roundabout (i.e. the busiest section of this cul-de-sac route). Review of this survey work demonstrated that:

- Weekday off-peak traffic demand on Barnard Road was of the order of 300-350 vehicles per hour (vph) two-way, (or, on average, just 5-6 vehicles per minute) and on Saturdays less than 200vph (or less than 3 vehicles per minute) and Sundays less than 100vph (less than 2 vehicles per minute).

- Average vehicle speeds recorded on the route in the vicinity of the proposed zebra crossing location were under the prevailing 30mph speed limit.

- Two-way traffic demand for the June 2023 weekday traffic survey (07:30-19:30) demonstrated that only 6.0% of all traffic movements on Barnard Road were related to OGV1 / OGV2 trips, with van demand at 24.4% and car trips 67.9%. Weekend (Saturday) OGV1 / OGV2 demand represented just 3.4% of all traffic movements and van trips 16.5%.

4.2.12 Even traffic demand recorded during the busiest survey hour (weekday PM peak 'rush hour') only demonstrated two-way demand at 413 vehicles per hour (two-way) or less than 7 vehicles per minute. Such surveyed traffic levels, which could be expected to be slightly higher than for the majority of the section of Barnard Road between the application site and Mayfly Way to the west (the most likely regular section of route used for cycle connections to the appeal site), do not

suggest the potential for high levels of cycle user / vehicle conflict or the likelihood of material difficulties for pedestrians to find opportunities to cross the route.

4.2.13 It is therefore not considered that the Barnard Road corridor demonstrates characteristics that suggest that it would represent any sort of a real-world barrier to safe active travel access to / from the appeal site. Indeed, for the majority of weekday periods, the route is lightly trafficked. Furthermore, the route's generally straight horizontal alignment is such that visibility between road users is generally good, which is likely reflected by the fact that just one accident incident has been recorded over the full length of the route over the most recent available five-year search period (2019 – 2023).

4.2.14 Notwithstanding the above conclusions that existing operating conditions on Barnard Road would not preclude safe active travel use, it is noted that a number of alternative segregated cycle routes are available that would offer a practical, high-standard, cycle option for access to the appeal site from the south. In particular, the potential for access via Mayfly Way to the west and Butterfly Way to the east is highlighted, with both routes providing direct connections to the Dereham Road TCF walking / cycling infrastructure, and thus future access to the appeal site via the proposed new toucan crossing at the site's northern (Dereham Road) frontage. Whilst these connecting routes are slightly less direct when compared to a journey via a connection along Barnard Road itself, the additional distance is not considered significant for cycle users. For example, it is noted that a cycle journey from the Mayfly Way connection point to Barnard Road to the front door of the proposed food store would only represent a circa 160m additional length journey via Dereham Road (740m travel distance), when compared to access via Barnard Road (580m travel distance) – see **Figure HSoC6**. At a modest average cycle travel speed of circa 12mph, this would represent an additional travel time of less than one minute. It is not considered that such a marginal potential increase in journey time is likely to represent a material deterrent to the decision to undertake a cycle trip to / from the appeal site, particularly as the longer route corridor would be fully segregated from other vehicular movements.

4.2.15 Given the above review of issues, it is considered that there is no evidence to conclude that the appeal scheme is not capable of being safely accessed from the south by active travel and there is no requirement for the provision of additional cycle improvement measures to support the scheme, over and above the package of works already proposed by the appellant.

Concerns over pedestrian access to local bus stops at both the Dereham Road travel hub and Chapel Break Road.

4.2.16 During planning committee discussions, some Council members expressed concern that existing local bus stops were not easily accessible to the appeal scheme, due to a perceived poor standard of pedestrian linkages and crossing points. In particular members raised concerns about staff or visitors accessing the store from the Dereham Road bus hub needing to utilise uncontrolled crossing points at the Wendene roundabout.

4.2.17 These member comments appear to have been raised based on existing highway infrastructure and did not take account the package of active travel improvements proposed by the appellant to support the delivery of the appeal scheme - which were developed to specifically address these deficiencies. In the case of the Dereham Road travel hub (served by regular 'red-line' bus services), the proposed toucan crossing to be implemented as part of the appeal scheme would provide a direct connection to the Dereham Road walk / cycle route, thereby delivering a new convenient, direct and safe segregated pedestrian connection from the appeal site to the travel hub (see **Figure HSoC7**). There would no requirement for public transport users of travel hub stops to need to access the appeal site via Wendene & Barnard Road.

4.2.18 Similarly the proposed package of active travel measures to the south of the site would directly improve pedestrian accessibility to the bus stops at Chapel Break Road / Astley Road (served by 'orange line' & 'blue line' bus services), via the delivery of improved crossing facilities at Chapel Break Road, new tactile dropped

kerb crossing points at Jarrold Way and the new zebra crossing facility on Barnard Road (see **Figure HSoC7**).

4.2.19 It is therefore considered that the appeal scheme offers good opportunities to encourage staff and visitor public transport access to the proposed new food store, with the site lying within circa 400m of two sets of local stops served by regular frequency bus services and with connecting pedestrian routes to these stops to be improved to a high standard.

4.2.20 Based on the above review of issues, it is considered that there is no reasonable justification for refusal of planning permission for the appeal scheme on the grounds of failure to encourage sustainable travel and inadequate sustainable transport infrastructure. In practice, it is clear that the appeal scheme would deliver a comprehensive package of local improvements that could address existing relevant local inadequacies, improve direct connections to the appeal site and enhance wider local community active travel accessibility via the delivery of a key missing link in provision. This proposed package of improvements has been accepted by NCCLHA, who have formally stated that they consider that the works suitable to support active and sustainable travel to the site from the wider community.

4.2.21 In addition it is also important to recognise that, as a consequence of the Class E land-use planning fall-back position associated with the existing appeal site buildings, the appeal site could be utilised for food retail land use in future, without any requirement for additional substantive planning consent or the delivery of any of the proposed supporting sustainable transport works. This clearly represents a material consideration when revieing the Council's reason for refusal, which fails to acknowledge this planning fall-back position and therefore effectively prioritises the potential for a higher intensity (larger floorspace) food retail option at the site, over the appeal scheme, a scenario that would also not deliver any of the active travel benefits proposed to be delivered by the appeal proposals.

4.3 Response to Reason 4 – Failure to Reduce Car Use and Dependency on the Private Car

4.3.1 Council reason 4 is predicated on the Council's position that the appeal scheme would 'fail to reduce car use and as a consequence fail to reduce dependency on the private car" and therefore be contrary to Local Plan Development Management Policy DM1 bullet point 3.

4.3.2 It is important to review the wording of the referenced policy and understand the context in which it operates. Bullet point 3 of policy DM1 states the following:

> ***"Subject to the detailed policies which follow, development proposals will be expected (through their design, configuration, visual appearance, location, means of access and spatial and functional relationship to existing uses and facilities), to:***
>
> ***3. help to combat the effects of climate change and achieve national and local carbon reduction targets by making the most efficient practicable use of resources, minimising the overall need to travel, reducing dependency on the private car and high-emission vehicles and ensuring ease of access to facilities and services for all users both now and in the future;"***

4.3.3 Supporting explanatory text to policy DM1 also notes the following:

> ***"This plan seeks to ensure that sustainable development can be delivered for the long-term, ensuring that the potentially harmful impacts of new building and new uses and activities can be reduced, the quality of the built and natural environment raised, environmental and heritage assets protected and the wider advantages of growth made available to all sectors of the community rather than disproportionately favouring particular groups or sectors (such as only being available to those who have access to a car). For this plan to be effective, all parties in the development process are expected to ensure that new development is sustainable, delivering benefits for the community now but not compromising the ability of future generations to continue to reap those benefits" (para 1.7).***
>
> ***"No single development proposal is likely to deliver benefits equally in all areas, however by setting out a small number of key criteria setting out the expectations for all new development, policy DM1 seeks to ensure***

that these aspects are fully taken into account. The requirements of policy DM1 should be balanced through the development process and the council will expect all relevant development to take account of them." (para 1.9).

4.3.4 It is therefore clear that the stated DM1 policy does not require new development to result in an overall reduction in total car trip making across a locality or the city as a whole, rather the policy seeks to encourage the principle of the delivery of sustainable development, that a) minimises the overall need to travel and, b) reduces dependency on access by the private car. It is the appellant's view that the appeal scheme achieves both of these critical key policy objectives, as set out below.

Minimising Overall Need for Travel

4.3.5 When reviewing the discussions at the planning committee meeting that precipitated the reason for refusal, it is clear that Council members took the view that the opening of a new food store at the appeal site would, by definition, generate an increased demand for travel in the local area and therefore result in increased car trip making. This position is considered misguided, as it effectively assumes that the opening of a new food store stimulates the demand for additional food-shopping over and above the baseline position experienced prior to the opening of the new store. In practice this is not the case, as a new food store does not, in and of itself, generate an increased overall demand for food consumption and therefore food shopping trips. Indeed, as set out in the TA report prepared to support the planning application, research has demonstrated that most trips associated with a new food store represent either:

- *'Pass-by' & 'Diverted'* trips to the site – i.e. trips already present on the local road network which would turn into, and visit the site, as part of another journey. The appeal scheme site is considered to be very well located to capture demand associated with such existing passing movements, being located adjacent to the Dereham Road and Wendene distributor road corridors

- *'Transfer trips'* – food retail trips that would already be on the network travelling to alternative food store sites, but which would in future travel to the new store instead. In many instances this transfer effect would reflect customers deciding to transfer custom to a new store as it is more convenient, with this decision often reflecting the opportunity for reduced travel time or journey distance.

4.3.6 Clearly some 'new' trips to a food store can be experienced in locations where a new store is to be provided to directly support new housing development / employment growth, etc, where the store would serve an effectively 'new' demand within the catchment, but, in practice, for new stores delivered within existing community catchments, wholly 'new' trip movements (i.e. trips not already using the local network), are limited.

Failure to Reduce Dependency on Access by the Private Car

4.3.7 Furthermore, it should be acknowledged that the delivery of an additional new food retail offer within an existing community catchment provides the opportunity for more local / shorter travel distances to a food store, thereby increasing the potential for increased food retail related trip making by sustainable or active travel modes. The opening of a new store at the appeal site would deliver increased potential for residents of New Costessey, Bowthorpe and Chapel Hill to make a future food store related trip by walking, cycling or by public transport travel modes - by virtue of delivering a new store that would be a shorter travel distance to many residential properties than existing local store options, some of which may currently require a car journey to access. This is considered particularly relevant with respect to residents of the New Costessey area, who would benefit from a new local food store site and further supplemented by the potential for direct active travel access to the store, via the proposed new toucan crossing of Dereham Road.

4.3.8 As set out earlier in this statement, the appeal scheme proposals would also be supported by a comprehensive package of on-site and off-site highways and

transport measures and the implementation of travel plan initiatives to increase the attractiveness of the use of sustainable travel modes to access the site for staff and customer journeys. It is considered that these measures are entirely suitable to meet the key requirements of the DM1 policy and to deliver a sustainable local food store scheme at the appeal site. Furthermore, the package of proposed supporting local highway works would directly address existing local sustainable transport network deficiencies and deliver an important local missing active travel link, connecting New Costessey to eastern parts of the Bowthorpe Employment Area. It is expected that the new through north-south walk / cycle connection between Dereham Road and Barnard Road would deliver the opportunity for new local community sustainable transport trip making and minimise the demand for car travel for local journeys, directly in accordance with the principles of Policy DM1 bullet point 3. As previously noted, NCCLHA have confirmed that the LHA considers that the proposed supporting network improvement measures would be suitable to support active and sustainable travel to the site from the wider community. The Council's subsequently identified reason for refusal is therefore in direct contradiction to this key stakeholder position.

4.3.9 Importantly, the Council's position with respect to reason for refusal 4 must also be considered in the light of the established planning fall-back position for the site, i.e. that the existing Class E building at the site could be re-used for larger floorspace food retail land use in the future, without any requirement for additional substantive planning consent, or the delivery of supporting sustainable transport improvements. It is therefore obvious that the appeal scheme proposals would represent a clear betterment position, when compared to this fall-back position, when viewed in terms of future car traffic demand conditions at the site, due to the range of sustainable transport improvements that would be on offer. The Council's reason for refusal fails to acknowledge this fall-back position and therefore effectively prioritises the potential for a less sustainable scheme at the appeal site, which would not deliver any of the active travel benefits associated with the appeal proposals.

5.0 MATTERS RELATING TO FORMER LIDL STORE AT DRAYTON ROAD

5.1 The appellant's Planning Statement of Case prepared by Emery Planning makes reference to the former Lidl Store at Drayton Road, which closed in April 2023 and which has subsequently been re-occupied for non-food business land use (Co-op funeral services). It is understood that Lidl relinquished the Drayton Road site as it represented a very small store unit (less than half the store GFA of the proposed Dereham Road scheme) and therefore unable to meet the requirements of the modern Lidl retail offer without significant expansion. The physically constrained nature of the Drayton Road site was such that it would not have been possible to deliver a meaningful increase in store size, without the site becoming materially deficient in car parking supply. For example, expansion of the Drayton Road store building to a typical modern Lidl store size of circa 1,900sqm GFA, would effectively have resulted in the new building taking up virtually all of the practical site area, with no opportunity for customer car parking – a situation that would be self-evidently unacceptable in planning and highway terms.

5.2 It is understood that Lidl have now committed to a new store at an alternate nearby site, as part of the expansion of the existing retail park at Sweet Briar Road – this scheme being subject to a live Reserved Matters application. This alternative site allows for the delivery of a modern Lidl store scheme (1949sqm GFA - identical to the appeal site) and provides a suitable level of on-site car parking (shared with the adjacent retail park). The Sweet Briar Road site is located circa 4.4 miles from the appeal site at Dereham Road and therefore would serve a different local catchment area – lying well outside the walking catchment for the Dereham Road appeal site and to the very northeastern fringe of its 5km cycle catchment.

6.0 SUMMARY AND CONCLUSIONS

6.1 This Statement of Case document has been prepared to consider highways and transport matters in support of the appeal by Honeyview Investments Ltd ("the appellant") against the refusal of planning permission by Norwich City Council (NCC – "the Council") to proposals for a new Class E food store including associated access, car parking, servicing and landscaping at land off Barnard Road, Norwich. The scheme proposals envisage the demolition of the existing site buildings and the delivery of a new 1,949sqm GIA food store building, to be supported by a new car parking area of 102 spaces and integrated servicing / delivery zone. As part of the development proposals the scheme is also to be supported by a package of connecting off-site highway network improvement works, which have been discussed and agreed with the Local Highway Authority and would deliver connectivity improvements that would benefit the wider community, including providing a 'missing link' between local residential and employment zones and formalising existing informal walking routes.

6.2 The scheme was refused planning permission by the Council in May 2025, with the formal decision notice identifying two highways and transport related reasons for refusal, both of which are in direct contradiction to the clear written advice provided to Council members by both the Council's own planning officer and the Local Highway Authority (NCCLHA).

6.3 The appellant's response to these reasons for refusal is as follows:

'Failure to provide adequate infrastructure to support and prioritise access to the site by non-car modes'

6.4 The appeal scheme is to be supported by a comprehensive package of connecting off-site highway network improvement works, which are primarily targeted at enhancing active travel accessibility and facilitating direct connections to local public transport facilities. These works include:

- A range of supporting off-site active travel improvements to the south of the appeal site, primarily focusing on Barnard Road, but also including some works on Chapel Break Road, to provide improved onward connections into neighbouring Bowthorpe residential areas. This package of works has been discussed & designed directly with NCCLHA and followed a feasibility review which investigated the ability to incorporate extended segregated cycle facilities within available highway land boundaries. The appellant has also identified, via this statement, that further additional local pedestrian accessibility works to improve pedestrian connections from Chapel Break could also be provided as part of the final package of works to support the appeal scheme.

- A new direct active travel connection to the north, including a segregated controlled crossing of Dereham Road and linking directly to the recently completed Dereham Road improvement works (new active travel route and new travel hub bus stops) delivered by NCCLHA under the Transforming Cities Fund (TCF). These connecting scheme details have been directly reviewed and agreed with the NCCLHA Highway Design team responsible for the TCF works.

6.5 In combination, these proposed supporting works would deliver high quality and convenient active travel links to the appeal site and could also be expected to offer opportunities for improved wider general sustainable transport access from Greater Bowthorpe, via the provision of a new direct walk / cycle connection between Bowthorpe and New Costessey, alongside associated improved links to, and within, the Bowthorpe Employment Area. These infrastructure improvements may encourage local residents to utilise active travel modes for other additional local journeys, over and above trips directly to / from the food store site. This is particularly likely to be the case for trips from New Costessey to the Bowthorpe employment area, as the appeal scheme would deliver a key missing active travel link connecting these areas, the need for which is already evidenced by existing observed informal walking routes.

6.6 Ultimately the Council's reason for refusal provides little detail as to the specific sustainable transport deficiencies that Council members considered to be of sufficient concern to constitute a formal reason for refusal and is inconsistent with the position of NCCLHA, who have formally stated that they consider that the appeal proposals to be suitable to support active and sustainable travel to the site from the wider community.

Response to Reason: 'Failure to Reduce Car Use & Dependency on the Private Car'

6.7 The appeal scheme is considered to meet the key policy objectives for encouraging sustainable development and minimising car use. The delivery of a new foodstore at the appeal site would deliver a highly accessible development, which is well located to capture demand associated with existing passing trips using the Wendene and Dereham Road distributor road corridors, as well as directly serving the New Costessey locality and parts of Bowthorpe, thereby helping to reduce the need for, and distance of, travel as part of a food shopping trip. The opening of a new store at the appeal site would also deliver increased potential for residents of New Costessey, Bowthorpe and Chapel Hill to make a future food store related trip by walking, cycling or by public transport travel modes - by delivering a new store in a location that would be a shorter travel distance to many residential properties than existing local store options, some of which may currently require a car journey to access. Furthermore, the delivery of the proposed new active travel 'missing link' between New Costessey and Bowthorpe & the Bowthorpe Employment Area will deliver opportunities for wider local community sustainable transport based trip making, thereby minimising the need for car travel for such local journeys.

Implications of the Established Planning Fall Back Position

6.8 It is also highly pertinent to note that neither of the Council's reasons for refusal take due cognisance of the of the planning fall-back position for the appeal site, i.e. that the existing Class E building at the site could be re-used for larger floorspace food retail land use in the future, without any requirement for additional substantive planning consent, or the delivery of supporting sustainable

transport improvements. It is understood that the Council accept this technical fall-back position as representing a realistic redevelopment option for the site and this material consideration was reported to members at the May 2025 planning committee meeting.

6.9 The appeal scheme proposals would represent a clear betterment position when compared to the implications of this fall-back position, when viewed in terms of future car traffic demand conditions at the site, due to the range of sustainable transport improvements that would be delivered. By refusing the planning application, Council members failed to acknowledge the implications of this fall-back position and effectively prioritised the potential for a higher intensity (larger floorspace) less sustainable food retail option at the site, a scenario that would not deliver any of the active travel benefits associated with the appeal proposals.

6.10 Ultimately, based on all of the available technical evidence, it is concluded that the Council's highways and transport related reasons for refusal cannot be substantiated and that there is no justification for the refusal of the appeal scheme on the grounds of failing to deliver adequate sustainable transport infrastructure, or that the or the proposals have not been designed to encourage reduced dependence on the private car.

FOCUS
TRANSPORT PLANNING

FIGURES

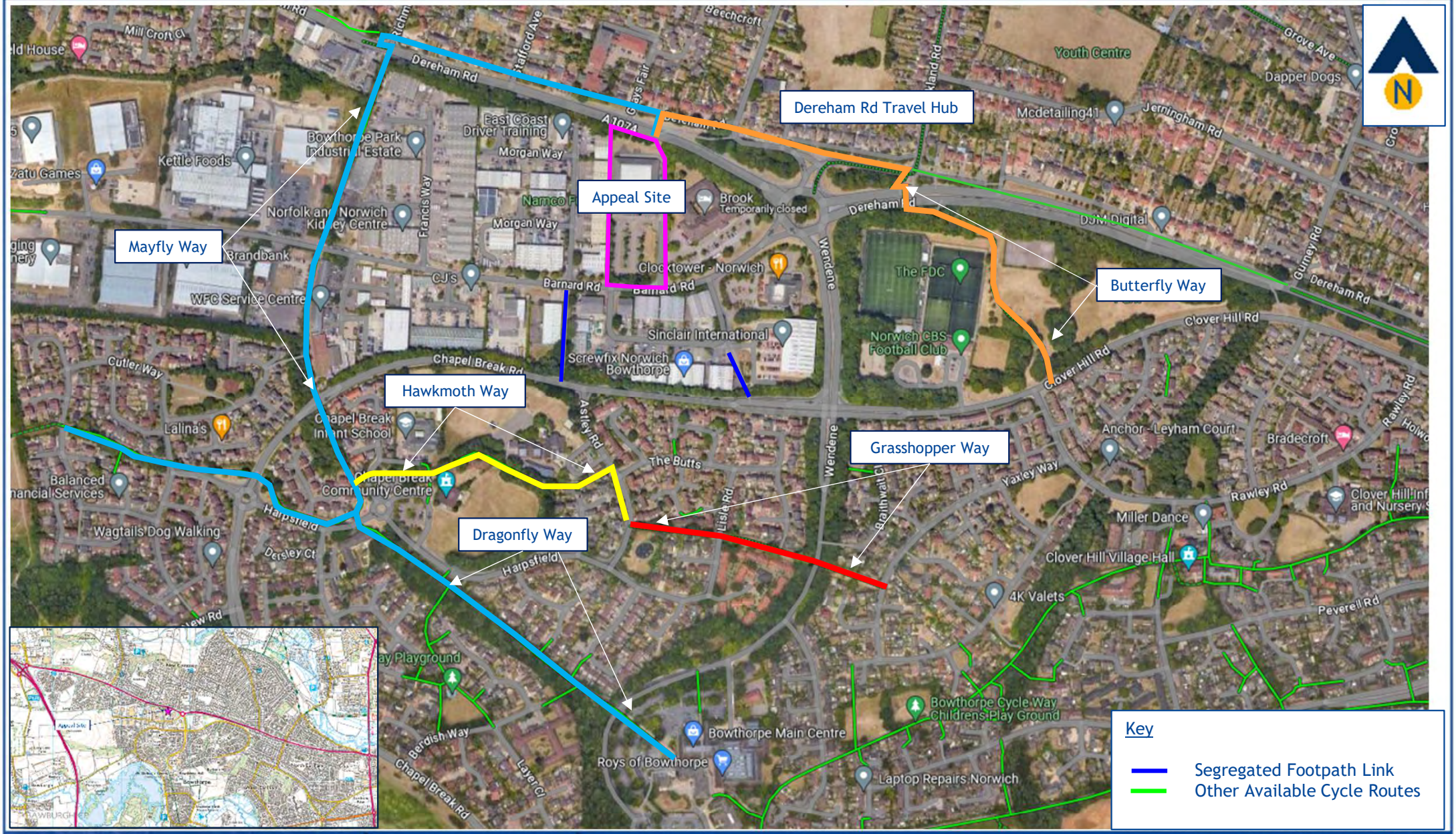
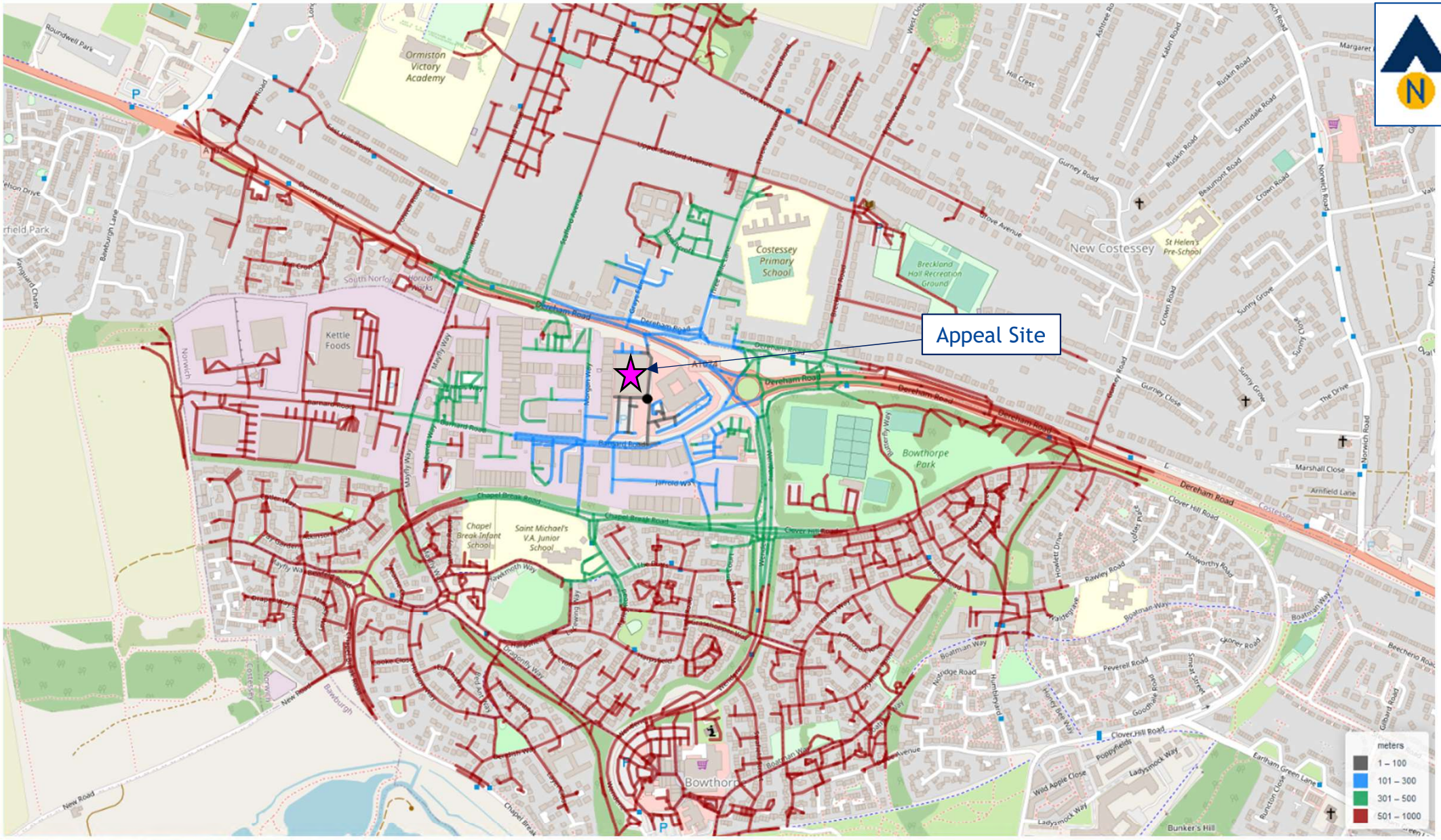


Figure HSoC1 **Appeal Site Location & Key Local Connecting Active Travel Corridors**

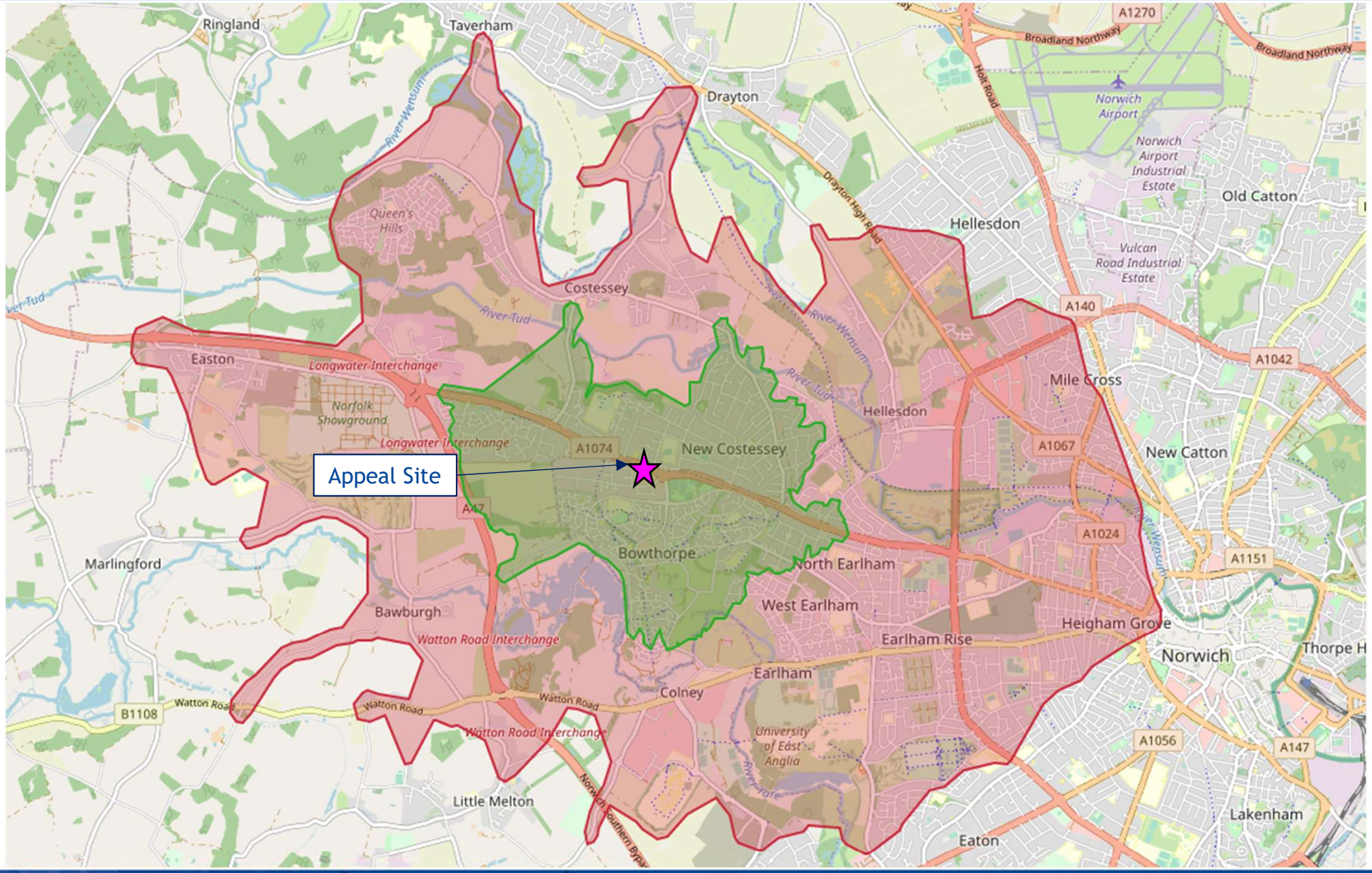
J000420 Land off Barnard Road, Norwich November 2025



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Figure HSoC2 **1km Practical Walk Catchment from the Appeal Site**

J000420 Land off Barnard Road, Norwich November 2025



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Figure HSoC3 **2km & 5km Cycle Catchment from the Appeal Site**

J000420 Land off Barnard Road, Norwich November 2025

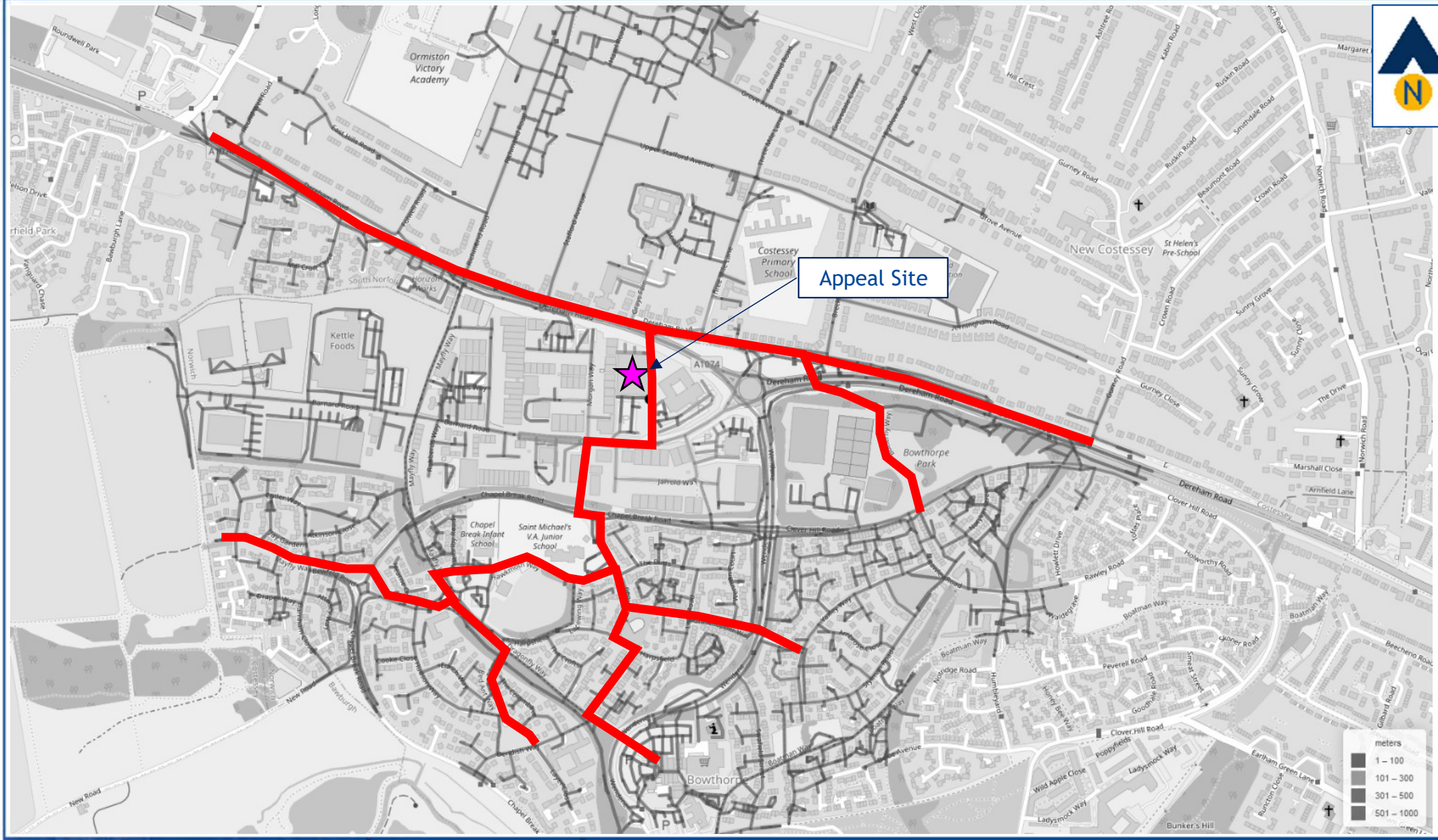


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Figure HSoC4

Enhanced Walking Connections Between New Costessey & Bowthorpe / Chapel Break Delivered By Appeal Scheme

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Figure HSoC5 **1km Walk Catchment & Segregated Active Travel (Pedestrian) Connections**

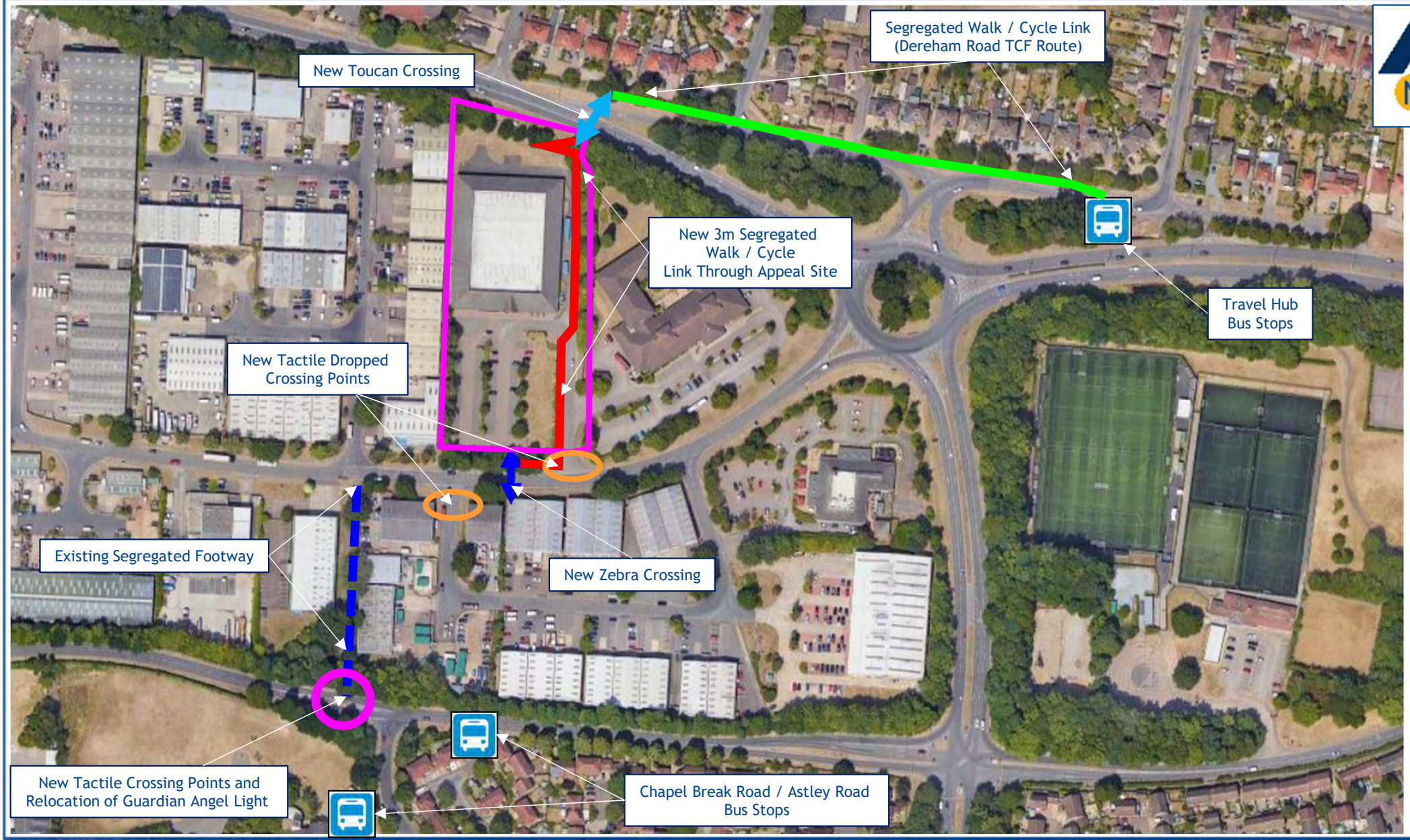
J000420 Land off Barnard Road, Norwich November 2025



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Figure HSoC6 **Comparable Routing Options to Appeal Site from Mayfly Way**

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Figure HSoC7 **Proposed Walking Connections to the Appeal Site from Local Bus Stops**

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APPENDICES



APPENDIX HSoC1



NORTH

0 2.5 5.0 7.5 10.0 12.5 25.0m

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Rev.	Description	Date	Drawn	Chk.
P-07	Additional trees added	25.02.25	DC	CW
P-06	Existing Tree positions updated	29.01.25	DC	CW
P-05	Ramp position amended	05.09.24	DC	CW
P-04	Trees Added Steps/ramp updated following comments	05.08.24	DC	CW
P-03	Layout updated following comments	01.05.24	DC	CW
P-02	Layout updated following comments	17.04.24	DC	CW
P-01	Updated following consultation	21.03.24	DC	CW
P-00	ISSUED FOR PLANNING	18.10.23	DC	CW

Client
Williams Group

Project
Barnard Road
Norwich

Drawing Title
Proposed Site Plan

Drawing Status
PLANNING

Corstorphine & Wright

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Drawing No.	Revision
19408-301	P-07

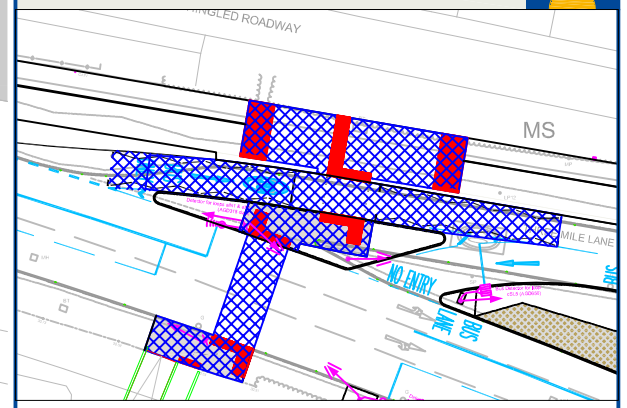
Drawn	Checked	Paper Size	Scale	Date
DC	CW	A1	1:250	OCT 23



APPENDIX HSoC2

Revision:

A	Footpath Connection to South Added And Incorporation of NCC TCF 'Travel Hub' Scheme Construction Drawing Details	02.08.24
B	Location of Footpath Connection to South in Light of Road Safety Audit Comments	27.08.24
C	Parallel Crossing Changed to Toucan Crossing Following RSA1 & LHA Comments	17.09.24



Anticipated Extent of Crossing Works Within the Public Highway

NOTE:- Proposed Traffic Signal Design of Toucan Crossings to be Considered at Detailed Design Stage

No Amendments Required to Alignment of Existing Island to Accommodate New Controlled Crossing Points

Shared Space Area

New Toucan Crossing of Bus Only Lane

New "Landing" Area for Toucan Crossing and for Onward Connection to Development Site to South

New Foot / Cycle Ramp Connecting to Proposed Lidl Store

New Toucan Crossing Incorporated into Existing Bus Gate Signalised Junction

Alternative Step Access

260

250

GRAYS FAIR

FOOTWAY

CYCLEWAY

GRASS

BUS LANE

BUS ONLY

THREE MILE LANE

NO ENTRY

3.2m

4.0m

3.5m

3.50m

4.00m

3.6m

4.5m

6.1m

3.00m

Detector for loops aIN1 & aIN2 (AGD318 dual)

Bus Detector for loop cSL5 (AGD650)

Detector for loops bIN3 & bX4 (AGD318 dual)

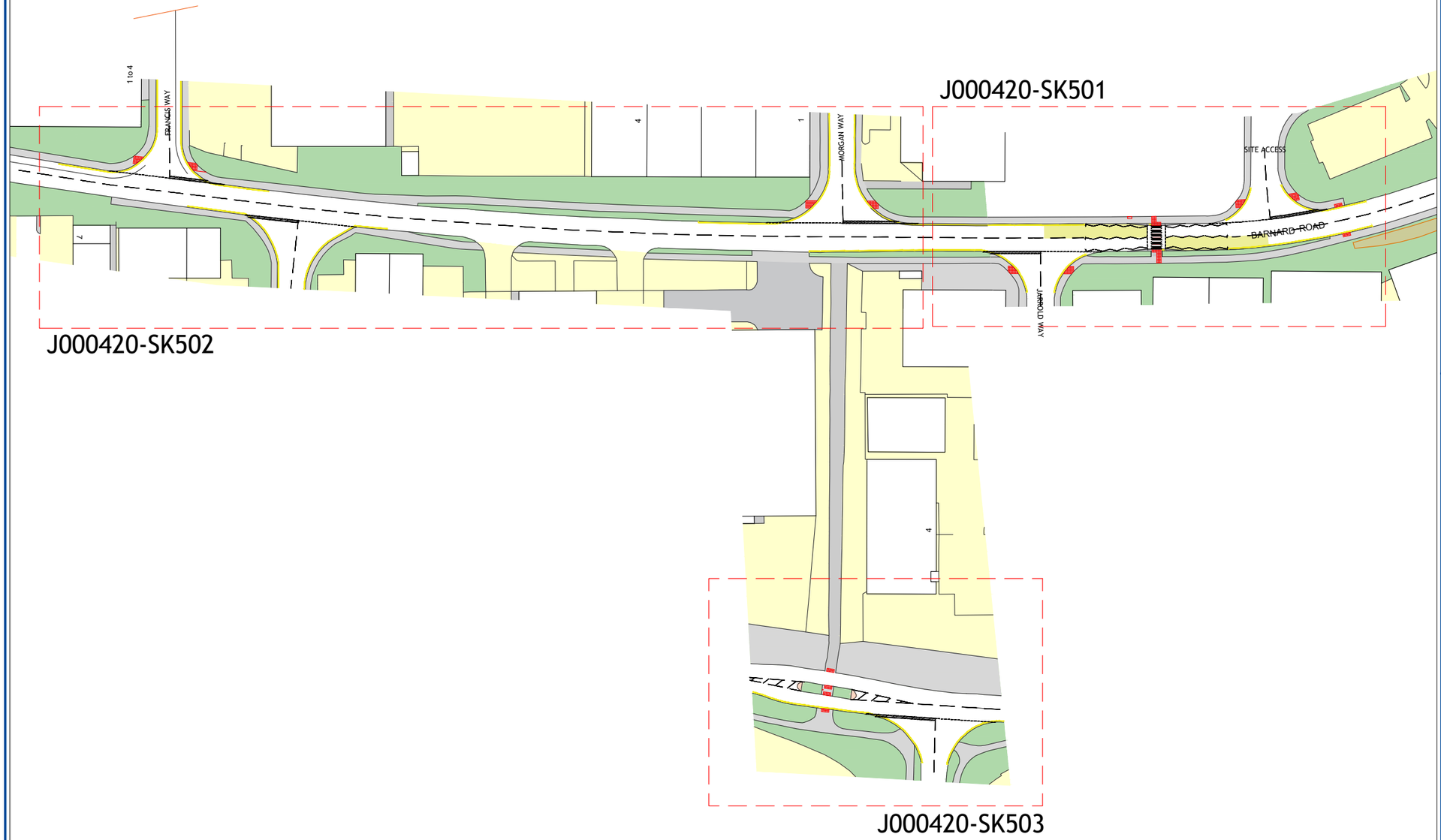
Client:	Honeydew Investments
Project:	Land at Barnard Road, Norwich Proposed New Discount Food Store
Drawing Title:	Pedestrian / Cycle Crossing Integration into NCC Travel Hub Western Bus Gate Scheme - OPTION 1
Drawing Number:	J000420-SK001
Revision:	C
Date:	04.08.23
Scale:	1:250 (A3)
Drawn By:	MH
Checked By:	APB
Status:	Information

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J000420-SK501

J000420-SK502

J000420-SK503

1:1250@A3

Revision:
A Amends to Zebra Marks & Francis Way Tactiles 17/05/24

Client:
Honeyview Investments

Project:
Land at Barnard Road, Norwich

Drawing Title:
Location of Pedestrian Improvements
To the South of the Application Site

Drawing Number: J000420-SK504
Revision: A

Date: 11/04/24
Scale: As Stated

Drawn By: APB
Checked By: -

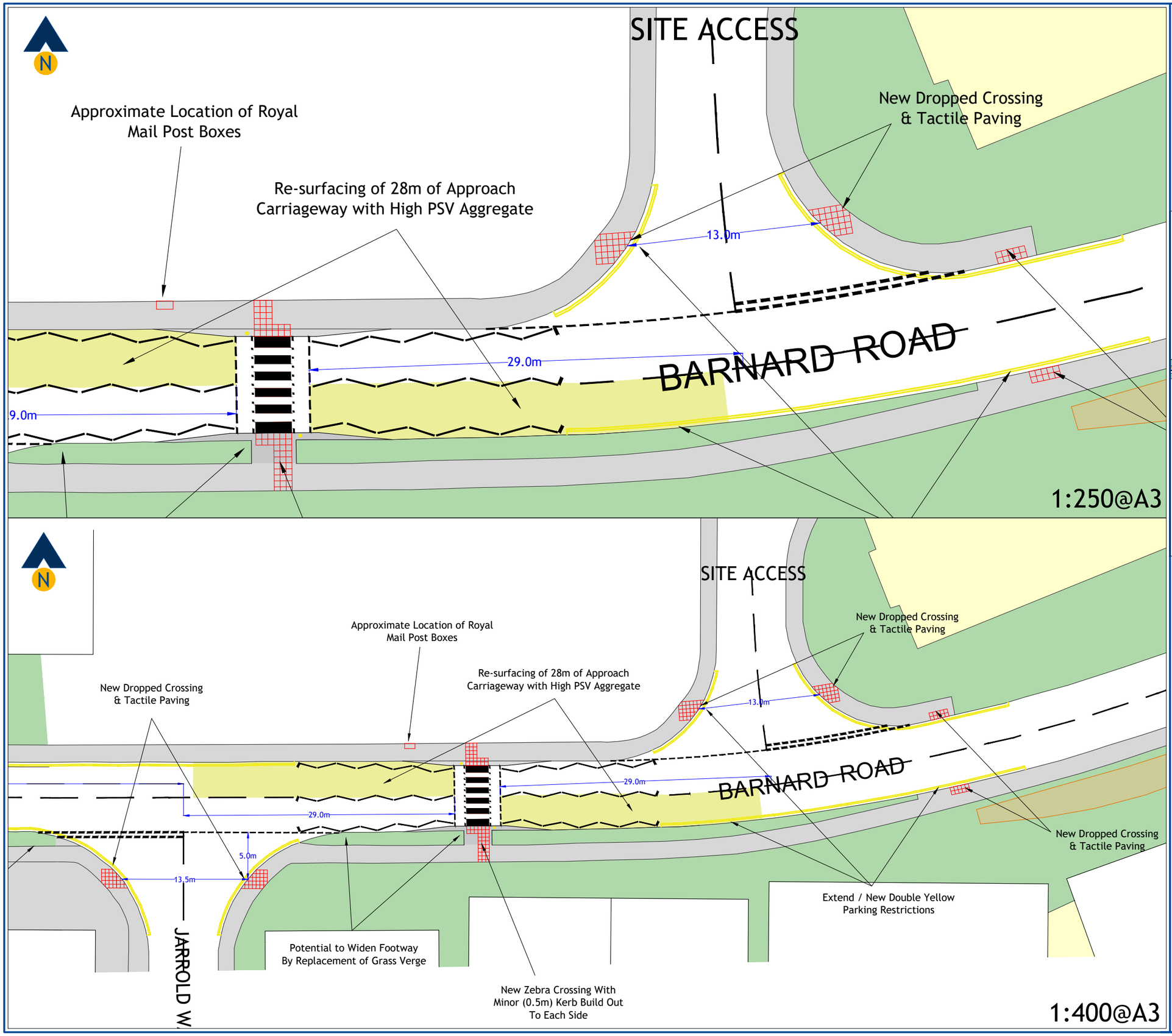
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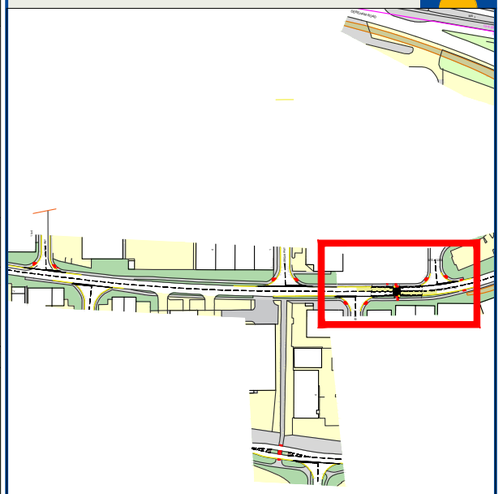
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Revision:

A Amendments to Zebra Markings & Re-Surfacing 17/05/24



Client: Honeyview Investments

Project: Land at Barnard Road, Norwich

Drawing Title: Proposed Pedestrian Improvements to Eastern Section of Barnard Road (Including New Zebra Crossing)

Drawing Number: J000420-SK501

Revision: A

Date: 11/04/24

Scale: As Stated

Drawn By: APB

Checked By: -

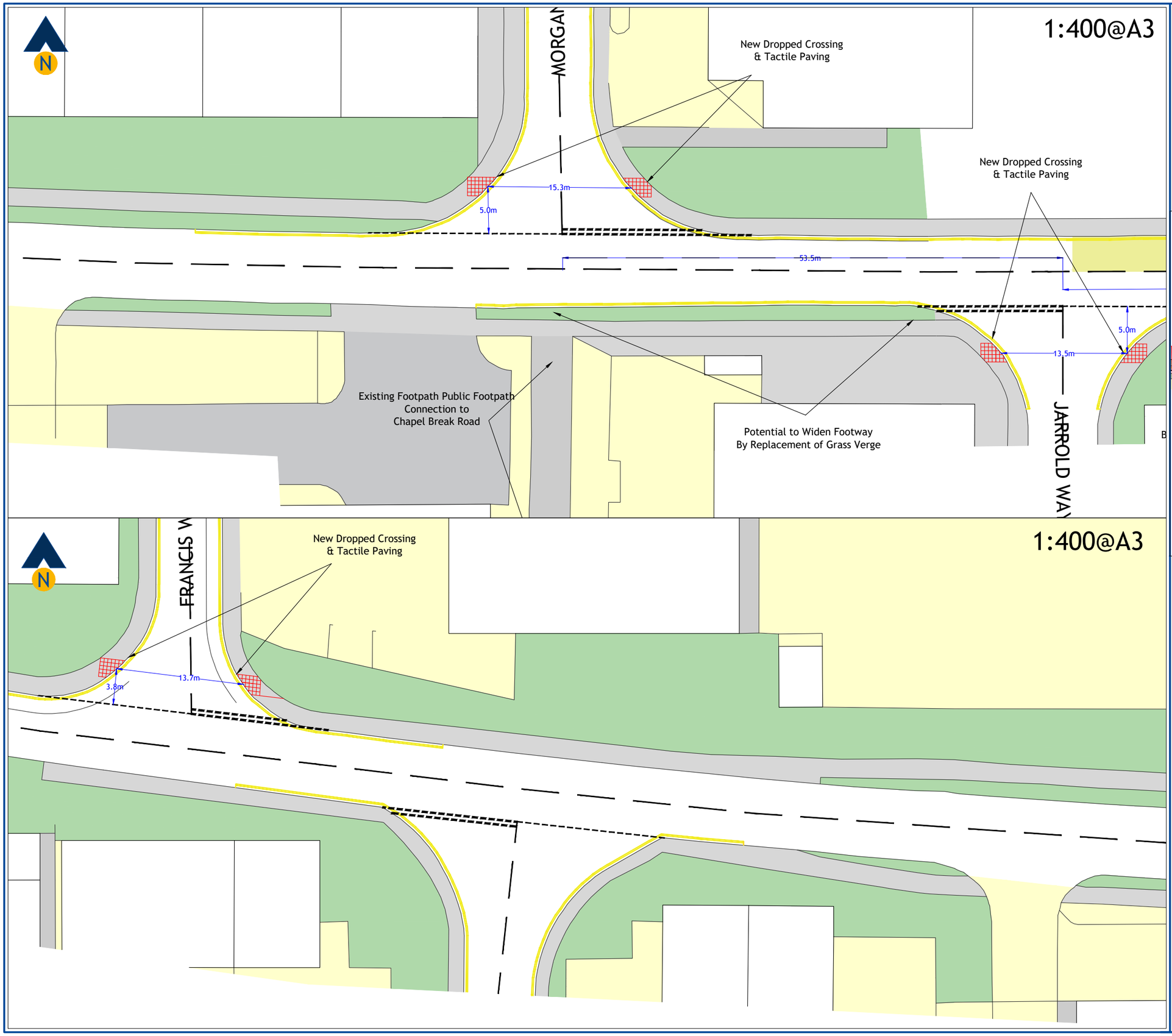
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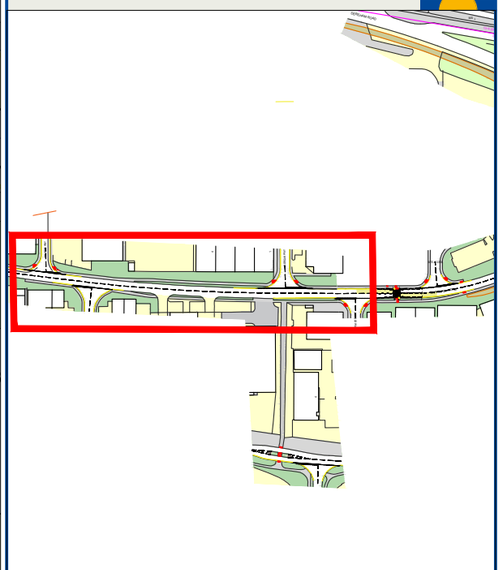
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Revision:

A	Amendments to Francis Way Tactiles	17/05/24

Client:
Honeyview Investments

Project:
Land at Barnard Road, Norwich

Drawing Title:
Proposed Pedestrian Improvements to Western Section of Barnard Road (Dropped Crossings to Side Road)

Drawing Number: J000420-SK502
Revision: A

Date: 11/04/24
Scale: As Stated

Drawn By: APB
Checked By: -

Status:
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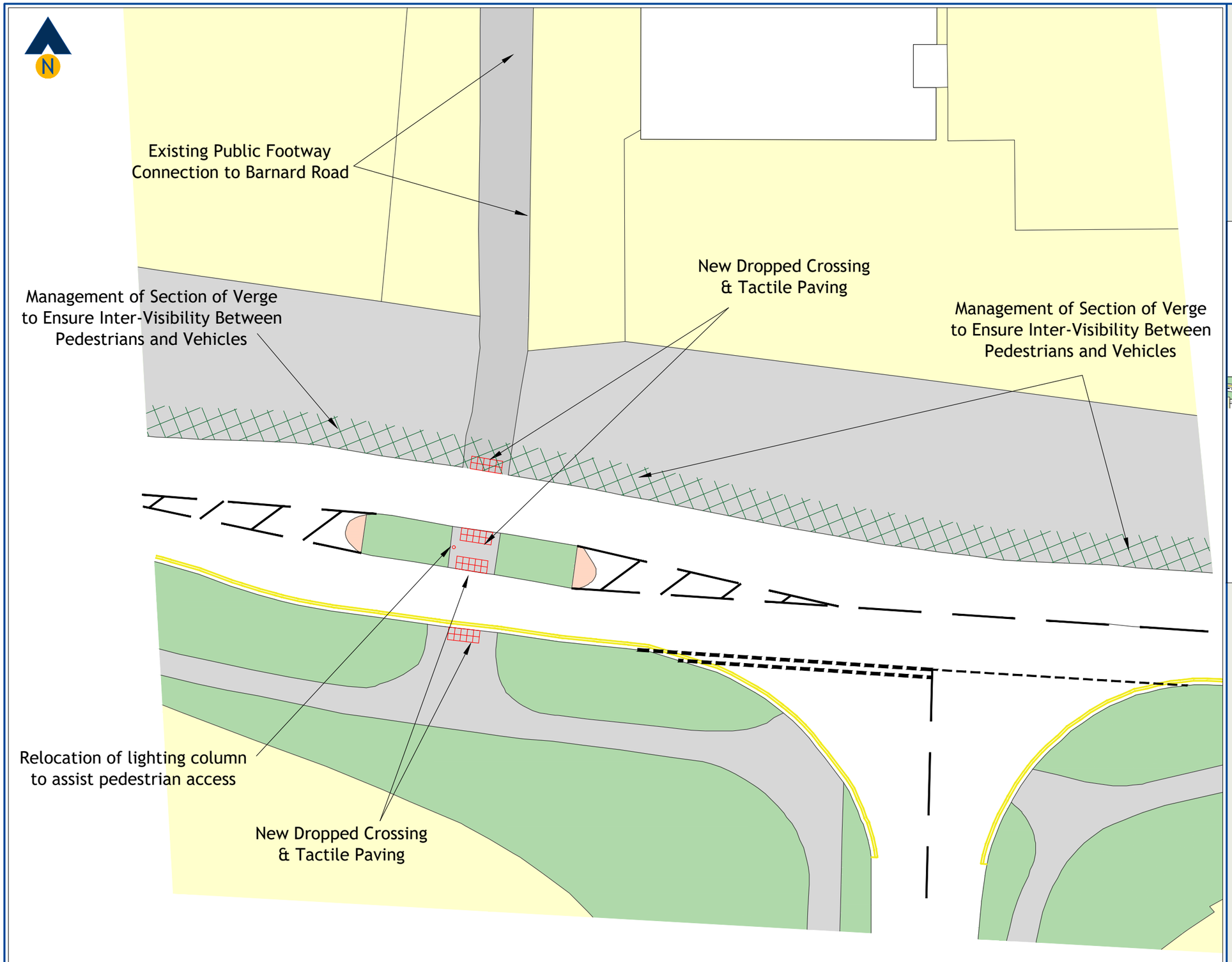
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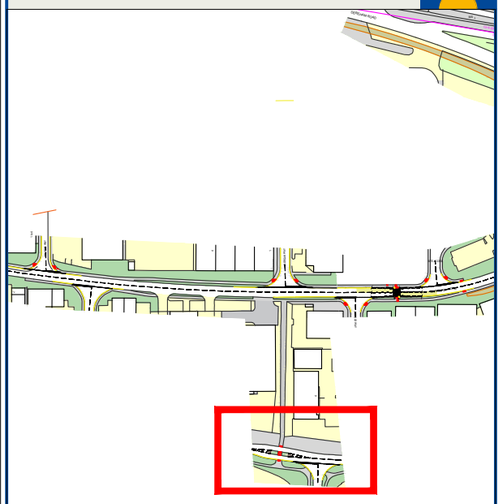
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1:250@A3



Revision:
A -

Client:
Honeyview Investments

Project:
Land at Barnard Road, Norwich

Drawing Title:
Proposed Pedestrian Improvements at Existing Crossing of Chapel Break Road

Drawing Number: J000420-SK503
Revision: -

Date: 11/04/24
Scale: As Stated

Drawn By: APB
Checked By: -

Status:
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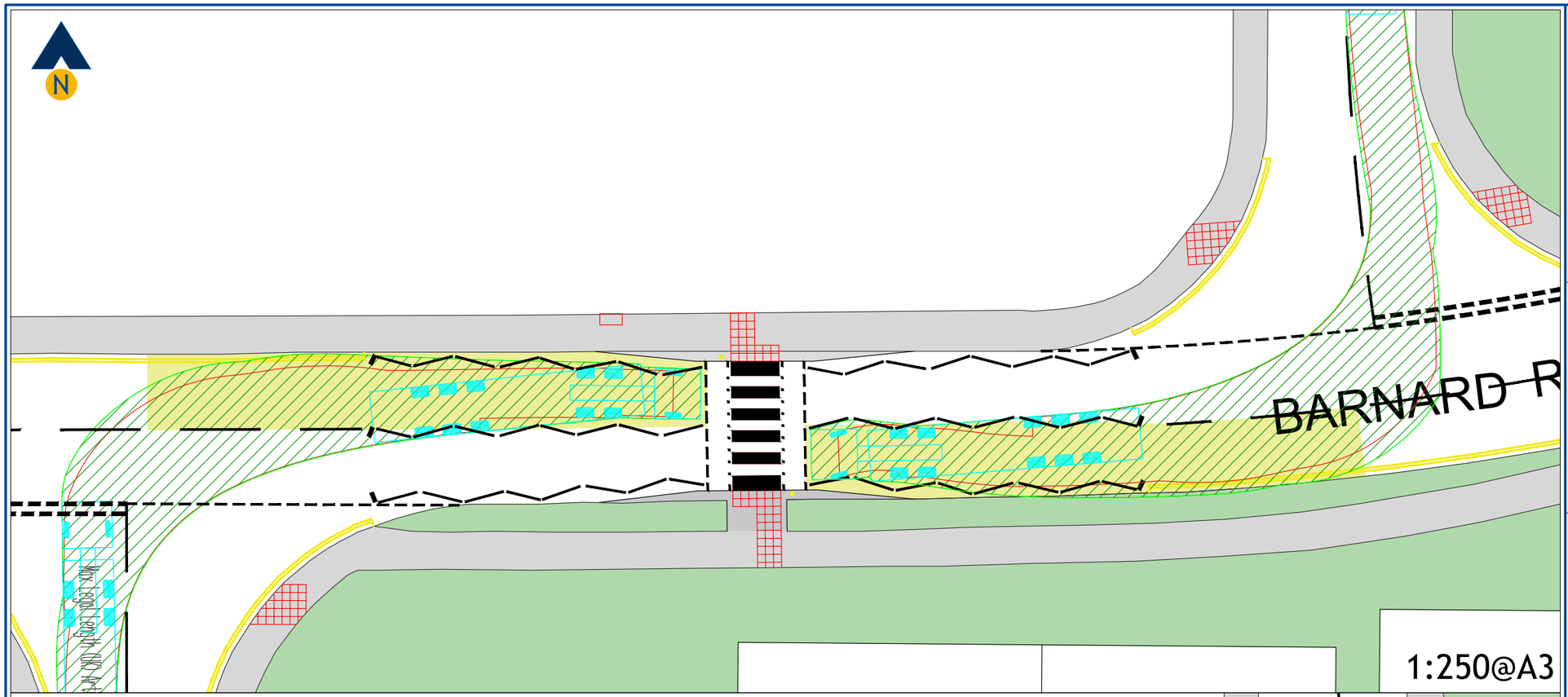
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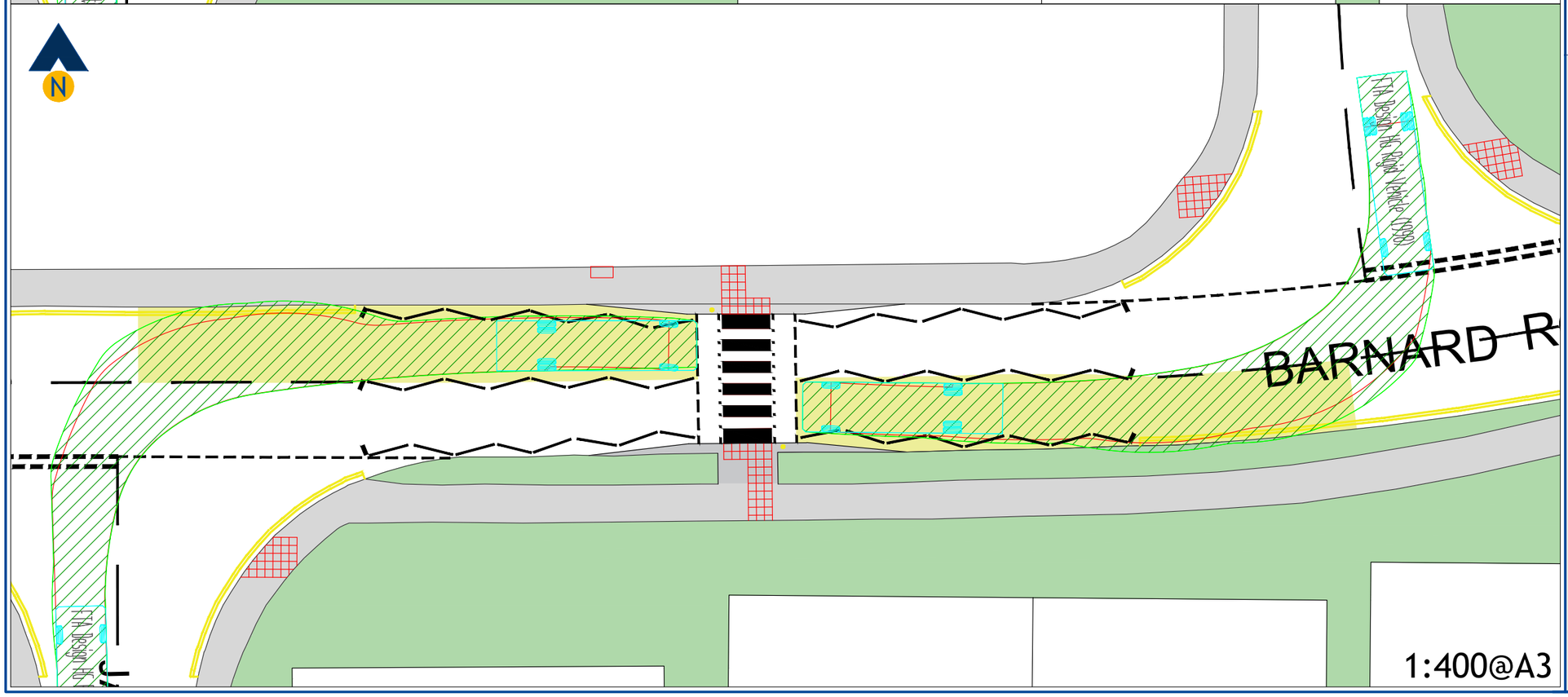
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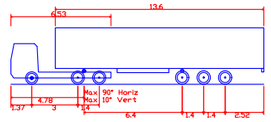
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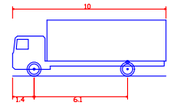
Revision:

A Amendments to Zebra Markings & Re-Surfacing 17/05/24



Max Legal Length (UK) Articulated Vehicle (16.5m)

Overall Length	16.500m
Overall Width	2.550m
Overall Body Height	3.681m
Min Body Ground Clearance	0.411m
Max Track Width	2.500m
Lock to lock time	6.00s
Kerb to Kerb Turning Radius	6.530m



FTA Design HG Rigid Vehicle (1998)

Overall Length	10.000m
Overall Width	2.500m
Overall Body Height	3.645m
Min Body Ground Clearance	0.440m
Track Width	2.470m
Lock to lock time	3.00s
Kerb to Kerb Turning Radius	11.000m

Client:
Honeyview Investments

Project:
Land at Barnard Road, Norwich

Drawing Title:
Proposed Zebra Crossing to Barnard Road
Vehicle Swept Paths
Max Articulated HGV & FTA Design Rigid HGV

Drawing Number: J000420-ATR501

Revision: A

Date: 11/04/24

Scale: As Stated

Drawn By: APB

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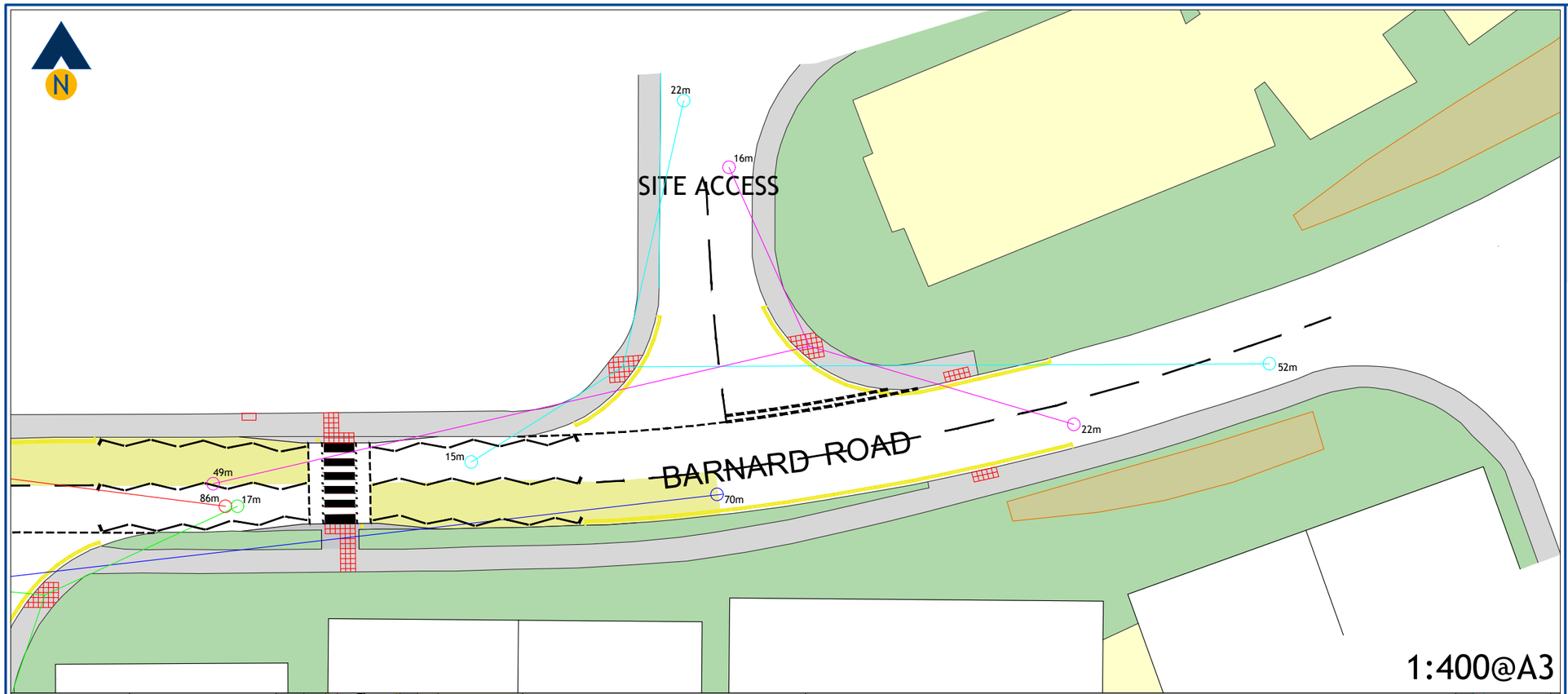
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1:400@A3

1:500@A3

Revision:
A Amendments to Zebra Markings & Re-Surfacing 17/05/24

Client:
Honeyview Investments

Project:
Land at Barnard Road, Norwich

Drawing Title:
Minimum Pedestrian Visibility at Proposed Crossing Points (1m from kerb edge) Site Access & Jarrold Way

Drawing Number: J000420-VISI501

Revision: A

Date: 11/04/24

Scale: As Stated

Drawn By: APB

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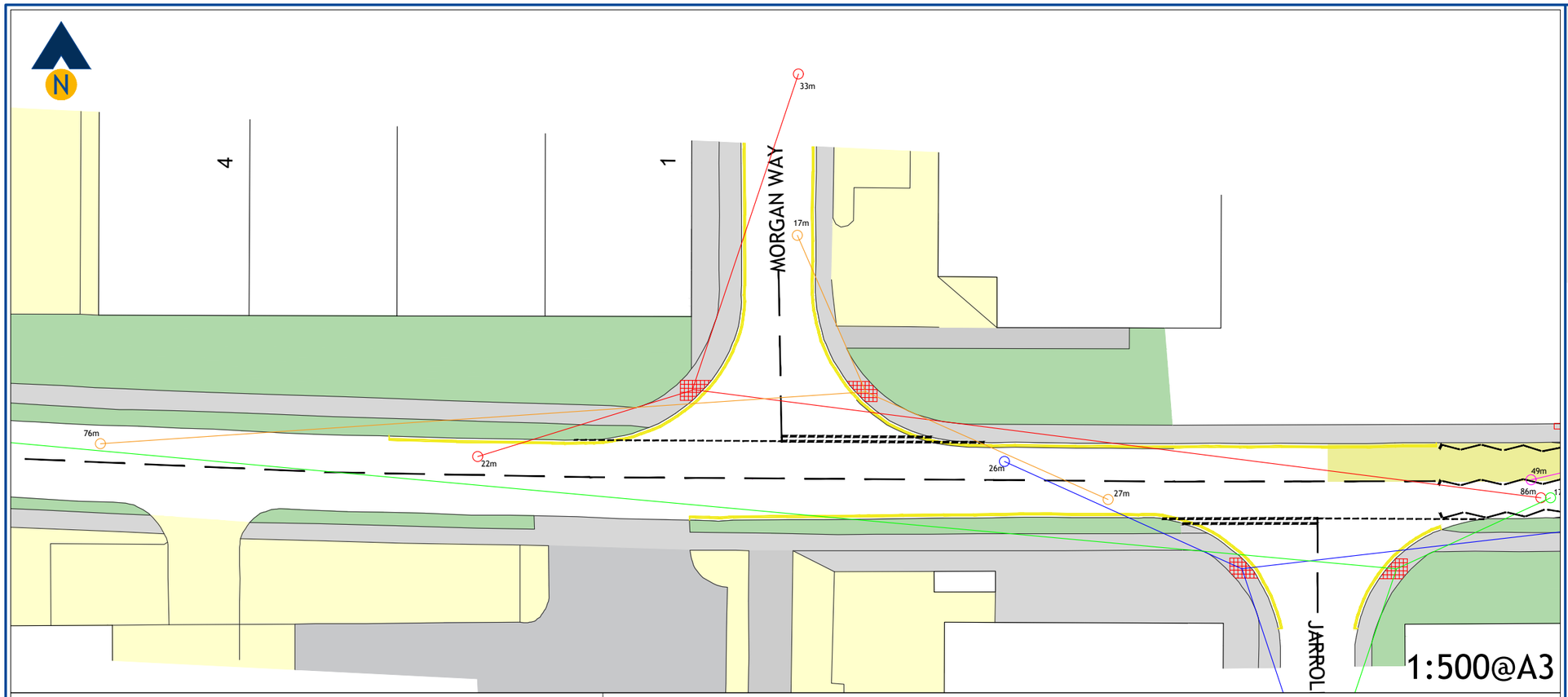
DO NOT SCALE - Follow any figured dimensions.

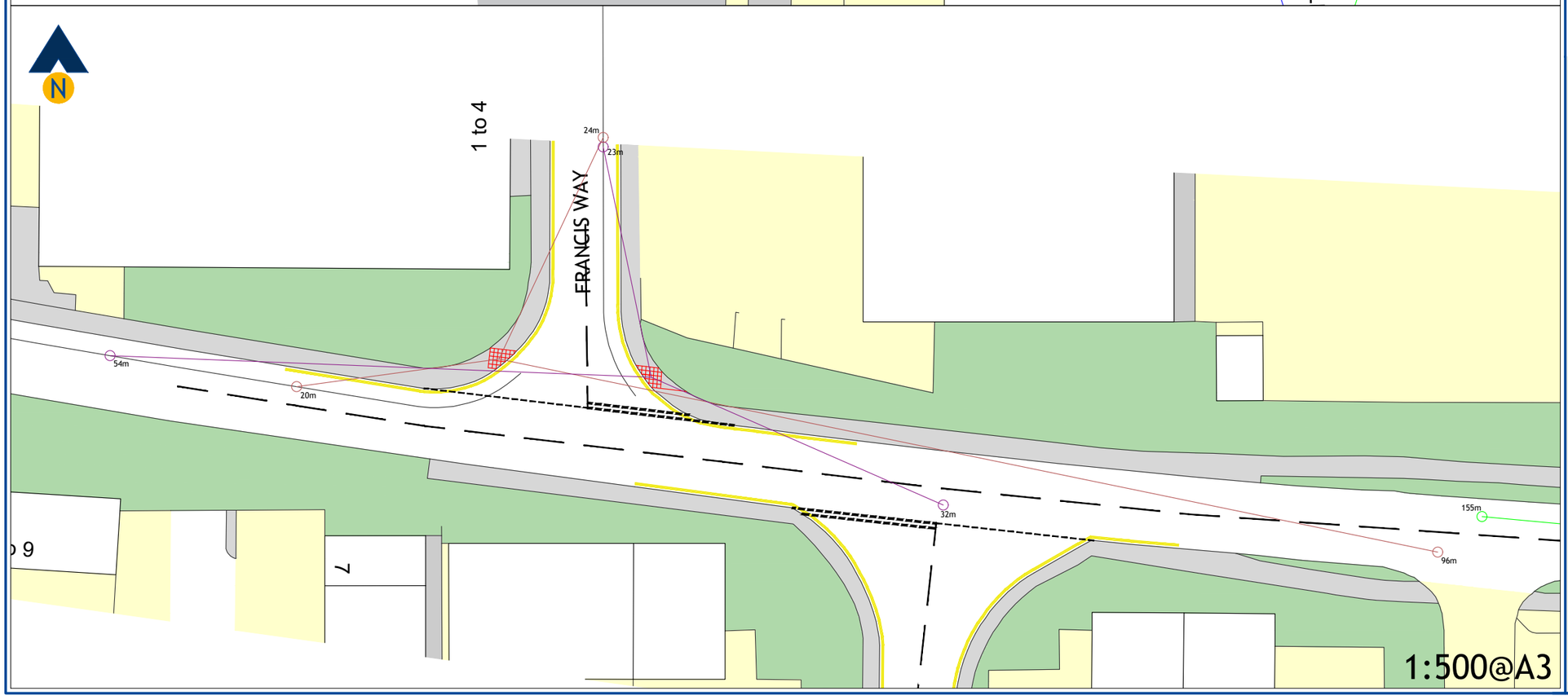
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Revision:

A	Amendments to Francis Way Tactiles	17/05/24

Client:
Honeyview Investments

Project:
Land at Barnard Road, Norwich

Drawing Title:
Minimum Pedestrian Visibility at Proposed Crossing Points (1m from kerb edge) Morgan Way & Francis Way

Drawing Number: J000420-VISI502

Revision: A

Date: 11/04/24

Scale: As Stated

Drawn By: APB

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APPENDIX HSoC3

Management of Section of Verge to Ensure Inter-Visibility Between Pedestrians and Vehicles

New Dropped Crossing & Tactile Paving

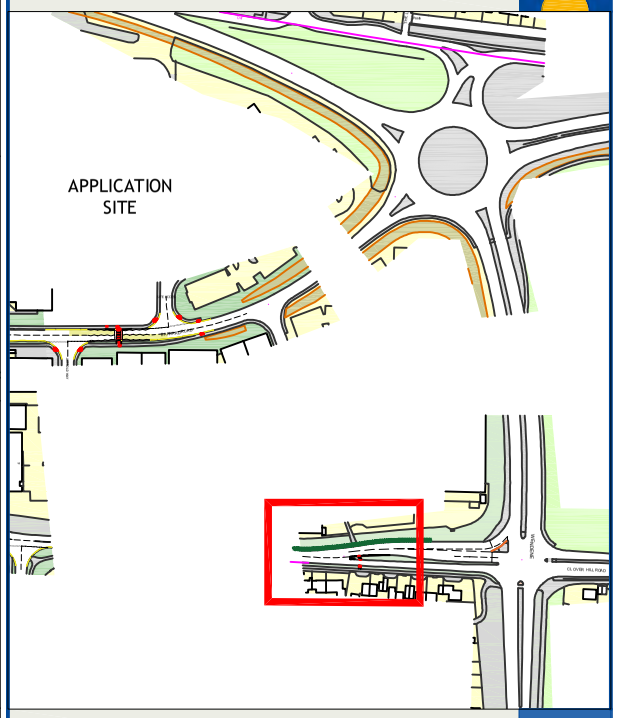
Management of Section of Verge to Ensure Inter-Visibility Between Pedestrians and Vehicles

Potential Relocation of Lit Bollard (If Island Requires Amendment)

Widen / Lengthen Island as Necessary to Ensure Minimum 2m Refuge Width

New Dropped Crossing & Tactile Paving

1:250@A3



Revision:
A -

Client:
Honeyview Investments

Project:
Land at Barnard Road, Norwich

Drawing Title:
Additional Pedestrian Improvements at Chapel Break Road (Access to Unadopted Path Linking to Jarrold Way)

Drawing Number: J000420-SK505
Revision: -

Date: 27/08/25
Scale: As Stated

Drawn By: APB
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APPENDIX HSoC4

Focus TP & NCCLHA Liaison Timeline and Key Elements

Date	Description	Action
13/03/2023	NCCLHA receipt of pre-app note	NCCLHA to review
14/04/2023	NCCLHA response to pre-app inquiry. 'No objection to the proposal and supports the approach to provide a signalised crossing to the north' 'Satisfied that junction surveys proposed will provide a robust assessment of immediate network'	FTP to respond & queries re ability to tap into Dereham Road works
20/04/2023	NCCLHA provide outline highway boundary information	
24/04/2023	FTP & NCCLHA discuss emerging applicatin scheme and TA scoping requirements	
10/05/2023	Traffic counts mobilised - scope of counts works agreed with NCCLHA	
23/06/2023	FTP shares prelim traffic data with NCCLHA	
27/06/2023	NCCLHA confirm details of local committed development to be included in any TA review of the application scheme	
12/07/2023	FTP sends TA scoping note to NCCLHA for agreement and comment	NCCLHA to review and respond
25/07/2023	NCCLHA provide 'work in progress' drawings of Dereham Rd TCF scheme to allow for prelim design of option	FTP to review.
02/08/2023	NCCLHA respond to TA scoping - no objection to methodology proposed. Request for: 1. Additional review of on site EV parking provision 2. TA to explore pedestrian and cycle connectivity to the south of the site - to improve connectivity via Barnard Road	FTP to incorporate in TA
04/08/2023	FTP supply NCCLHA with prelim sketch of Dereham Way option. Based on toucan crossing on Dereham Road and tiger crossing on adjacent bus gate lane Also included information on capacity modelling and queuing associated with introduction of signals.	
26/10/2023	NCCLHA respond with 'no in principle objection' to Dereham Road element - but subject to tying into final NCCLHA details	
21/12/2023	APPLICATION SUBMITTED	
02/04/2024	FTP & NCCLHA meet to discuss principles of improving walk / cycle options to the south. NCCLHA provide highway ownership information on Barnard Road to support review.	FTP to prepare principles sketches based on discussions.
02/04/2024	FTP circulate some 'principles' sketches / photo's to set out likely nature of practical measures.	NCCLHA to respond to sketches.
08/04/2024	NCCLHA provide design comments on principles sketches in terms of locations of crossings, etc NCCLHA request speed survey on Barnard Road to determine suitability of Zebra style crossing feature.	FTP to take on board to inform scheme plans
12/04/2024	FTP circulate worked up plans of improvements on Barnard Road. FTP note that accommodating cycle facilities on Barnard Road is challenging due to land constraints FTP note that alternative high quality cycle links are available via Dereham Road / Mayfly Way	
17/04/2024	NCCLHA request estimates of pedestrian demand data to determine whether formal zebra crossing is required.	FTP to provide data
18/04/2024	FTP provide estimates of walk / cycle demand to site. Suggests potential for up to 270 - 360 ped movements per day via BR.	
25/04/2024	FTP chase up response and note that NCCLHA planning have requested reduction in site parking supply.	NCCLHA to respond.
10/05/2024	NCCLHA confirm that they accept the principle of proposed Barnard Road pedestrian improvements. NCCLHA request formal speed survey to support. NCCLHA suggest minor amends to scheme details.	
14/05/2024	Location of speed surveys agreed with NCCLHA	
22/05/2024	FTP submit updated Barnard Road pedestrian improvement scheme details (REV A) submitted to NCCLHA to take on board comments	NCCLHA to respond
28/05/2024	NCCLHA confirm that updated drawings are acceptable - subject to results of speed survey.	
12/06/2024	FTP supply speed data to NCCLHA - showing 85th percentile speeds in both directions are below critical 35mph threshold	
18/06/2024	FTP submit HTN02 in response to NCCLHA comments on active travel, plus rebuttal of comments from Norwich Cycle Campaign Includes REV A version of Barnard Road plans	NCCLHA to respond
25/06/2024	NCCLHA confirm happy with speed data and that the principle of off-site works to Barnard Road is accepted. Suggestion that final location of zebra may need to be tweaked at S278 stage, but can be dealt with at detailed design stage.	
12/07/2024	NCCLHA confirm that nothing more is required from applicant at that stage.	
19/07/2024	NCC planners request further information with respect to Dereham Road crossing. FTP request updated TCF scheme drawing information from NCCLHA	NCCLHA to respond
25/07/2024	NCCLHA highways provide detailed scheme drawings of Dereham Road TCF scheme to allow FTP to prepare updated dwgs. NB - The Dereham Road TCF scheme was designed to allow a crossing to the appeak site as an anticipated next stage 'bolt-on',	FTP to revise drawings
26/07/2024	FTP & NCCLHA meet to discuss Dereham Road. NCCLHA request updated drawing to take on board NCCLHA scheme plans & RSA1	FTP to update plans and RSA1
27/08/2024	Revised plans and RSA1 with DR sent to NCCLHA FTP rebut some of the comments raised in the RSA1	
05/09/2024	NCCLHA confirm they don't want the straight through crossing option suggested by the RSA1 review. NCCLHA do request traffic signal control of the adjacen bus gate lane.	FTP to review and Amend
17/09/2024	FTP Update Dereham Road crossing drawings in line with comments from NCCLHA - Rev C plans are submitted	
27/09/2024	NCCLHA confirm that Rev C drawings are acceptable. Additional comments are provided for consideration / incorporation at detailed design stage.	

Appendix 2

Mrs HELEN KIRK: STATEMENT OF CASE
ARBORICULTURAL MATTERS

Local Authority Planning Application Reference: 23/01615/F

FPCR | environment & design






Town and Country Act 1990 Appeal – Statement of Case (Arboricultural Matters)

Appellant

Honeyview Investments Ltd

Respondent

Norwich City Council

Site

Barnard Road, Norwich

Date

August 2025

CONTENTS

1.0 REASON FOR STATEMENT 2

2.0 BACKGROUND INFORMATION AND CHRONOLOGY 3

3.0 TREE PRESERVATION ORDERS 4

4.0 NORWICH CITY COUNCIL TREE OFFICER COMMENTS 5

5.0 EVALUATION AND DISCUSSION 6

6.0 POLICY COMPLIANCE & INTERPRETATION OF POLICY AND SUMMARY EVALUATION IN RESPECT OF THE PROPOSALS 9

7.0 CONCLUSION 11

FIGURES

Visualisations – Figures 1-6

APPENDICIES

Appendix A – Copy of Tree Survey and Arboricultural Implications Assessment (Green Leaf Planning)

Appendix B – Copy of Tree Officer Consultation Comments (dated 12th November 2024)

Appendix C – Copy of Tree Officer Consultation Comments (dated 15th April 2025)

Rev	Issue Status	Prepared/Date	Approved/Date
-	Draft v1	AW / 05/08/25	HCK / 17/08/25
-	Draft v1 – Statement of Case	AW / 07/10/25	HCK / 08/10/25
-	Final – Statement of Case	AW / 15/10/25	HCK / 15/10/25
-	Final v1 – Statement of Case	AW / 03/11/25	HCK / 05/11/25

1.0 REASON FOR STATEMENT

1.1 The appeal is being made against the refusal of planning permission by Norwich City Council ('the Council') for the construction of a Class E food store with associated access, car parking, servicing and landscaping (Local Authority Planning Application Reference: 23/01615/F), on land located at 10 Barnard Road, Norwich, NR5 9JB ('the Site'). The application was refused at Committee on 16th May 2025 citing four reasons for refusal with one of the reasons for refusal (reason two) relating to the loss of trees.

1.2 Reason for Refusal 2 states that:

"2. The application involves the loss of protected trees that form part of a continuous existing landscaping feature along the southern side of Dereham Road, which makes an important contribution to the character, local distinctiveness and quality of the urban environment. The loss of the protected trees does not facilitate a substantially improved approach to the design and landscaping of the development that would outweigh the loss of the trees contrary to policy DM7 of the Development Management Policies Local Plan 2014 and paragraph 136 of the National Planning Policy Framework 2024."

1.3 Reason for Refusal 2 states that the application is contrary to Planning Policy DM7 of the Development Management Policies Plan 2014 (DMPLP) and Paragraph 136 of the National Planning Policy Framework 2024 (NPPF) and therefore is in the Council's opinion not compliant with both local and national planning policy.

1.4 Through this Statement of Case, it will be demonstrated that, from an arboricultural perspective the proposed development is policy compliant. It is acknowledged that the development proposals will require the removal of protected trees to facilitate its construction, in particular the access ramp, however through the thorough examination and interpretation of Policy DM7 of the DMPLP and Paragraph 136 of NPPF, this statement will establish that the application proposals are policy compliant and the loss of tree cover can be readily mitigated through the implementation of a robust scheme of new tree planting, which will not only provide an appropriate level of mitigation appropriate for the losses but will also deliver an enhanced and structured treescape along the Dereham Road boundary and elsewhere within the site long term to ensure there is no loss of character, local distinctiveness and quality of the urban environment from an arboricultural perspective especially on the southern side of Dereham Road.

2.0 BACKGROUND INFORMATION AND CHRONOLOGY

2.1 A Tree Survey and Arboricultural Implications Assessment was undertaken by Green Leaf Planning (Appendix A) on 14th April 2025 to accompany the planning application (23/01615/F) and following instruction to act for the Appellant, FPCR undertook an independent Arboricultural Assessment of the site to review the information submitted by Green Leaf Planning.

Site Description

2.2 The site is located to the west of Norwich and is currently occupied by *Namco Funscape* a bowling and entertainment centre. To the north of the site runs Dereham Road and to the south is Barnard Road. East of the site is a hotel that is currently closed to the public, and to the west are a number of industrial/warehousing units of the wider employment area situated along Morgan Way which is part of the Bowthorpe Park Industrial Estate.

2.3 Tree cover was for the most part native and contained both planted and naturally colonised specimens. In places there was a distinct lack of regular maintenance to the vegetation. Due to the current use of the site, trees were restricted to the peripheries of the site, within landscaped areas within the car park with the majority of trees being positioned along the northern boundary where the site borders with Dereham Road.

2.4 The tree cover consists of moderate (category B) to low (category C), with a single high-quality specimen (category A).

Submitted Arboricultural Information

2.5 As part of the application Green Leaf Planning produced a '*Tree Survey and Arboricultural Implications Assessment*' and '*Tree Constraints Plan*' (Appendix A). The submitted Arboricultural information has been reviewed and also informed by a site visit, it is concluded that whilst minor discrepancies in relation to stem sizes, species identification and the positioning of a few trees were noted, these have no material effect upon the suitability of the information to inform on the restraints posed by the trees or identifying the impacts on trees from the development proposals, which is in our view, fit for purpose. As part of the submitted information ('*Tree Survey and Arboricultural Implications Assessment*' an Arboricultural Method Statement was also produced by Green Leaf Planning. This too is considered to be entirely fit for purpose.

Timeline of Submitted Arboricultural Information

2.6 Four versions of the Green Leaf *Tree Survey and Arboricultural Implications Assessment* report were produced during the determination period. The initial version was submitted with the application which was validated on 4th January 2024. During the consultation period, the report was revised three times, with version two being submitted on the 9th August 2024, version three being submitted on 1st April 2025 and the final version, version four being submitted on 14th April 2025 (Appendix A). These revisions were made in relation to changes to the proposed layout and in response to Officer comments on replacement tree planting and providing details of the use of minimal-dig (Cellular Confinement) systems along the eastern boundary.

2.7 It is version four upon which the application has been refused.

3.0 TREE PRESERVATION ORDERS

3.1 One Tree Preservation Order was made in response to the application and perceived threat to the trees. The detail of this Order is as follows:

3.2 City of Norwich Tree Preservation Order Number 613 was made on the 7th of February 2024 and applies the seven oak trees and one sycamore. It was confirmed on 25th July 2024). These are identified on the Green Leaf Planning Tree Constraints Plan (Drawing 3104-25-V3) as G1 and T8 respectively. It was noted during the site visit undertaken in preparation of this evidence that T8 has been incorrectly identified as a sycamore, when in fact it is a Norway Maple.

3.3 A second Tree Preservation Order was made after the application following the refusal of planning permission. The details of the second Order are as follows:

3.4 City of Norwich Tree Preservation Order Number 634 was made on the 17th of June 2025 and applies to four individual trees and three groups of trees within the car park and boundaries to the car park situated to the south of the Bowling Alley. The individual trees within the car park are outside of the application area and were therefore not assessed by Green Leaf Planning as part of the appeal scheme. Part of G2 and G3 as per the Order Schedule, are however within the application area and were recorded by Green Leaf Planning as individual trees T1 – T7.

3.5 Tree Preservation Order Number 634 is currently in a provisional status at the time of writing.

4.0 NORWICH CITY COUNCIL TREE OFFICER COMMENTS

4.1 During the consultation period, comments were received on the submitted Arboricultural information accompanying the application from the Council's Tree Officer Mr Mark Dunthorne (Appendix B). The consultation comments provided by Mr Dunthorne were for the most part positive and supportive of the removal of trees if replacements were provided. Mr Dunthorne provided two sets of comments in relation to this application.

4.2 The first set of comments were received on the 12th November 2024 in which Mr Dunthorne raised some concerns regarding what he characterised as 'large-scale loss of trees' along the eastern boundary. Despite concerns with loss of trees on the eastern boundary, he accepted the removal of the four protected oak trees to facilitate the ramp provided that an adequate level of replacement planting was secured. He also requested an updated arboricultural report to be submitted for his consideration. Green Leaf Planning provided this updated report (version 4) in April 2025 (Appendix A).

4.3 After the revised arboricultural information (Appendix A) was available to Mr Dunthorne, he provided further comments on 15th April 2025 (Appendix C). In his comments he stated that he had '*no objections from an arboricultural perspective*' and that he recommended a number of planning conditions in respect of trees are imposed should the application be successful. He recommended *'arb supervision for working with root protection areas, works on site in accordance with AIA/AMS/TPP and mitigatory replacement tree planting'.*

4.4 The Council Officers recommended the application for approval; however, it was eventually refused planning at Committee by Council Members.

5.0 EVALUATION AND DISCUSSION

5.1 This section evaluates and discusses the proposals in relation to Reason for Refusal 2.

Reason for Refusal

5.2 Reason for Refusal 2 relates solely to the removal of the four oak trees, subjects of the Tree Preservation Order which are to be removed to facilitate the disabled and pedestrian access to Dereham Road. The submitted access drawing (J000420-SK001C - Ped Crossing Dereham Rd) (Appendix X) shows proposals for both ramped and stepped access down from Dereham Road into the site. The inclusive design of this feature allows for increased usability and equal access to the proposed development site, however, to create such an inclusively designed element of the proposals, tree removals will be required. This would likely to be the case for any wholesale redevelopment of the site.

Design of Access Ramp and Tree Losses

5.3 The proposed access steps and ramp which provides access to and from Dereham Road have been designed such that they:

- Minimises the arboricultural impact
- Maintain as much soil volume as possible to allow for significant replacement planting
- Provide disabled access which is considered to be a substantial improvement to the scheme

5.4 The construction only requires four closely spaced semi-mature oak trees, planted circa 15 years ago as confirmed by photographic images (Google Street View), to be removed which were assessed as being of moderate arboricultural quality (retention category B) in accordance with British Standard 5837 (2012) '*Trees in Relation to Design, Demolition and Construction – Recommendations*' (BS5837). These trees are afforded statutory protection by the *City of Norwich Tree Preservation Order Number 613* (Appendix X).

5.5 As stated in the Planning Applications Committee Report (Appendix X) held on Thursday 8th May 2025, "*there is an approximately 2.5m level difference between the Dereham Road to the north and the application site. To overcome this level difference and provide an inclusive access point, the proposals will install a universally designed access point, and rather than cutting into the small embankment, the ramped access point will be installed upon the existing embankment retaining a similar level of soil volume which is beneficial for the retained trees along the embankment*."

5.6 The design proposed maximises the area available for the replanting of replacement trees and will ensure that the replanting scheme can both mitigate for the loss of the protected trees and further enhance the tree scene along Dereham Road.

5.7 While it is accepted that these trees do contribute to the street scene, these trees are semi-mature and relatively young and therefore their loss can be readily mitigated for through new tree planting. It is also worth noting that the spacing of the four trees to be removed are insufficient and irrespective of the proposed development, sound arboricultural practice would remove two of these trees so as to allow the remaining two trees to grow to their full potential without undue suppression as would occur if no removals were made.

5.8 As such the proposals are in reality only responsible for removal of two trees on the Dereham Road boundary. This said, the landscape proposals dealt with below fully mitigate for the loss of all four of these oaks.

5.9 It is considered that the loss of these trees can easily be mitigated for and can be addressed through the conditioning of a robust new tree planting scheme. A condition reflecting this approach was suggested in the Officer's Report.

5.10 This view is reinforced by consultation comments made by Mr Dunthorne during the consultation period (Appendix B). On the 12th November 2024, in his first set of comments he stated that '*regarding the loss of 4 oaks on the northern boundary; I would consider this acceptable*' provided that an adequate level of replacement planting was secured. His second and final set of consultation comments on the proposals dated 15th April 2025 (Appendix C) further supported the application where upon he stated he had '*no objections from an arboricultural perspective*'. More discussion regarding replacement planting is set out below.

Replacement Tree Planting

5.11 As part of the application, a planting plan was submitted to the Council, and this provided the indicative locations of the sixteen replacement trees. The Council have it within their power to secure the planting through a planning obligation in either the form of a section 106 agreement or unilateral undertaking. The Appellant is happy to be led by the Council in respect to positioning of the replacement trees, the age of the replacement stock and the species choice through a planning condition.

5.12 Mr Dunthorne's first set of consultation comments, stated that *'the loss of 4 oaks on the northern boundary* [is considered] *to be acceptable if we* (the Council) *could secure a 3 for 1 replacement plan'.* The subsequent submitted planting plan achieved the 3 for 1 ratio requested by Mr Dunthorne and his second and final set of consultation comments dated 15th April 2025 (Appendix C) clearly satisfied Mr Dunthorn's planting requirements as he stated he had '*no objections from an arboricultural perspective*'.

Landscape Visualisations

5.13 To support the written evidence and assist in visualising the proposed replacement tree planting a set of photomontages have been created to illustrate how the mitigation planting will make up for the loss of trees along Dereham Road in a relatively short period of time.

5.14 The photomontages show the replacement oak trees at the point of planting (year 0) and at semi-maturity (year 15). At year 0, the replacement trees are young, heavy standard trees with a stem girth ranging between 12-14cm and a height of between 300-350cm.

5.15 With typical growing conditions, it would be expected that a growth rate for oak species of up to 50cm a year could be achieved meaning after 15 years, would result in trees measuring approximately 11m in height, which is comparable to the trees proposed for removal. This rate of growth would be consistent with the growth rate of the trees proposed for removal determined through use of photographic evidence of the site frontage.

5.16 It can be seen through historic Google Streetview images, that the existing oak trees along the site frontage first appear on the imagery in 2010 and of a similar height to the proposed stock size of the mitigation planting, and by 2025 when the trees were surveyed in preparation of evidence, they ranged in height from 10m – 13m which is commensurate to the sizes of the mitigation planting shown within the photomontage after 15years.

5.17 With good aftercare and in particular, management, secured by condition, and given the space these trees would be provided, it is reasonable to expect a healthy rate of growth from the replacement trees and for them to achieve these proportions.

5.18 In discharging any condition, it is at the Council's discretion to specify the size of the mitigation planting, however it can be demonstrated that heavy standard trees can achieve the same level of screening in a relatively short time frame. The Council can also stipulate post planting care such as watering and mulching routines which will be critical in ensuring that the trees establish themselves well and are given the opportunity to achieve their full potential.

6.0 POLICY COMPLIANCE & INTERPRETATION OF POLICY AND SUMMARY EVALUATION IN RESPECT OF THE PROPOSALS

6.1 Reason for Refusal 2 is based solely on the objection to removing the four oak trees on the northern boundary to provide the pedestrian and disabled access from Dereham road. The RFR 2 states that the proposal contravenes two policies which are:

- Policy DM7 Trees and Development of the Adopted Development Management Policies Local Plan 2014 and
- Paragraph 136 of The National Planning Policy Framework 2024

6.2 Policy DM7 Trees and Development of the Adopted Development Management Policies Local Plan 2014

This Policy states that:

'development requiring the loss of a protected tree or hedgerow (including preserved trees, protected hedgerows, trees in Conservation Areas, ancient trees, aged and veteran trees and trees classified as being of categories A or B in value), will only be permitted where:

a) the removal of a tree or hedgerow will enhance the survival or growth of other protected trees or hedgerows;

b) it would allow for a substantially improved overall approach to the design and landscaping of the development that would outweigh the loss of any tree or hedgerow.'

6.3 It also gives advice on mitigation planting where the loss of trees is accepted and states that:

'Where the loss of trees is accepted in these circumstances, developers will be required to provide at least equivalent replacement in terms of biomass. This should be provided on-site unless the developer can show exceptional circumstances which would justify replacement provision elsewhere.'

6.4 The pedestrian and disabled access provides inclusive access to and from Dereham Road which is considered a substantial improvement to the design. As has been show earlier in the evidence the four oak trees to be removed are semi-mature and their loss is easily mitigated for in the short to medium term and in the medium to long term the mitigation planting will provide betterment for the street scene along Dereham Road. The replacement ratio proposed of over 3 for 1 is acceptable to the Tree Officer and is considered to be equal or greater than the replanting stipulation in DM7 where upon the quantity is specified in equivalent biomass terms. As such considered that the benefits outweigh the minor short-term harm and for the proposals to fully comply with DM7.

6.5 Paragraph 136 of The National Planning Policy Framework 2024

This Policy states that:

'Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined (52), that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible.'

6.6 Paragraph 136 of The National Planning Policy Framework 2024 is primarily concerned with large developments where new streets, parks and schools etc are to be constructed. A development of the scale of this application has none of the macro planning aspects to which NPPF primarily pertains to. However, the principals of Paragraph 136 of NPPF have been adhered to by the design of these proposals.

6.7 The proposals were constraints led and the majority of trees within the site have been retained.

6.8 The proposed level of new planting will not only mitigate for the short-term losses but will enhance the medium and long term arboricultural amenity.

6.9 A suitably worded planning condition can ensure that the proposed planting scheme makes an important contribution to the character and quality of Dereham Road whilst at the same time mitigate for and adopt to climate change. There is an opportunity to create a site frontage that can be professionally landscaped to a specification required by the Council which would ensure that long-term visual amenity is secured. The final species choice can be specified by the Council to meet aspirations for building climate resilience to the City.

6.10 The Tree Officer has stated that a 3:1 replacement is acceptable.

7.0 CONCLUSION

7.1 The Appellant recognises that the appeal proposals would require the removal of four of the seven oak trees along the southern side of Dereham Road and that their amenity value is recognised through inclusion within a Tree Preservation Order.

7.2 The Council Officers have supported the proposals and made recommendation to approve the application. In forming their recommendation Officers took the view of the Tree Officer who raised no objection to the proposals from an arboricultural perspective and is content for a ratio of 3:1 with regards to replacement planting for the loss of four recently protected oak trees to secure replacement amenity and canopy cover. He stated his recommendation for a ratio of 3:1 replacement for losses offers a more pragmatic and 'achievable' requirement than paying strict adherence to the DM7 policy requirement of equivalent replacement biomass. This is in complete contradiction to Reason for Refusal 2 where the Council have generated a reason upon which to refuse the application on the grounds of the loss of TPO trees following Members voting to refuse the application at the Committee Meeting.

7.3 While the loss of protected trees will result in some short-term loss of amenity it is entirely possible to plant replacement trees along the embankment to form a structured treescape that will, even in the short to medium term, replace the visual amenity currently provided by the trees proposed for removal. In the medium to long term the proposed new planting will increase the amenity currently provided by the trees. The planting of trees is entirely within the Council's control regarding species choice and spacing, giving them an opportunity to secure the type of visual landscape they deem appropriate for the area and also provide climate resilience. The Committee Report at paragraphs 152 and 153 consider that the landscaping proposals can be dealt with through a full landscaping condition and that overall, in respect of trees and landscaping are of the opinion that the proposals are in accordance with all relevant policies that seek to safeguard the visual and environmental qualities of Norwich.

7.4 It is therefore considered there will only be a short-term loss of amenity along the Dereham Road or elsewhere on site as a result of the appeal proposals and in the long term the arboricultural amenity will be enhanced. The new tree planting will in a short space of time mature to replace any short-term loss of visual amenity.

7.5 Throughout the evidence, she believes that she has demonstrated that from an arboricultural perspective the proposals are not contrary to any of the cited policies and the grounds upon which the Council have refused the application in respect of trees are unsubstantiated.

7.6 It is therefore also demonstrated that the Tree Officer has clearly supported the application and that he was satisfied that all retained trees could be protected during construction through the use of suitably worded planning conditions which would require the production of an arboricultural method statement, tree protection plan and supervised works. This would be entirely appropriate and such requirements, through the imposition of planning conditions are typically applied in scenarios as the appeal proposals. The Council would have full control in approving the details of the methods by which works are to proceed within the vicinity of retained trees and the means by which they would be protected and once approved, the construction works would only be able to proceed in strict accordance with the approved details.

7.7 The evidence unequivocally states that the Tree Officer had no objection and is satisfied that the proposals can be delivered with minimal impacts on trees and that new planting at a ratio of 3:1 would be satisfactory to replace the loss of trees. The proposals are entirely capable of providing 16 new trees to replace any short-term loss of amenity for the loss of 4 oak and two further trees on the south side of the site. The appeal proposals would therefore not result in a negative impact on the character, local distinctiveness and quality of the urban environment of Dereham Road from an arboricultural perspective once the new tree planting is established and as such Reason for Refusal 2 is unjustified.

7.8 It is respectfully requested that the Inspector allows the appeal.

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FIGURES

Visualisations



Photo Viewpoint 1: View southeast from Dereham Road



Visualisation Type: Type 1
Projection: 'cylindrical'
Enlargement factor: 100% (when printed at A1)
Date: 05/09/25
Time: 13:22
Camera make & model, sensor format & lens:
Canon EOS 6D FFS, Canon 50mm Lens
Horizontal Field of View: 86º
Direction of View: 169º (bearing from North)
Location: 617667, 310065, 32.84m AOD (Eye Level)
Height of camera lens above ground: 1.6m
Distance to proposed building: 73m
Viewing distance: To be viewed at comfortable arm's length

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project
Lidl, Barnard Road, Norwich

title
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number
FIGURE 1

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Photo Viewpoint 1: View southeast from Dereham Road



Visualisation Type: Type 3
Projection: 'cylindrical'
Enlargement factor: 100% (when printed at A1)
Date: 05/09/25
Time: 13:22
Camera make & model, sensor format & lens:
Canon EOS 6D FFS, Canon 50mm Lens
Horizontal Field of View: 86º
Direction of View: 169º (bearing from North)
Location: 617667, 310065, 32.84m AOD (Eye Level)
Height of camera lens above ground: 1.6m
Distance to proposed building: 73m
Viewing distance: To be viewed at comfortable arm's length

Notes
Source: Corstorphine & Wright Architects:
19408-301-P-07 Proposed Site Plan
19408-306-P-06 Soft Landscaping Plan
19408-307-P-06 Hard Landscaping Plan

Type 3 visualisations have been prepared in accordance with Visual Representation of Development Proposals Technical Guidance Note 06/19, Landscape Institute, and Guidelines for Landscape and Visual Impact Assessment 3rd edition (GLVIA3.)
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number
FIGURE 2

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Photo Viewpoint 1: View southeast from Dereham Road



Visualisation Type: Type 3
Projection: 'cylindrical'
Enlargement factor: 100% (when printed at A1)
Date: 05/09/25
Time: 13:22
Camera make & model, sensor format & lens:
Canon EOS 6D FFS, Canon 50mm Lens
Horizontal Field of View: 86º
Direction of View: 169º (bearing from North)
Location: 617667, 310065, 32.84m AOD (Eye Level)
Height of camera lens above ground: 1.6m
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title
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FIGURE 3

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Photo Viewpoint 2: View southwest from Dereham Road



Visualisation Type: Type 1
Projection: 'cylindrical'
Enlargement factor: 100% (when printed at A1)
Date: 05/09/25
Time: 13:26
Camera make & model, sensor format & lens:
Canon EOS 6D FFS, Canon 50mm Lens
Horizontal Field of View: 86°
Direction of View: 208° (bearing from North)
Location: 617718, 310056, 32.34m AOD (Eye Level)
Height of camera lens above ground: 1.6m
Distance to proposed building: 72m
Viewing distance: To be viewed at comfortable arm's length

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FIGURE 4

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Photo Viewpoint 2: View southwest from Dereham Road



Visualisation Type: Type 3
Projection: 'cylindrical'
Enlargement factor: 100% (when printed at A1)
Date: 05/09/25
Time: 13:26
Camera make & model, sensor format & lens:
Canon EOS 6D FFS, Canon 50mm Lens
Horizontal Field of View: 86º
Direction of View: 208º (bearing from North)
Location: 617718, 310056, 32.34m AOD (Eye Level)
Height of camera lens above ground: 1.6m
Distance to proposed building: 72m
Viewing distance: To be viewed at comfortable arm's length

Notes
Source: Corstorphine & Wright Architects:
19408-301-P-07 Proposed Site Plan
19408-306-P-06 Soft Landscaping Plan
19408-307-P-06 Hard Landscaping Plan

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FIGURE 5

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Photo Viewpoint 2: View southwest from Dereham Road



Visualisation Type: Type 3
Projection: 'cylindrical'
Enlargement factor: 100% (when printed at A1)
Date: 05/09/25
Time: 13:26
Camera make & model, sensor format & lens:
Canon EOS 6D FFS, Canon 50mm Lens
Horizontal Field of View: 86º
Direction of View: 208º (bearing from North)
Location: 617718, 310056, 32.34m AOD (Eye Level)
Height of camera lens above ground: 1.6m
Distance to proposed building: 72m
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PHOTOVIEWPOINT 2 - PHOTOMONTAGE YEAR 15

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rev **A**

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Appendix A

Copy of Tree Survey and Arboricultural Implications Assessment

(Green Leaf Planning)

(Version 4)

Tree Survey and Arboricultural Implications Assessment

10 Barnard Way, Costessey, Norwich, NR5 9JB



Report produced by:		Produced for:	
Greenleaf Planning Ltd White House Cottage Knapton Green North Walsham Norfolk, NR28 0RU		Honeyview Investments Ltd	
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Author:	Date:	Reviewed by:	Date:
James Hodson	14/04/2025	Steve Holland	14/04/2025

MARCH 2025- V4

1	Greenleaf Ltd- Preliminary Arboricultural Implications Assessment including Tree Survey Data, a Tree Constraints Plan as Prescribed in BS 5837:2012 “Trees in Relation to Design, Demolition and Construction”.

TABLE OF CONTENTS

1.0 Introduction..... 3

2.0 Site Description..... 3

3.0 Tree Survey Method..... 5

4.0 Tree Constraints Plan..... 5

5.0 Preliminary Arboricultural Implications Assessment..... 6

6.0 Legal Status..... 7

7.0 Limitations..... 7

Appendices

Appendix A Location Plan and Layout Plans

Appendix B Tree Survey Schedule & Notes

Appendix C Tree Constraints Plan- TCP and AIA

Appendix D Extract from British Standard BS 5837:2012

Appendix E Arboricultural Method Statement

1.0 INTRODUCTION

1.1 Greenleaf Planning were commissioned by Honeyview Investments Ltd in regard to a planning application submitted to Norwich City Council for 'Full planning application for construction of a Class E food store (Lidl) with associated access, car parking, servicing and landscaping'. The site is centred at grid reference: TG178100. The proposal includes the demolition of the 'Namco Funscape' building and construction of the new food store on a similar footprint to the existing building and hard standing. Also proposed are parking spaces, cycle spaces, EV charging bays, footpath and cycleway. A landscaping plan is included which shows additional tree, shrub and hedge planting.

1.2 The site already benefits from a shared access to Barnard Road to the south as shown in Figure 2. The site is bordered by shrubs and trees to the north and east and to the south is the existing car parking area which does not form part of this application. To the west are industrial units, the north boundary adjoins the A1074 Dereham Road and the south boundary is defined by Barnard Road

1.3 A topographical site survey was undertaken to show the location of all of the site trees which are included within or adjacent to the red line boundary. The design layout has been based on the tree constraints plan shown in Appendix C. It is therefore produced in accordance with British Standard 5837:2012 'Trees in relation to design, demolition and construction - Recommendations' (hereafter; BS:5837).

1.4 Greenleaf Ltd were instructed to assess the trees within impacting distance of the proposed works (trees T1-T15 and groups G1 & G2) which are plotted on the tree survey plan (**Appendix C**), in accordance with the principles of BS 5837: 2012 'Trees in Relation to Design, Demolition and Construction.'

1.5 The aim of the assessment is to survey the trees that may be affected by the proposed demolition works, new food store, car parking areas, footpath and cycleway and access ramp up to Dereham Road. The aim of this survey is to provide a preliminary consideration of the arboricultural implications of the development and provide information to assist with the layout and design taking into account the sites arboricultural constraints.

1.6 The assessment addresses the likely impact of the proposed demolition and construction works and service trenches etc. and provides recommendations where necessary for the protection of trees during construction work based on BS: 5837. An OS plan was provided, and a topographic survey completed by which has been used as the basis for the Tree Constraints Plan (TCP) and Arboricultural Implications Assessment (AIA). An existing and proposed site layout plan was also provided (**Appendix A**). The ultimate purpose of this report is to identify the quantity and quality of the tree stock, contribution to public amenity and the constraints particular trees may offer to the site in terms of the proposed construction works.

1.7 Details were provided by Norwich City Council with regards to Tree Preservation Order TPO 24/00613/24 with regards to a group of 7 Oak trees situated along the north boundary with Dereham Road. A total of 4 of these trees are scheduled to be removed in order to facilitate a footpath/cycleway ramp up to Dereham Road and to be replaced with the same number of trees (>300mm diameter) further along the embankment as shown in the soft landscaping drawing 19408-306.

2.0 SITE LOCATION AND DESCRIPTION

2.1. The application site is situated in the Bowthorpe industrial area, approximately 5km west of Norwich City and 2km east of the Longwater Retail Park. The site is accessible from Barnard Road to the south and pedestrians can also access the site from the north off Dereham Road. The nearest main road is the A47 approximately 2.1km north-west. The application site comprises a roughly rectangular shaped parcel of land and existing access extending to approximately 10,274m^2 or 1.03ha.

2.2. The site contains a large leisure facility building extending to approximately 4,120m^2 bordered by tarmacadam and concrete hard standings. To the south there is a large car parking area which does not form part of this application. To the north, east and south are areas of short managed modified grassland, scattered trees and shrubs, the majority of which will be retained. 4 early mature oak trees within the TPO group G1, 1 alder (T1), silver birch (T2), willow (T9), oak (T11) and sycamore (T12) will require removal, in total 9 tree specimens to be removed and a total of 16 replacement trees planted.

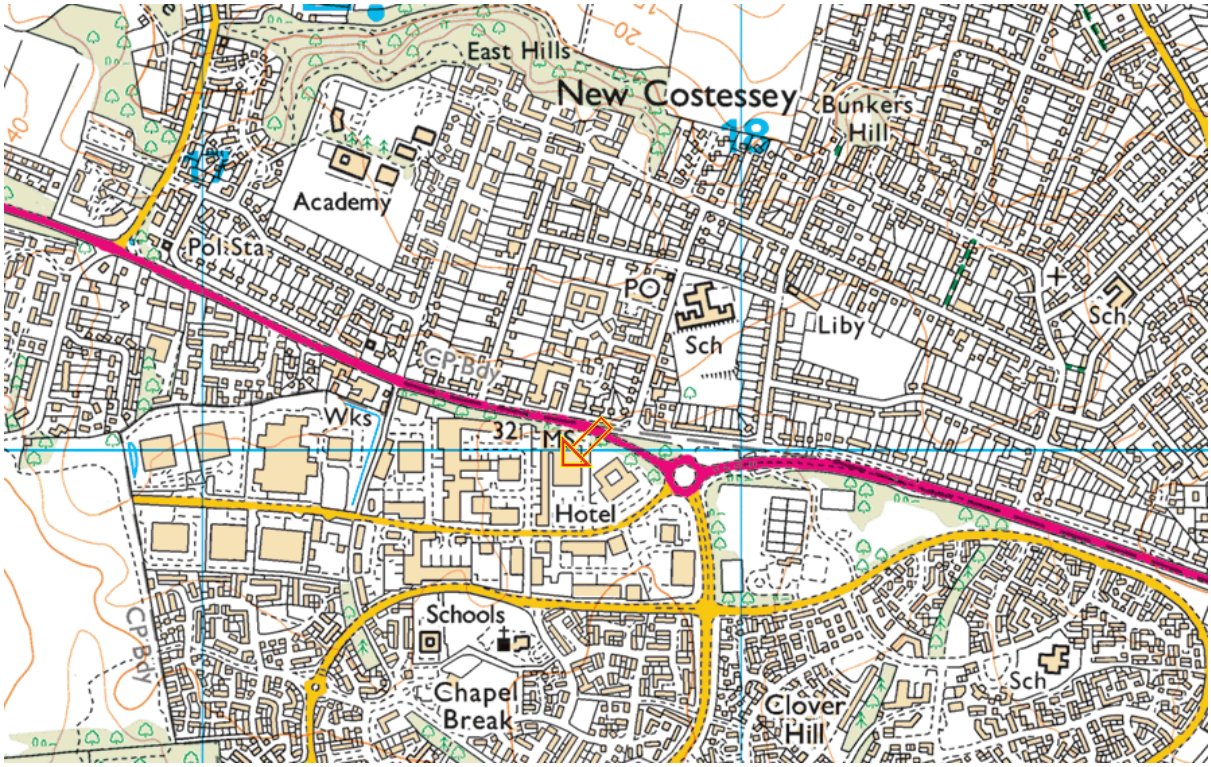


Figure 1. Site Location Map – StreetMap 2023



Figure 2. Aerial View of Site – Google Earth- July 2022

3.0 TREE SURVEY METHOD

3.1 Within the red line boundary and any trees close to the boundary were surveyed and these are numbered in the tree survey schedule (Appendix B) as T1-T15 and a groups G1 & G2. The trees surveyed included oak (*Qercus robur),* alder (*Alnus glutinosa),* willow (*Salix caprea),* sycamore (*Acer pseudoplatanus),* silver birch (*Betula pendula)*, ash (*Fraxinus excelsior),* common lime (*Tilia europaea)* and hazel (*Corylus avellana)*. The majority of the trees are mostly of the same age class and would appear to be approximately 30 years old and planted when the site was developed. These trees have been plotted onto the plan to show location, trunk diameter, RPA and canopy spread.

3.2 The trees were assessed on 26th March 2025 and their details are in the attached schedule (**Appendix B**). The schedule gives the survey findings in tabular form, which conforms to the BS 5837:2012 Standard, **Appendix B** gives a full explanation of the headings.

3.3 The details recorded during the survey have been collected independently of the development proposals and the categorisation of the quality and amenity value of the trees is made on purely arboricultural grounds. The trees indicated on the site survey plan provided (**Appendix C**) have been visually inspected and assessed from ground level only and no aerial inspection has been made, nor has any decay detection equipment been used.

3.4 The trees have been detailed in the tree survey schedule to include identification number, which corresponds to the position on the site, species (English name), an estimated height, a north, south, east west measurement of the canopy spread where uneven or an average spread, an assessment of the

tree's maturity, a measured trunk diameter at 1.5m above ground, the tree's condition, a quality grading in accordance with the guidance set out in BS 5837:2012 and some comments where relevant.

3.5 Included at **Appendix D** is a section of the BS 5837: 2012 standard that refers to the tree survey grading system at **Table 1**. For clarity, the grading system is summarised as follows:

- U grade – trees for removal (effective for less than 10 years)
- A grade – trees of high quality and value, effective for more than 40 years
- B grade – trees of moderate quality and value, effective for more than 20 years
- C grade – trees of low quality and value, effective for 10 years

4.0 TREE CONSTRAINTS PLAN

4.1 A group of 4 early mature oak trees within the TPO group G1, 1 alder (T1), silver birch (T2), willow (T9) oak (T11) and a sycamore (T12) will require removal to facilitate the development (numbered in red). These trees all have above ground constraints with the proposed layout and/or have significant below ground constraints with there RPA's such that they would require removal.

4.2 The proposed footprint of the food store building has no above ground constraints or below ground constraints with any trees. It can also be seen that the pedestrian footpath/cycleway runs through areas of the RPA's of trees T13, T14 & T15 along the east boundary and so it is proposed that a cellular no-dig path construction be utilised within these areas as shown by the red hatch in the hard landscaping drawing in Appendix A.

4.3 Finally, it appears that the existing and new building edge falls close to the canopy of trees T1 & T2. Reasonable juxtaposition would suggest that the proximity of the trees canopy and RPA to the building will require their removal for demolition and construction works. It is envisaged all of the remaining trees can be retained and maintained without impacting on tree health and/or amenity and landscape value. The influence the trees will have on the layout of the development is set out in the context of the Tree Constraints Plan which forms **Appendix C**. The AutoCAD plan provided has been used as the basis for the TCP.

4.4 **Appendix C** shows the position of the trees by a circle coloured according to the quality assessment category (as detailed in **Appendix B**). Canopy spread is shown as a hatched green circle and the RPA as a dark green circle (Category A), blue circle (Category B) and grey circle (Category C). The plan deals with constraints the trees may place on the development in two areas as follows:

- Below Ground Constraints

The Root Protection Areas (RPA) for the trees is shown as a coloured circle according to its category grading. The RPA will be used to fix the boundaries of any_temporary fencing needed to protect the trees during construction forming the Construction Exclusion Zone (CEZ).

- Above Ground Constraints

The branch spread of the trees has been shown by a hatched green line and gives an indication of the shadows created by trees around mid-day in the summer. This is recommended in BS 5837 (2012) but actual shade patterns vary throughout the year.

5.0 GENERAL ARBORICULTURAL CONSIDERATIONS

5.1 All of the site trees were assessed as being either Category B (moderate value) or Category C (low value) with the exception of T8 a Category A Sycamore which is to be retained.

5.2 It can be seen that a group of 4 early mature oak trees within the TPO group G1, 1 alder (T1), silver birch (T2), willow (T9) oak (T11) and a sycamore (T12) will require removal.

5.3 The proposed footpath/cycleway has below ground constraints with trees T13, T14 & T15 along the east boundary such that a no-dig tree construction methodology will be required as indicated on the tree constraints plan TCP and tree protection plan TPP. The no-dig path will safeguard these trees. A Heras fence will require installation as shown on the tree protection plan to form a barrier between the trees and the operational site areas.

5.4 Any exposed tree roots will be cleaned, cut and trimmed to allow quicker recovery and re-growth of the root system.

5.5 Tree protective fencing would be required as shown in the Tree Protection Plan (TPP) to protect the canopy and RPA outside of the proposed construction area. Trakmats may also be required for any groundworks within the RPA but outside of the no-dig area and as detailed in the arboricultural method statement.

5.6 Within the RPA it is usually not permissible to:

- Carry out ground excavations without seeking appropriate advice.
- Make any ground level changes without seeking appropriate advice.
- Store building materials or machinery
- Dispose of waste materials and liquids.
- Site a bonfire or erect a site hut
- Use trees as anchor points for mechanical equipment or cables.

5.7 Where the retention of single trees of Category A or B significantly affects development of the site, the LPA may consider removal and replacement to be a viable option. In such an event all trees should be maintained for three years after planting including keeping plants weed free, checking and maintaining guards and supports and replacing any failures that occur with stock of the same size and quality.

6.0 LEGAL STATUS

6.1 The application site is not within a Conservation Area but the group of 7 oak trees on the north boundary embankment are protected under a recent tree preservation order TPO-24/00613/24, therefore prior notice will be required from the LPA before any arboricultural works commence for the removal of 4 of these specimens.

7.0 SOFT LANDSCAPING

7.1 A soft landscaping drawing has been submitted with the application which shows a range of plants and shrubs. A total of 16 medium sized (>300mm diameter) trees are to be planted as replacement for the 9 trees lost, 9 of which will be to the north boundary embankment, 5 to the south boundary and a further two to the south-east corner either side of the proposed pedestrian crossing.

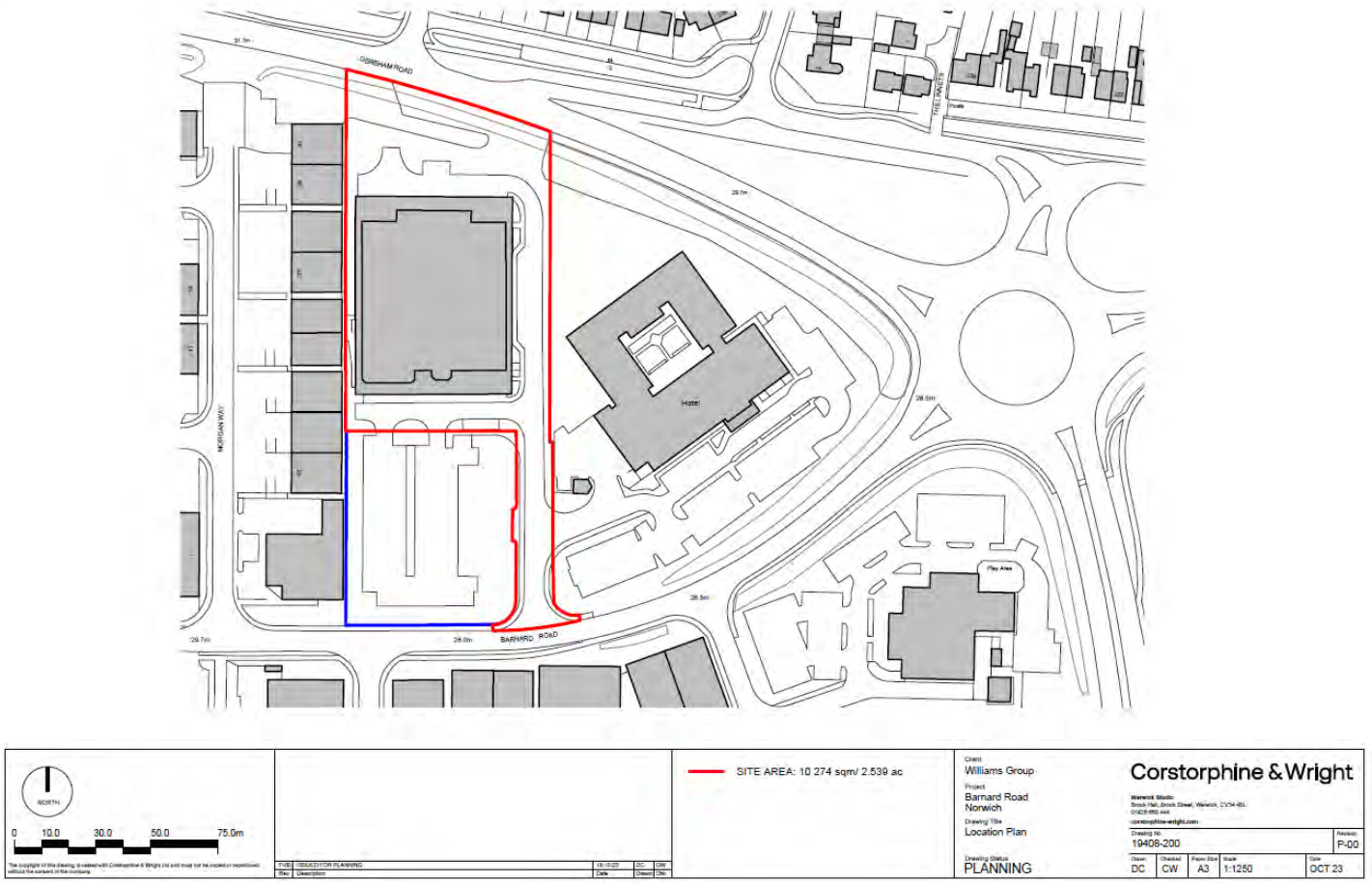
8.0 LIMITATIONS

8.1 All trees likely to be impacted by the proposed construction works have been subject to a detailed inspection and their potential conflicts with the outline proposals addressed in this AIA. In the view of an independent arboricultural consultant all reasonable concerns arising from the consultant's assessment can been satisfied to the fullest standard.

8.2 The objective assessment has resulted in the recommendations for tree protection and mitigation should the scheme be progressed. This report includes a preliminary AIA, AMS and a TPP, in order to cement BS:5837's guidelines. No assessment of the soils or wood tissue has been sent for laboratory analysis unless specifically stated. Our assessments are based on professional experience and expert observation at the time of the inspection. No liability can be assumed to rest with Greenleaf Ltd should conditions alter after our inspections.

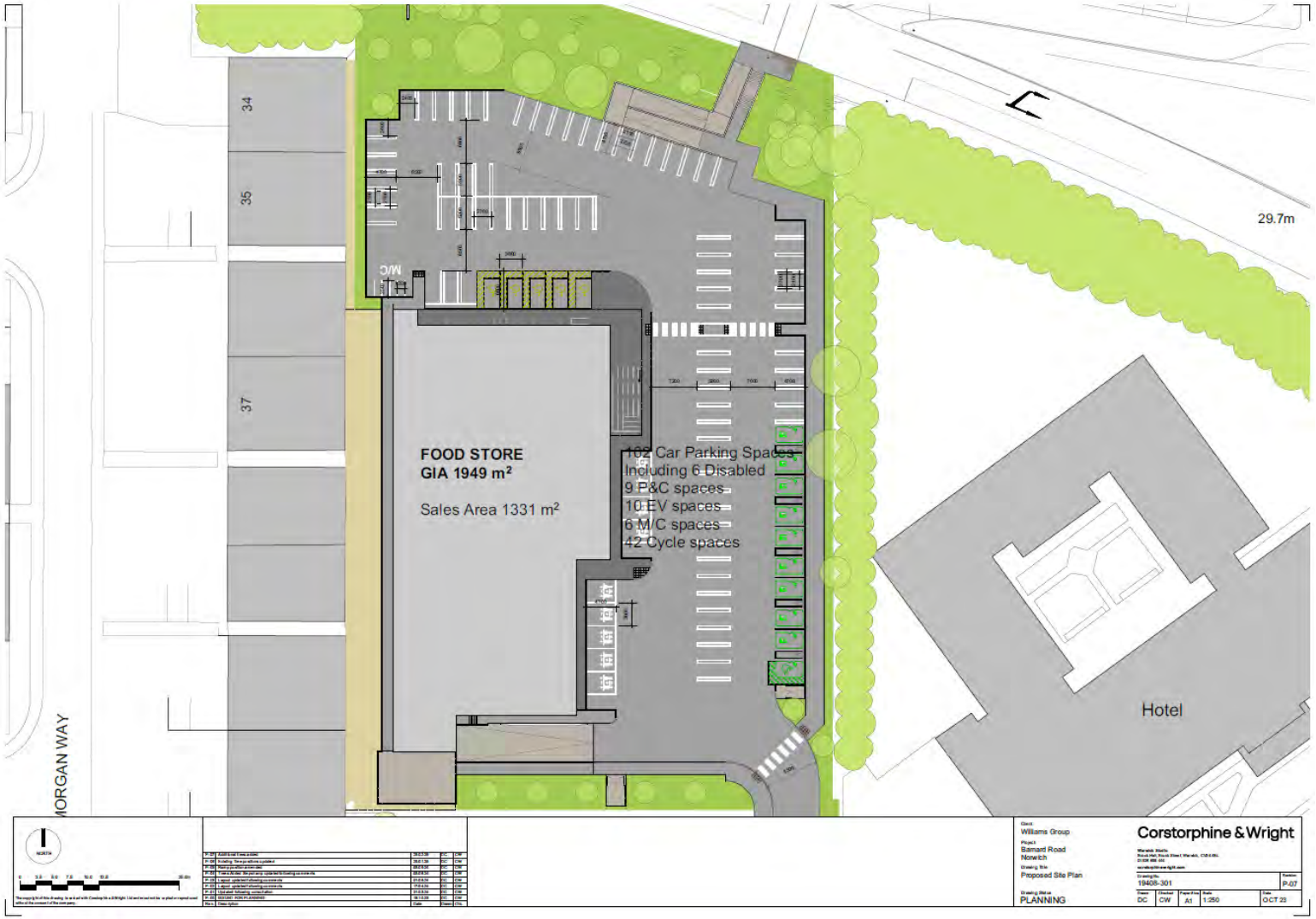
8.3 Prior to the implementation of any works, we strongly recommend that the Local Authority be consulted to obtain any necessary consent. We must be informed immediately of any alterations to plans or site features upon which we have based our assessments and or advice. This may affect the report and or any recommendations. We recommend that your trees should be inspected regularly by professionals as part of prudent tree management programme. This report has been prepared for the sole use and benefit of the client. Any liability of Greenleaf Ltd shall not be extended to any third party. No part of this report is to be reproduced without prior authorisation.

APPENDIX A



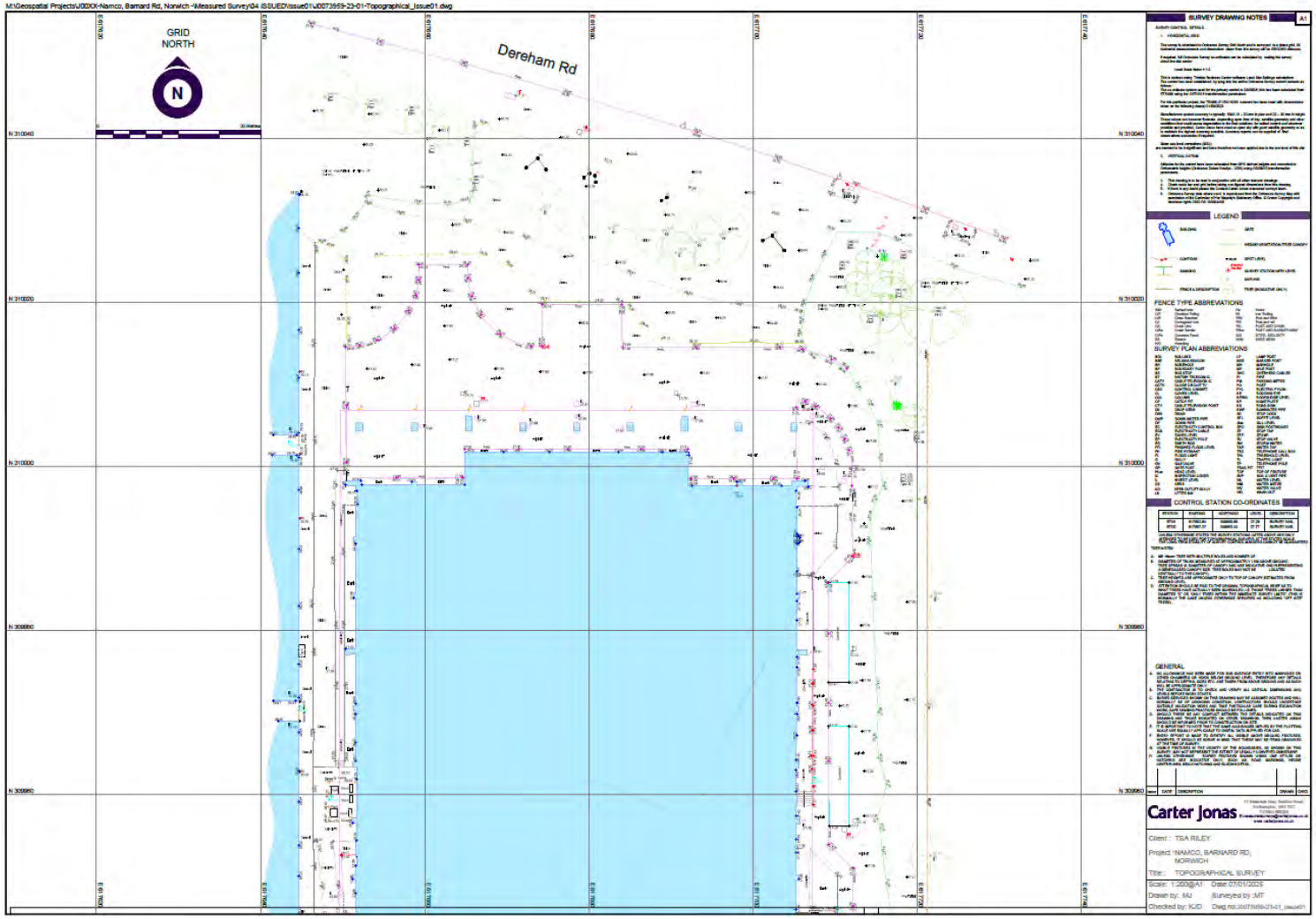
Site Location and Red Line boundary

Greenleaf Ltd- Preliminary Arboricultural Implications Assessment including Tree Survey Data, a Tree Constraints Plan as Prescribed in BS 5837:2012 “Trees in Relation to Design, Demolition and Construction”.



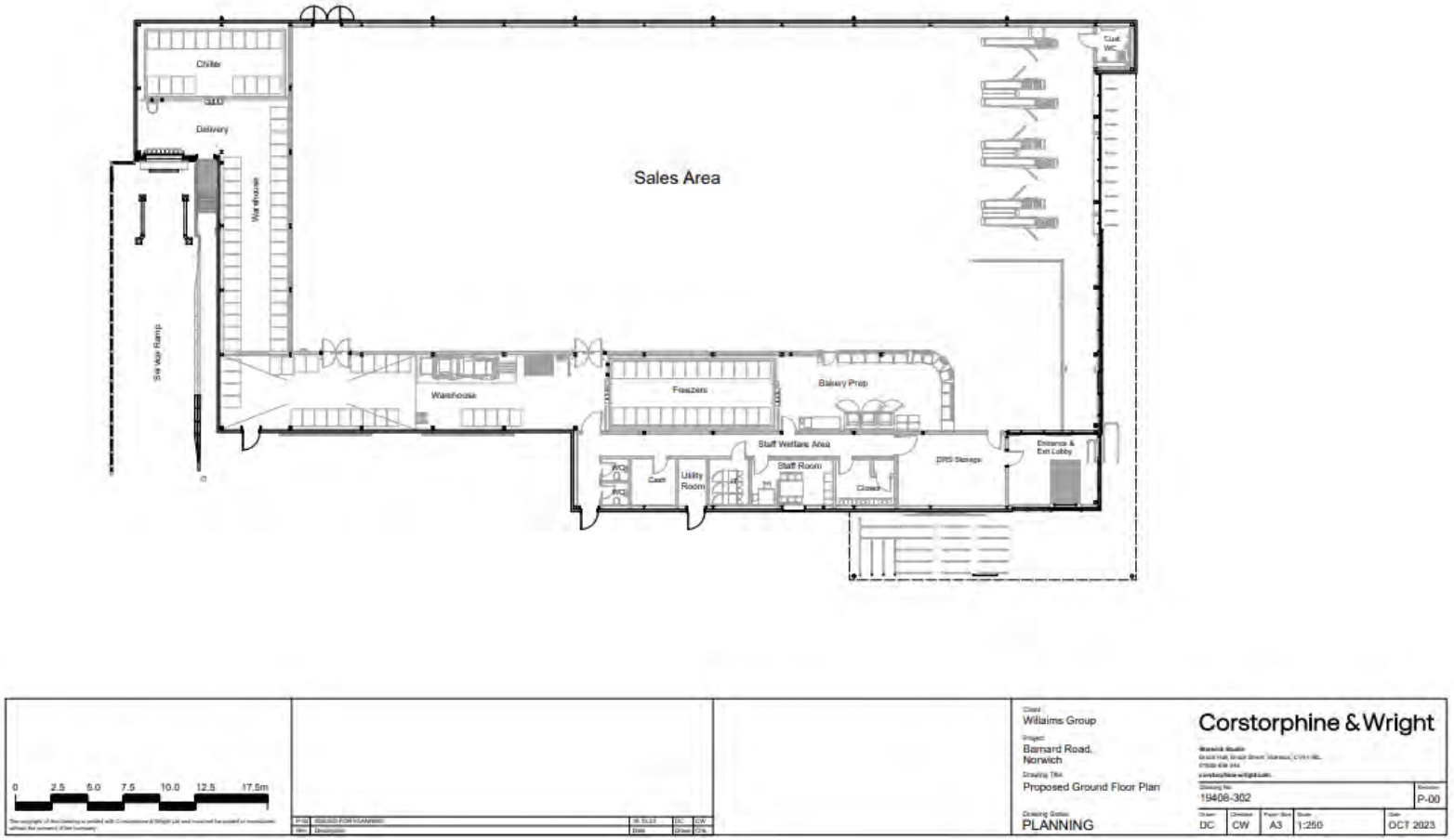
Proposed Site Layout Plan

10	Greenleaf Ltd- Preliminary Arboricultural Implications Assessment including Tree Survey Data, a Tree Constraints Plan as Prescribed in BS 5837:2012 “Trees in Relation to Design, Demolition and Construction”.

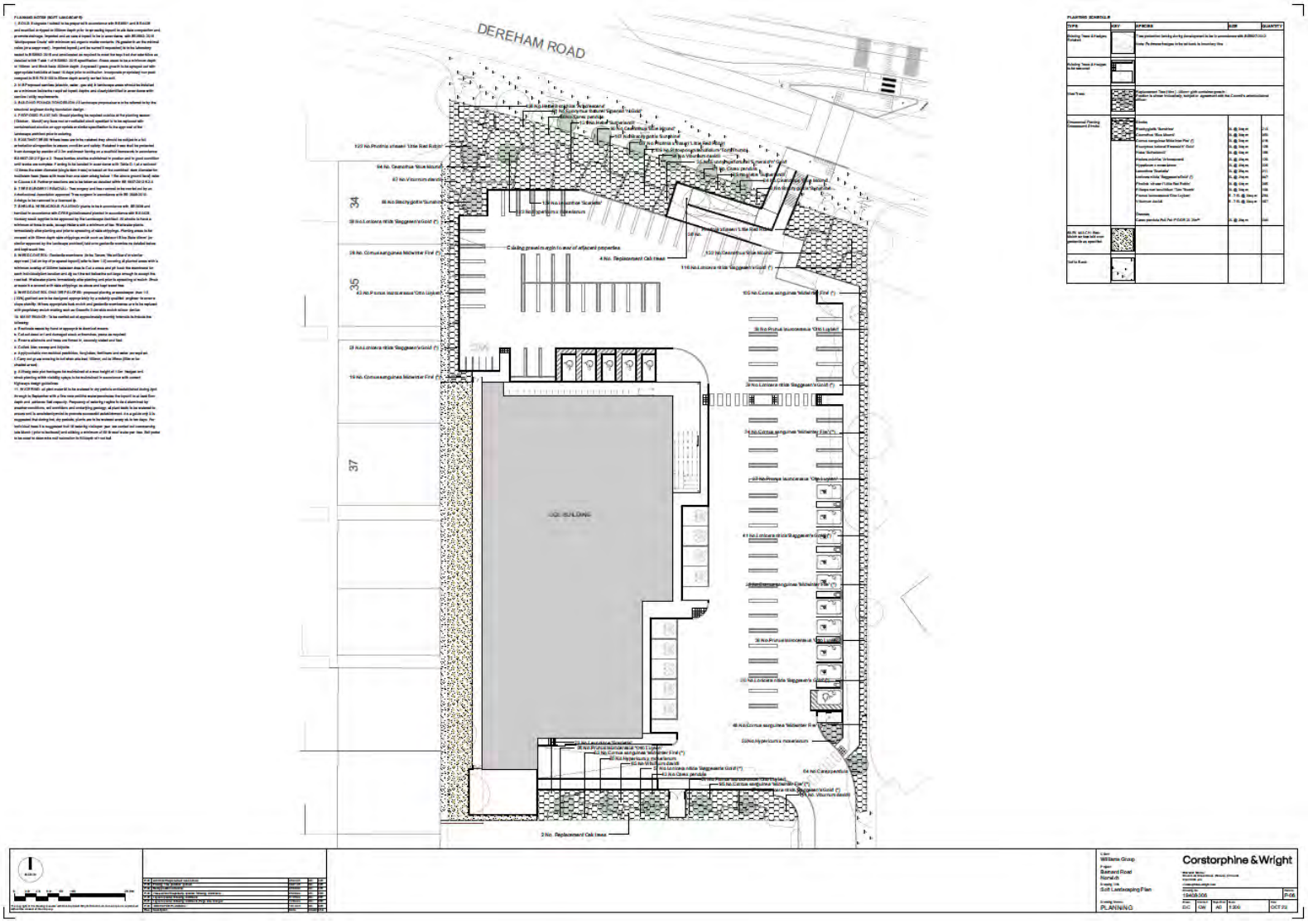


Existing Site Layout- Topographical Survey Drawing

Greenleaf Ltd- Preliminary Arboricultural Implications Assessment including Tree Survey Data, a Tree Constraints Plan as Prescribed in BS 5837:2012 “Trees in Relation to Design, Demolition and Construction”.

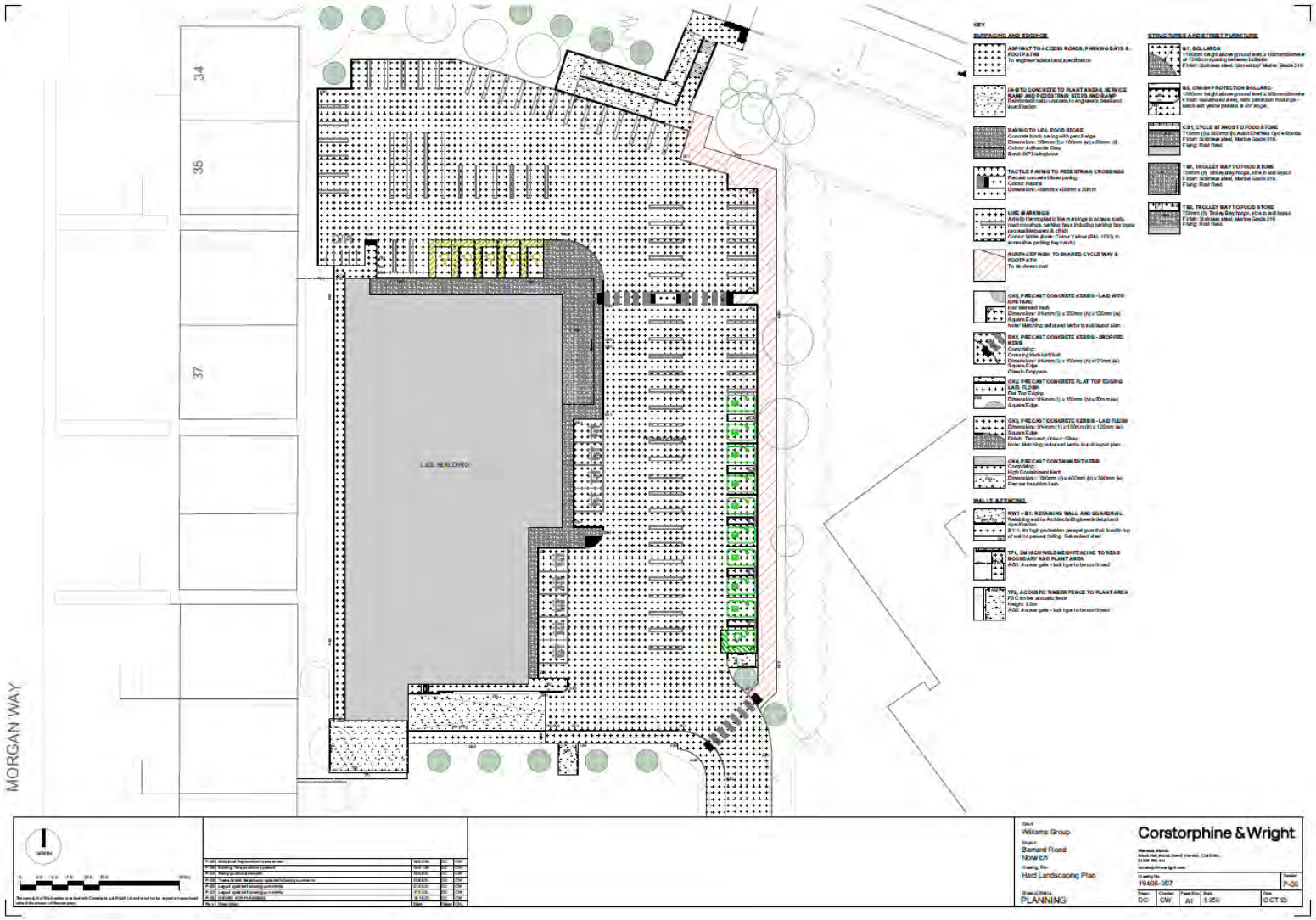


Proposed Floorplan



Soft Landscaping Masterplan

13 Greenleaf Ltd- Preliminary Arboricultural Implications Assessment including Tree Survey Data, a Tree Constraints Plan as Prescribed in BS 5837:2012 “Trees in Relation to Design, Demolition and Construction”.



Hard Landscaping Masterplan

Greenleaf Ltd- Preliminary Arboricultural Implications Assessment including Tree Survey Data, a Tree Constraints Plan as Prescribed in BS 5837:2012 “Trees in Relation to Design, Demolition and Construction”.

APPENDIX B

Tree No	Species	Circumfrence mm	Ht (m)	Diameter DBH (mm)	Canopy Radius (m)	Clearance height from ground to canopy	RPA radius (m)	Rpa m²	Condition- Good, Fair, Poor	CaT- A,B,C	Remaining Contribution	AGE- LM,M, SM, EM, Y	Notes
T1	**Alder**	700	13	**223**	3.7	0.5	**2.7**	**22.5**	Good	B	**40+**	SM	Minor specimen off south-west corner of existig buildig to be removed.
T2	**Silver birch**	1000	13	**318**	4.1	3	**3.8**	**45.8**	Good	B	**40+**	SM	Minor specimen off south-west corner of existig buildig to be removed.
T3	**Hawthorn**	450	9	**143**	3.1	1	**1.4**	**6.4**	Fair	C	**20-40**	SM	Minor specimen within crowded area of small trees and shrubs.
T4	**Oak**	625	9	**199**	5.5	1.8	**2.4**	**17.9**	Fair	C	**40+**	EM	Minor specimen within crowded area of small trees

Greenleaf Ltd- Preliminary Arboricultural Implications Assessment including Tree Survey Data, a Tree Constraints Plan as Prescribed in BS 5837:2012 “Trees in Relation to Design, Demolition and Construction”.

												and shrubs.
T5	**Sycamore**	1250	10	**398**	4.4	4	**4.8**	**71.6**	Fair	B	**40+**	SM	Located on north boundary parallel with Dereham Road
T6	**Hazel**	650	6.5	**207**	2.6	0.5	**2.1**	**13.5**	Fair	C	**40+**	SM	Minor specimen within crowded area of small trees and shrubs.
T7	**Common Lime**	950	11	**302**	4	2.4	**3.6**	**41.4**	Good	B	**40+**	EM	Located on north boundary parallel with Dereham Road
T8	**Sycamore**	2100	15	**668**	5.4	3	**8.0**	**202.2**	Good	A	**40+**	M	Located in north-east corner close to proposed footpath/cycle path.
T9	**Willow**	1100	11	**350**	4.8	6	**4.2**	**55.5**	Fair	B	**20-40**	EM	Located in overgrown north-east

													corner of site- to be removed .
T10	**Oak**	1100	16	**350**	4.4	3.8	**4.2**	**55.5**	Fair	B	**40+**	EM	Falling just outside the red line boundary to the north-east corner.
T11	**Oak**	300	7	**95**	3.5	1.1	**1.1**	**4.1**	Fair	C	**40+**	EM	Located on the east boundary set within area of cherry laurel shrubs
T12	**Sycamore**	600	10	**191**	3.8	1	**2.3**	**16.5**	Fair	C	**40+**	EM	Located on the east boundary set within area of cherry laurel shrubs
T13	**Silver birch**	1000	16	**318**	3.8	3.5	**3.8**	**45.8**	Fair	C	**40+**	M	Located offsite beyond east boundary
T14	**Common Lime**	900	16	**286**	5.2	2	**2.9**	**25.8**	Good	C	**40+**	EM	Multi stem
T15	**Sycamore**	850	15	**271**	3.4	2	**3.2**	**33.1**	Good	C	**40+**	EM	Outside boundary

G1	**Oak**	1000	9	**318**	4.5	2.8	**3.8**	**45.8**	Good	B	**40+**	EM	Group of 7 trees along north bank protected under TPO-24/00613/24. 4 Specimens to be removed from the group.
G2	**Common lime and Oak**	850	11	**271**	4	2.5	**3.2**	**33.1**	Fair	B	**40+**	EM	Crowded group of trees and self-set saplings within north-east corner of site around trees T8 and T9.Would benefit from some thinning and formative pruning of retained specimens to enhance the retained trees of note.

Tree Survey Schedule

Categories

Below is an explanation of the categories used in the attached Tree Survey.

No	Identifies the tree on the drawing.
Species	Common names are given to aid understanding for the wider audience.
BS 5837 Main Category	Using this assessment (BS 5837:2012, Table 1), trees can be divided into one of the following simplified categories, and are differentiated by cross-hatching and by colour on the attached drawing: **Category A** - Those of high quality with an estimated remaining life expectancy of at least 40 years; **Category B** - Those of moderate quality with an estimated remaining life expectancy of at least 40 years; **Category C** - Those of low quality with an estimated remaining life expectancy of at least 10 years, or young trees with a stem diameter below 150 mm; **Category U** - Those trees in such condition that they cannot realistically be retained as living trees in the context of the current land use for longer than 10 years.
BS 5837 Sub Category	Table 1 of BS 5837:2012 also requires a sub category to be applied to the A, B, C, and U assessments. This allows for a further understanding of the determining classification as follows: **Sub Category 1** - Mainly arboricultural qualities; **Sub Category 2** - Mainly landscape qualities; **Sub Category 3** - Mainly cultural values, including conservation ; Please note that a specimen or landscape feature may fulfil the requirements of more than one Sub Category.
DBH (mm)	Diameter of main stem in millimetres at 1.5 metres from ground level. Where the tree is a multi-stem, the diameter is calculated in accordance with item 4.6.1 of BS 5837:2012.
Age	Recorded as one of seven categories: **Y** Young. Recently planted or establishing tree that could be transplanted without specialist equipment, i.e. less than 150 mm DBH. **S/M** Semi-mature. An established tree, but one which has not reached its prospective ultimate height. **E/M** Early-mature. A tree that is reaching its ultimate potential height, whose growth rate is slowing down but if healthy, will still increase in stem diameter and crown spread. **M** Mature. A mature specimen with limited potential for any significant increase in size, even if healthy. **O/M** Over-mature. A senescent or moribund specimen with a limited safe useful life expectancy. Possibly also containing sufficient structural defects with attendant safety and/or duty of care implications. **V** Veteran. An over-mature specimen, usually of high value due to either its age, size and/or ecological significance **D** Dead.

Height	Recorded in metres, measured from the base of the tree.
Crown Base	Recorded in metres, the distance from ground and aspect of the lowest branch material.
Lowest Branch	Recorded in metres, the distance from ground and aspect of the emergence point of the lowest significant branch.
Life Expectancy	Relates to the prospective life expectancy of the tree and is given as 4 categories. 1 = 40 years+; 2 = 20 years+; 3 = 10 years+; 4 = less than 10 years.
Crown Spread	Indicates the radius of the crown from the base of the tree in each of the northern, eastern, southern and western aspects.
Minimum Distance	This is a distance equal to 12 times the diameter of the tree measured at 1.5 metres above ground level for single stemmed trees and 12 times the average diameter of the tree measured at 1.5 metres above ground level tree for multi stemmed specimens. (BS 5837:2012, section 4.6).
RPA	This is the Root Protection Area, measured in square metres and defined in BS5837:2012 as "a layout design tool indicating the minimum area around a tree deemed to contain sufficient roots and rooting volume to maintain the tree's viability, and where the protection of the roots and soil structure is treated as a priority". The RPA is shown on the drawing.. Ideally this is an area around the tree that must be kept clear of construction, level changes of construction operations. Some methods of construction can be carried out within the RPA of a retained tree but only if approved by the Local Planning Authority's tree officer.
Water Demand	This gives the water demand of the species of tree when mature, as given in the NHBC Standards Chapter 4.2 "Building Near Trees".
Visual Amenity	Concerns the planning and landscape contribution to the development site made by the tree, hedge or tree group, in terms of its amenity value and prominence on the skyline along with functional criteria such as the screening value, shelter provision and wildlife significance. The usual definitions are as follows: Low — An inconsequential landscape feature. Moderate — Of some note within the immediate vicinity, but not significant in the wider context. High — Item of high visual importance.
Problems/ Comments	May include general comments about growth characteristic, how it is affected by other trees and any previous surgery work; also, specific problems such as deadwood, pests, diseases, broken limbs, etc.
Work Required (TS)	Identifies the necessary tree work to mitigate anticipated problems and deal with existing problems identified in the "Problems/comments" category.
Work Required (AIA)	Identifies the tree work specifically necessary to allow a proposed development to proceed.

Priority	This gives a priority rating to each tree allowing the client to prioritise necessary tree works identified within the Tree Survey. **1** Urgent – works required immediately; **2** Works required within 6 months; **3** Works required within 1 year; **4** Re-inspect in 12 months, **0** Remedial works as part of implementation of planning consent.

TREE SURVEY SCHEDULE

Age Class Definition

P Recently planted trees & saplings; not fully established. (Generally capable of being transplanted or easily replaced.)

Y Young: Establishing; usually with good vigour, but as yet of limited significance in the landscape.

EM Early-Mature; established; normally vigorous & increasing in height. Of increasing landscape significance.

M Mature; Fully established trees around the middle half of their usual life-expectancy; generally retaining good vigour and achieving full height but their crowns still spreading.

LM Late-mature: Fully established trees, retaining moderate vigour but with growth slowing.

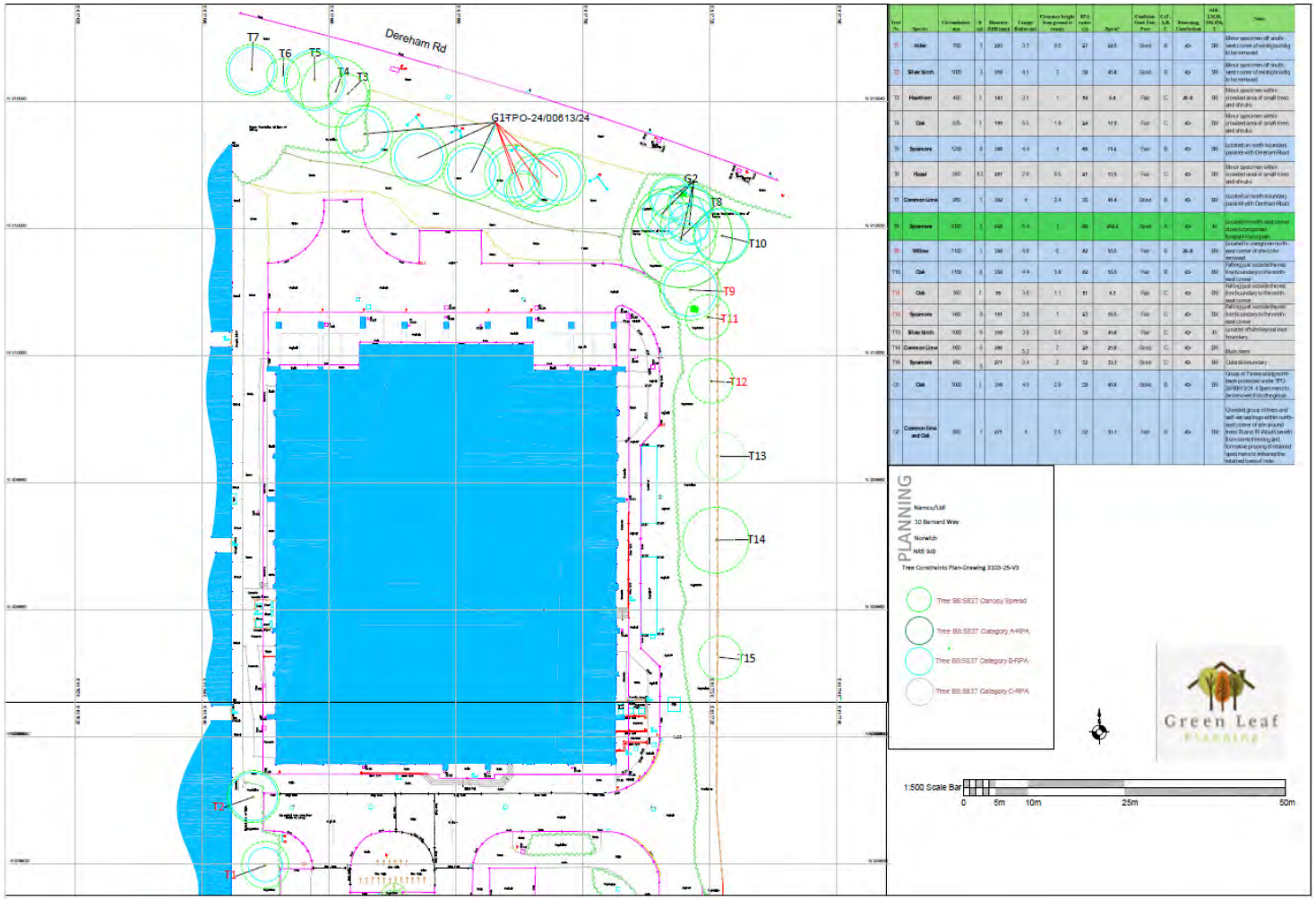
O Old: Fully mature trees in last quarter of their usual life-expectancy; vigour declining.

A Ancient: Very old; low vigour; liable to decline. May include important Veteran Trees

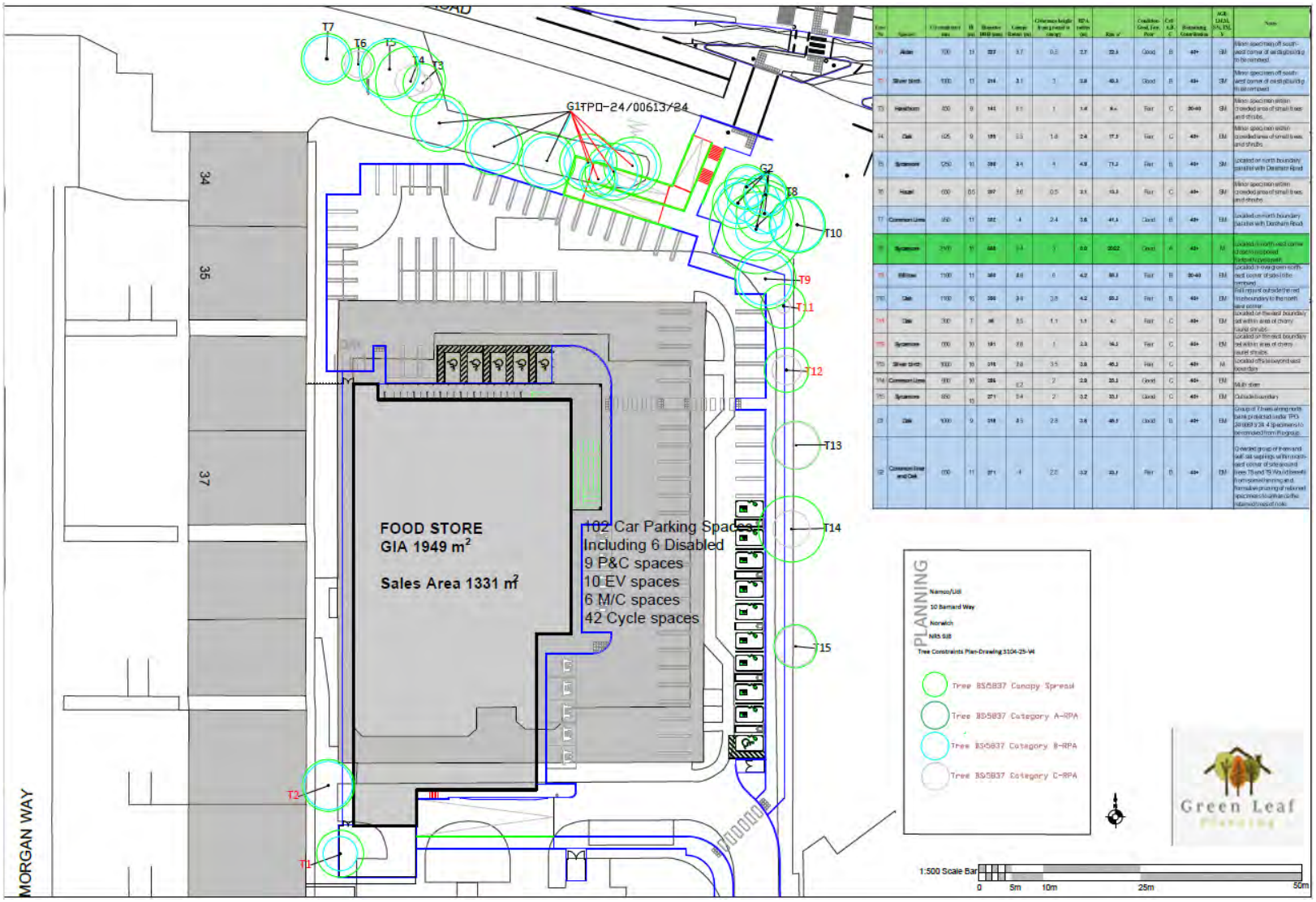
BS 5837:2012 Terms and Definitions

Access Facilitation Pruning	One-off tree pruning operation, the nature and effects of which are without significant adverse impact on tree physiology or amenity value, which is directly necessary to provide access for operations on site.
Arboricultural Method Statement	Methodology for the implementation of any aspect of development that is within the root protection area, or has the potential to result in loss of or damage to a tree to be retained.
Arboriculturist	Person who has, through relevant education, training and experience, gained expertise in the field of trees in relation to construction.
Competent Person	Person who has training and experience relevant to the matter being addressed and an understanding of the requirements of the particular task being approached. *NOTE - a competent person is expected to be able to advise on the best means by which the recommendations of this British Standard may be implemented.*
Construction	Site-based operations with the potential to affect existing trees.
Construction Exclusion Zone	Area based on the root protection area from which access is prohibited for the duration of a project.
Root Protection Area (RPA)	Layout design tool indicating the minimum area around a tree deemed to contain sufficient roots and rooting volume to maintain the tree's viability, and where the protection of the roots and soil structure is treated as a priority.
Service	Any above or below ground structure or apparatus required for utility provision. **NOTE** - examples include drainage, gas supplies, ground source heat pumps, CCTV and satellite communications.
Stem	Principal above ground structural component(s) of a tree that supports its branches.
Structure	Manufactured object, such as a building, carriageway, path, wall, service run, and built or excavated earthwork.
Tree Protection Plan	Scale drawing, informed by descriptive text where necessary, based upon the finalized proposals, showing trees for retention and illustrating the tree and landscape protection measures.
Veteran Tree	Tree that, by recognized criteria, shows features of biological, cultural or aesthetic value that are characteristic of, but not exclusive to, individuals surviving beyond the typical age range for the species concerned. **NOTE** - these characteristics might typically include a large girth, signs of crown retrenchment and hollowing of the stem.

APPENDIX C



Tree Survey Plan- Existing



Tree Constraints Plan- TCP- Proposed

Greenleaf Ltd- Preliminary Arboricultural Implications Assessment including Tree Survey Data, a Tree Constraints Plan as Prescribed in BS 5837:2012 “Trees in Relation to Design, Demolition and Construction”.

APPENDIX D

BS5837:2012 Table 1 – Cascade chart for tree quality assessment

Category and definition	Criteria (including subcategories where appropriate)			Identification on plan
Trees unsuitable for retention (see Note)				
Category U Those in such a condition that they cannot realistically be retained as living trees in the context of the current land use for longer than 10 years	• Trees that have a serious, irremediable, structural defect, such that their early loss is expected due to collapse, including those that will become unviable after removal of other category U trees (e.g. where, for whatever reason, the loss of companion shelter cannot be mitigated by pruning) • Trees that are dead or are showing signs of significant, immediate, and irreversible overall decline • Trees infected with pathogens of significance to the health and/or safety of other trees nearby, or very low quality trees suppressing adjacent trees of better quality *NOTE Category U trees can have existing or potential conservation value which it might be desirable to preserve; see [BS5837:2012] 4.5.7.*			
	1 Mainly arboricultural qualities	**2 Mainly landscape qualities**	**3 Mainly cultural values, including conservation**	
Trees to be considered for retention				
Category A **Trees of high quality** with an estimated remaining life expectancy of at least 40 years	Trees that are particularly good examples of their species, especially if rare or unusual; or those that are essential components of groups or formal or semi-formal arboricultural features (e.g. the dominant and/or principal trees within an avenue)	Trees, groups or woodlands of particular visual importance as arboricultural and/or landscape features	Trees, groups or woodlands of significant conservation, historical, commemorative or other value (e.g. veteran trees or wood-pasture)	
Category B **Trees of moderate quality** with an estimated remaining life expectancy of at least 20 years	Trees that might be included in category A, but are downgraded because of impaired condition (e.g. presence of significant though remediable defects, including unsympathetic past management and storm damage), such that they are unlikely to be suitable for retention for beyond 40 years; or trees lacking the special quality necessary to merit the category A designation	Trees present in numbers, usually growing as groups or woodlands, such that they attract a higher collective rating than they might as individuals; or trees occurring as collectives but situated so as to make little visual contribution to the wider locality	Trees with material conservation or other cultural value	
Category C **Trees of low quality** with an estimated remaining life expectancy of at least 10 years, or young trees with a stem diameter below 150 mm	Unremarkable trees of very limited merit or such impaired condition that they do not qualify in higher categories	Trees present in groups or woodlands, but without this conferring on them significantly greater collective landscape value; and/or trees offering low or only temporary/transient landscape benefits	Trees with no material conservation or other cultural value	

FLAC Note

The original contents of the column *Identification on plan* have been replaced by FLAC in the version above; spot colours to RGB codes given in BS5837:2012 Table 2

APPENDIX E

TABLE OF CONTENTS

1. **Introduction..... 2**
2. **Site Supervision and Reporting..... 2**
3. **Programme of Works..... 2**
4. **Construction of Piled Foundations for Ramp within RPA..... 3**
5. **Construction of hard surfaces within RPAs..... 4**
6. **Installation of Underground Surfaces..... 4**
7. **Works to Existing Trees..... 5**
8. **Tree Protection..... 5**
9. **Works Within RPA's..... 6**
10. **General Precautions..... 7**

Appendices

Annex A Signage for Tree Protective Fencing and Ground Protection Mats

Annex B Specification for No-Dig Footpath/Cycle path and Cell-Web

Annex C Advisory Information

Annex D- Development Notes

Annex E- BS 5837: 2005 - Types of hard surfaces and their suitability in proximity to trees

Annex F- Tree Protection Overview Plan

1. Introduction

1.1 This method statement has been prepared for submission to Norwich City Council in connection with a planning application for construction of a Class E food store (Lidl) with associated access, car parking, servicing and landscaping'.

1.2 This document sets out the methodology for all proposed works that have the potential to affect any trees within the proposed working areas. Compliance with this method statement will be a requirement of all relevant contracts associated with the development proposals.

1.3 Copies of this method statement will be made available for inspection on site and will be forwarded to all contractors actively participating in the development works.

2. Site Supervision and Reporting

2.1 For the duration of the development a qualified arboriculturist will be appointed by the developer to supervise all arboricultural aspects of the works. The supervising arboriculturist must be approved by the local planning authority (LPA) at the commencement of works.

2.2 The supervising arboriculturist will be the point of contact between the developer and the LPA. Their primary responsibility will be to ensure that all arboricultural conditions of the planning permission are implemented and to advise on any further issues that arise during the development process.

2.3 In addition to the above, the supervising arboriculturist will also be responsible for:

- Induction of all contracting staff and raising of personnel awareness over the arboricultural implications of the development.
- Identification of individual responsibilities and key personnel within the workforce.
- Timing and methods of site visiting and record keeping, including updates.
- Procedures for dealing with variations and incidents.
- Procedures for reporting to the LPA over all arboricultural issues.

3. Programme of Works

3.1 All excavation, root pruning, formative pruning and any other arboricultural works approved as part of the development consent will be carried out prior to any other site works.

3.2 Measures for the protection of retained trees will be implemented on completion of the above tree works as detailed below (Section 4). All fencing erected for protection of trees will be maintained for the entire duration of construction works.

3.3 On completion of the development, the protective fencing will only be removed with the consent of the LPA to permit completion of the scheme. Note that permission for any additional tree works not included in the original development consent will need to be obtained through application to the LPA.

4. Construction of Piled Foundations within RPAs

4.1 Excavations within RPAs shall be supervised by the Project Arboriculturist. Piles within RPAs shall be sleeved to prevent contamination of root zone and constructed as follows:

- Locations for piles should be marked out and the position carefully excavated by hand to a depth of 500mm – 1000mm to determine the extent of root growth; if roots over 50mm diameter are uncovered, then the excavation shall be backfilled and the pile position relocated to an adjacent position approved by the structural engineer.

- Lay sub-base / ground protection, comprising 25mm thick marine plyboard over 50mm depth of sharp sand

- The piling mat may then be installed over the plyboard, in accordance with the operator's requirements Piling shall be carried out using a lightweight rig, with beams set in accordance with the structural engineers' detail; excavations for beams, within RPAs shall be carried out by hand to the minimum depth required by the Structural Engineer.

- Stripping of the turf and sub-soil layer to a depth of no more than 100mm will be undertaken with microlite machinery or by hand. No plant machinery to be permitted within the RPA of the trees unless from 'Trakmats' as specified in Appendix A.

- Prior to any ground works or stripping of turf and topsoil the appointed arborist James Hodson of Greenleaf Ltd will be present to supervise works and ensure the maximum depth of initial excavation is no more than 100mm.

- The turf and top-soil will be immediately removed from site or moved to a location outside of the RPA of any of the trees. No reduction in levels of the underlying soil surface will occur outside of the pre-defined area of 100mm excavation for the micro-screw foundational plate.

- The underlying soil may be levelled by the addition of good quality top soil to BS 3882: 1984. Hand tools only will be used for any levelling works; this work will not disturb the underlying soil. Should any roots over 25mm diameter, be present within the 100mm excavation area their severance and/or removal will only be carried out under arboricultural supervision and with the approval of the Local Planning Authority. Any exposed tree roots within the areas of excavation will be cleaned, cut and trimmed to allow quicker recovery and re-growth of the root system.

- Any exposed tree roots encountered during excavation works of 25mm diameter, or less may be cleanly cut with sharp handsaw or secateurs under the supervision of the Project Arboriculturist.

- Any pilings that may be required within the RPA's will be excavated with micro-lite augre machine tool or hand dug using a 'post-hole hand tool' and/or drain spade as required down to a suitable depth as specified by the consulting engineer. If any major roots over 25mm are encountered the pile and pad will be off-set either side of the root as required to avoid severance.

- Pile holes shall be marked with stakes and large stones removed from the proposed area of the piling mat and a permeable root resistant geotextile laid over the full surface beneath the piling mat.

- Lay sub-base / ground protection, comprising 25mm thick marine plyboard over 50mm depth of sharp sand.

- The piling mat may then be installed over the plyboard, in accordance with the operators requirements Piling shall be carried out using a lightweight rig, with beams set in accordance with the structural engineers detail; excavations for beams, within RPAs shall be carried out by hand to the minimum depth required by the Structural Engineer.

5. Construction of hard surfaces within RPA's

5.1 The following methodology shall be applied when constructing hard surfaces within RPA's:

- Grass or other vegetation will be close cut/mown and all arisings removed by hand.
- All arisings will be wheel barrowed out of the RPA.
- No excavation shall be carried out, other than as strictly necessary to accommodate the cross-over and the paved link between cross-over and the 'No-Dig' surface
- Any depressions will be filled in with sharp sand.
- Geo-textile membrane will be laid out over the area where the proposed surfacing will be constructed within the RPA.
- Cellular confinement system will be laid over the geo-textile membrane e.g. 'Geo-web' or'Geo-Cell' cellular confinement matting.
- The cells will be hand filled with granular material that allows air and water flow such as10mm washed gravel chippings (no fines) (working from the edge of the RPA towards the tree).
- Lay permeable surface over filled cells and construct timber edging to retain the surface.
- Bank up the edging with topsoil, which can be grass seeded in spring/autumn. This will form agentle slope from the edging to the surrounding ground level. The area of 'no dig' construction is identified on the accompanying drawing.

6. Installation of underground services

6.1 Underground services should avoid RPA's wherever possible. If excavations to accommodate services within RPA have become necessary, advice must be obtained from the Project Arborist in order to agree measures to minimise root disturbance, e.g., by ensuring drainage routes are aligned radially to tree stems.

6.2 Refer also to National Joint Utilities Group NJUG Volume 4 2007 'Guidelines for the planning and installation and maintenance of utility apparatus in proximity to trees' (NJUG - http://www.njug.org.uk)

6.3 Excavation to accommodate services within RPAs will not be allowed prior to agreement of positioning and methodology of installation has been agreed with the Local Authority Arboricultural Officer.

7. Works to Existing Trees

7.1 All proposed tree works will be implemented in accordance with the approved plans and details. The tree works specification is detailed in **Appendix B**. Works will be carried out to the current arboricultural industry best practice and at a minimum in accordance with 'BS 3998:2010 - Recommendations for Tree Work'.

7.2 Any additional tree works identified as being necessary during the course of the development will only be carried out with the consent of the LPA. Access facilitation pruning shall be kept to the barest minimum necessary to facilitate development and shall be carried out in strict accordance with the guidance below (Tree Surgery). Under no circumstance shall construction personnel undertake any tree pruning operations.

8. Securing of Tree Structure and Root Protection Areas (RPA)

8.1 Before the commencement of any works on site (other than any preliminary tree works as detailed above) protective fencing will be erected.

8.2 The Tree Protection Plan (TPP) shows the position of the Tree Protection Fencing (TPF). This fencing comprises of one type as detailed below. Vertical banners should be erected and ground protection installed before any materials or machinery are brought onto site and before any demolition, development or stripping of soil commences.

8.3 Once erected, barriers and ground protection will be regarded as sacrosanct, and will not be removed or altered without prior agreement of an arborist and approval of the local planning authority.

8.4 Barriers should be fit for the purpose of excluding constructive activity, and appropriate to the degree and proximity of work taking place around the retained tree. On all sites, special attention should be paid to ensuring that barriers remain rigid and complete.

8.5 In most cases, barriers should consist of a scaffold framework in accordance with Fig. 1 comprising a vertical and horizontal framework, well braced to resist impacts, with vertical tubes spaced at a maximum interval of 3m. Onto this, weld mesh panels should be securely fixed with wire or scaffold clamps. Weld mesh panels on rubber or concrete feet are not resistant to impact and should not be used. Due to the small scale of the proposed works sturdy ‘Heras’ fencing may also be acceptable for the tree protective fencing.

8.6 Should any alternative method of barrier construction be proposed, consultation with the developer’s arborist will be obtained to clarify the efficacy of the revised design prior to informing the local planning authority and obtaining their consent.

8.7 Once the exclusion zone has been protected by barriers and/or ground protection, construction can commence. All weather notices should be fixed to the barriers with the words: ‘Construction exclusion zone – Keep out’ or similar. All-weather notices will be displayed on the protective fencing identifying them as tree protection measures (example notice in **Appendix A**).

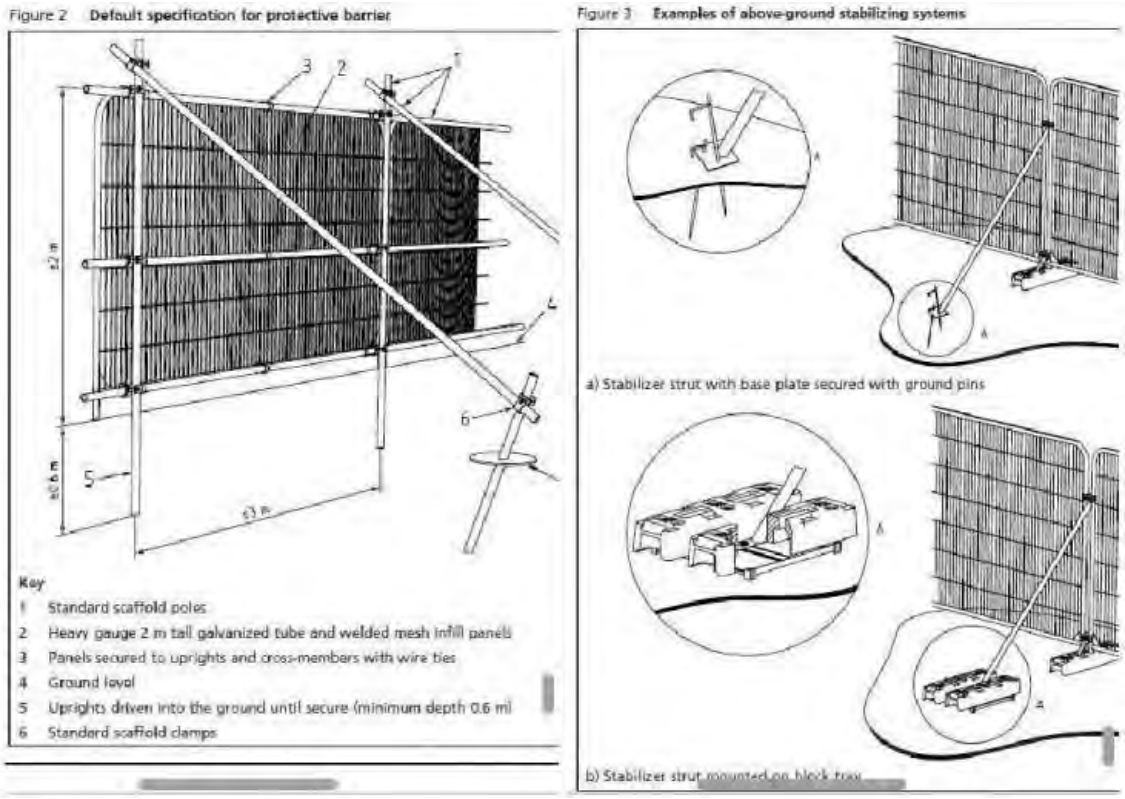


Figure 1- Specification for tree protective fencing

8.8 Other than works detailed within this method statement or approved in writing by the LPA, no works (including any vehicular movements, storage or dumping of materials, stripping of soil) will take place within the exclusion zones defined by the protective fencing. This is to reduce to a minimum compaction of the root systems.

9. Works within the RPA and ground protection measures

9.1 No excavation works will be undertaken within the Root Protection Areas other than the predefined area marked out and detailed in Appendix F.

9.2 Excavation works close to the RPA will be undertaken with the use of 'Microlite Excavator' or similar to avoid the use of heavy plant machinery which may otherwise cause unwanted ground compaction close to the RPA. Any excavated soil will be stored outside of the RPA.

9.3 Any ground protection to be installed in locations shown on the TPP must be strong enough to support any predicted load and resist compaction and soil damage (See 'Trakmats' in Appendix A).

9.4 In the event that any root systems are encountered within the excavation area they will be pruned by a suitably qualified arborist following the methodology in Appendix B.

10. General Precautions

10.1 No materials that are likely to have an adverse effect on tree health such as oil, bitumen or cement will be stored or discharged within the RPA.

10.2 Allowance will be made for any slope of the ground to ensure that damaging materials such as concrete washings, mortar or diesel oil is prevented from running towards trees. Protective sheeting must be used in and around any areas of concrete mixing to protect the soil in the event of spillage.

10.3 No fires will be lit in a position where their flames can extend to within 5 meters of the foliage, branches or trunk of any tree that is to be retained.

10.4 Notice boards, telephone cables or other services will not be attached to any part of the trees to be retained.

ANNEX A


Tree protection area
Keep Out
(town & country planning act 1990)
Trees enclosed by this fence are protected by planning conditions and/or are the subjects of a tree preservation order. Contravention of the tree preservation order may lead to criminal prosecution
An incursion into the protected area must be with the written permission of the local planning authority.
Protective fencing
This fence must be maintained in accordance with the approved plans and drawings for this development.

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Our anti slip traction panels are available for temporary road hire at a rate of £1.00 per panel per day (subject to a minimum charge of £10.00 per panel) and a minimum order value of £250.00 excluding delivery charges.

Panels sent out are securely strapped to a timber pallet or steel stillage. A nationwide delivery service is available either via our own transport or the pallet delivery network, with each pallet holding a maximum of 30 panels and weighing approximately 1100 kg. It is the Hirer's responsibility to to provide suitable pallet-lifting machinery.

Annex B- No-Dig Permeable Footpath/Cycle-Way Construction:

The proposed construction methodology for the pedestrian footpath and cycleway within the RPA's of trees T13, T14 & T15 is as follows:

The construction will require 100-150mm of base stone beneath the no-dig material, a geotextile is laid on the ground, over which Terram Geocell, Cell-web, Grid-Force or similar is laid and stone spread. The type of stone must be a no fines stone that is free draining. If gravel is used as the final finished permeable surface, then the blocks should be backfilled with 38mm of 10mm single size (no fines stone) to the top of the grid. The total finished construction depth should be 150-200mm (See P.6).

Schedule of works:

- Area of parking bays and footpath to be marked out with sufficient room along edges for works.
- Once marked out the tree protective fencing is to be erected in accordance with the tree protection plan in Figure 1.
- A shallow scrape to a depth of no more than 50mm of the surface material will be undertaken using hand tools only within the RPA of trees as indicated. Some re-profiling of the ground outside of the RPA will be required to raise levels to meet the top level of the cell-web.
- Any exposed tree roots which are exposed during ground works will be cleaned, cut and trimmed by hand to allow quicker recovery and re-growth of the root system. Root pruning is a very specialized operation that should only be undertaken with the support and supervision of an arboriculturalist or tree surgeon. Severance of root stems greater than 25mm diameter should be avoided where possible. Pruning of buttress or other major roots can make the tree unstable. Severance of more than 30% of a tree's root system is quite likely to cause slow dieback and eventual death of a mature tree.
- No plant machinery is to be permitted within the construction exclusion zone (CEZ) beyond the fence line.
- All spoil from to be removed off-site
- Supply and lay construction grade geotextile should site conditions warrant its inclusion.
- Lay edging to new cell-web edges
- No compacted or crushed materials to be laid within the RPA. A 3d cellular grid mesh confinement system will be used to form the sub-base. The cells will be filled with clean angular stones to retain permeability over the roots and minimise compaction. A permeable membrane will be laid under the Cellweb Tree Root Protection System (TRP) as detailed below.
- Clear all site of debris and rubble on completion and make good.
- Any drainage requirements, access cover fittings, kerbs, edgings, or other sundries are additional to the specification given above

Ground Protection-

If any plant machinery is required within the RPA's of trees within the CEZ, then Trakmats or similar ground protection mats must be used to prevent unwanted ground compaction within the RPA's of the trees. These can be secured using steel pegs and should remain in place until the access drive is completed.

Tree Root Protection Using Cellweb TRP®

Fact Sheet 1: Use of Cellweb TRP® in Root Protection Areas (RPA's)



Introduction

Cellweb TRP® is a cellular confinement system that confines aggregate materials and makes them stronger. This behaviour allows the depth of pavement construction to be reduced. It also minimises compaction of soils below road pavements constructed using the Cellweb TRP® tree root protection system. Cellweb TRP® is used around the world to provide cost effective road and railway construction, as well as Tree Root Protection.

Cellular confinement was developed by the US Army Corps of Engineers during the 1970s to allow construction of roads for military equipment quickly and easily using whatever local soil material was available (especially across beaches). Since then the method has been developed and it is now routinely used in road and rail construction as well as in tree root protection. There is an extensive research base that demonstrates the performance of cellular confinement and it is a method of pavement construction that is recognised by the US Federal Highways Administration.

Characteristics of Cellweb TRP®

Pokharel et al (2009) stated that about one fifth of pavement failures in the US occur due to either weak subgrades or inefficient load transfer from the sub-base. Cellweb TRP® can improve the strength of road pavement construction to deal with these problems. It is a three dimensional interconnected honeycomb of cells made from HDPE. The cells are filled with aggregate sub-base and laterally confine the material when it is loaded, thus increasing the bearing capacity of the layer. This results in a thinner layer of aggregate being required to achieve the same performance.

It also allows uncompacted open graded aggregate to be used in the sub-base construction which is a vital part of any tree root protection system.

Cellweb TRP® is available in a range of height and aspect ratios to suit different load applications.

Use of Cellweb TRP® in RPAs

The use of Cellweb TRP® tree root protection system for building roads, car parks and other vehicular pathways includes a sub-base infill material of clean angular stone which does not need to be compacted. This immediately provides a layer of material that will absorb compaction energy applied to the top of materials placed over it. Compaction of soils by construction machinery does not extend to a great depth. This is the reason why earthworks materials are normally placed in thin layers because compaction only occurs in the top few hundred mm at most. With the lightweight compaction plant used on most development sites the maximum depth that compaction will extend to is between 150mm and 200mm. Thus, if an 80mm layer of asphalt is placed over a 150mm deep Cellweb TRP® system the compaction reaching the base of the construction and the natural soil will be minimal. This effect was demonstrated by Lichter and Lindsey (1994) where a trial area was trafficked by a front-end loader and only suffered significant compaction of the soil to a depth of 100mm.

The use of Cellweb TRP® also spreads the wheel loads from traffic. There has been extensive research published on the performance of these systems from the original work by the US Army Corps of Engineers (Webster 1981) to more recent studies such as that by Emersleben and Meyer (2008).



Figure 1 - In situ density test prior to construction of pavement

The research shows that Cellweb TRP® acts as a stiff raft to distribute wheel loads and reduce their magnitude at the base of the construction by 30% to 36% (without any asphalt or other surfacing). Once the surface is taken into account, the pressure applied by traffic to soil below roads or pavements constructed using no-dig methods will be significantly reduced and thus compaction will also be reduced. Note, compaction is not prevented but it is reduced, thus maintaining the soil bulk density at levels that are suitable for tree root growth.

The effectiveness of the Cellweb TRP® no-dig construction in reducing soil compaction has been demonstrated in trials carried out by the Environmental Protection Group Limited. Two parking bays were constructed over a fine sand soil, one with a Cellweb TRP® cellular confinement sub-base. The parking bays were surfaced with asphalt and then used by cars for four weeks on a daily basis. It is well known that compaction of soils occurs in the first few passes of a vehicle, so the maximum adverse effects on compaction of soil below the pavement should have been achieved. In situ density tests were carried out on the sand below the pavement before and after construction (Figure 1).

Cellweb® TRP

Tree Root Protection

Cellweb® TRP is a 3D cellular confinement tree root protection system. The system provides a 'no dig' solution for the construction of new hard surfaces within root protection areas (RPAs). Cellweb® TRP has been designed and independently tested to comply with recommendations made in Arboricultural Practice Note 12 and BS 5837 2012 – Trees in relation to design, demolition and construction.



Cellweb® TRP Key Functions

Cellweb® is a 'no dig' solution which is constructed directly on the existing ground surface. This eliminates the requirement for excavation, preventing root severance.

Cellweb® is a completely porous system allowing continued water permeation and gas exchange between the rooting environment and atmosphere.

Cellweb® spreads point loads, minimising increases in soil compaction within the rooting environment. This maintains an open graded soil structure allowing continued root growth, water, gas and nutrient migration.

The Cellweb® TRP system comprises the following three components

Treetex™ Geotextile. Following minimal ground preparation the Treetex™ is laid onto the existing ground and top soil. This acts as a separation layer, separating the system above from the soil and rooting environment below. Treetex™ performs as a hydrocarbon pollution control measure in accordance with BS5837, holding 1.7lt of oil per square meter.

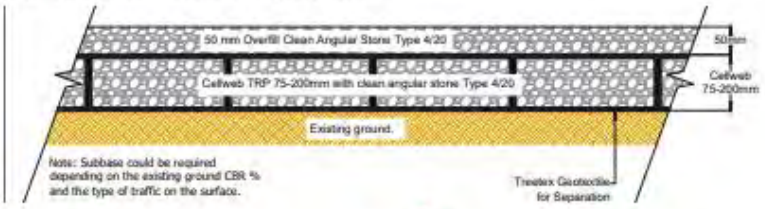
Cellweb® 3D Cellular Confinement. The Cellweb® is installed on top of the Treetex™ layer. This is fixed to the ground using ten steel J pins per panel. The panels can be cut to the required shape and adjoining panels can be connected using heavy duty staples or cell ties.

4-20mm Clean Angular Stone. The expanded Cellweb® is infilled with a 4-20mm clean angular stone. The confined angular stone locks together to produce a rigid stone mattress, while maintaining air pockets for continued water permeation and gas exchange. The low fines content of the stone prevents the Treetex™ layer from becoming blocked over time.

Which depth of Cellweb® TRP?

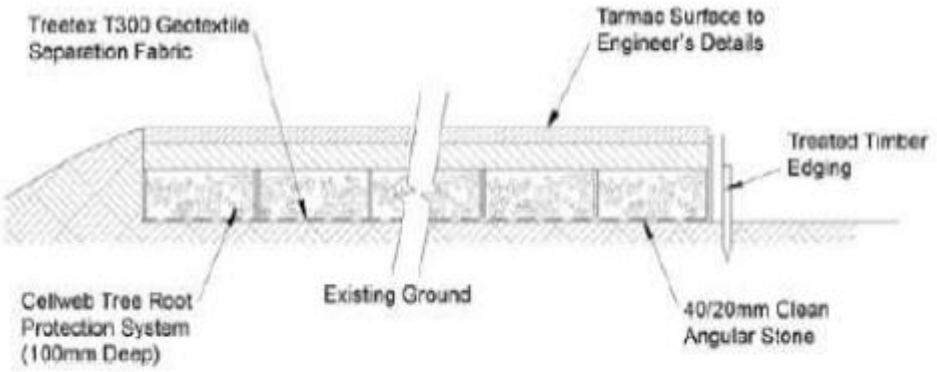
The Cellweb® System is provided in four different depths; 200mm, 150mm, 100mm and 75mm. The depth required is determined by the proposed traffic loadings and the site ground conditions. Geosynthetics in house engineering department can provide a free site specific technical recommendation. For free technical and engineering support please contact Geosynthetics Ltd 01455 617139 or the full installation guide can be found on our website www.geosyn.co.uk.

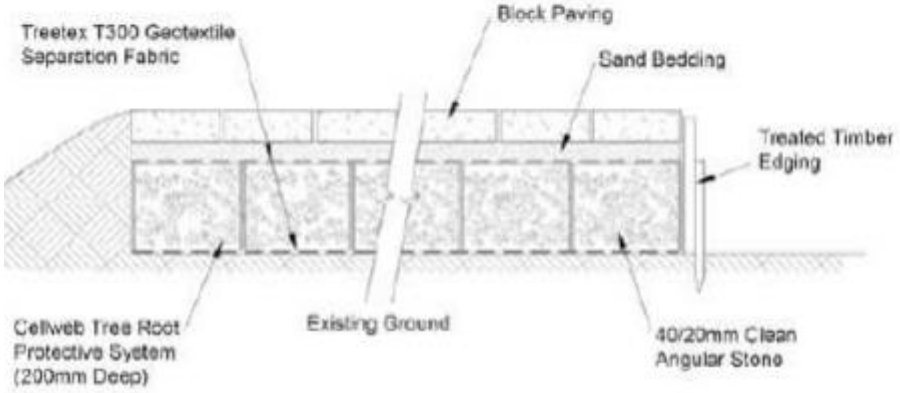
Indicative Cellweb with overfill

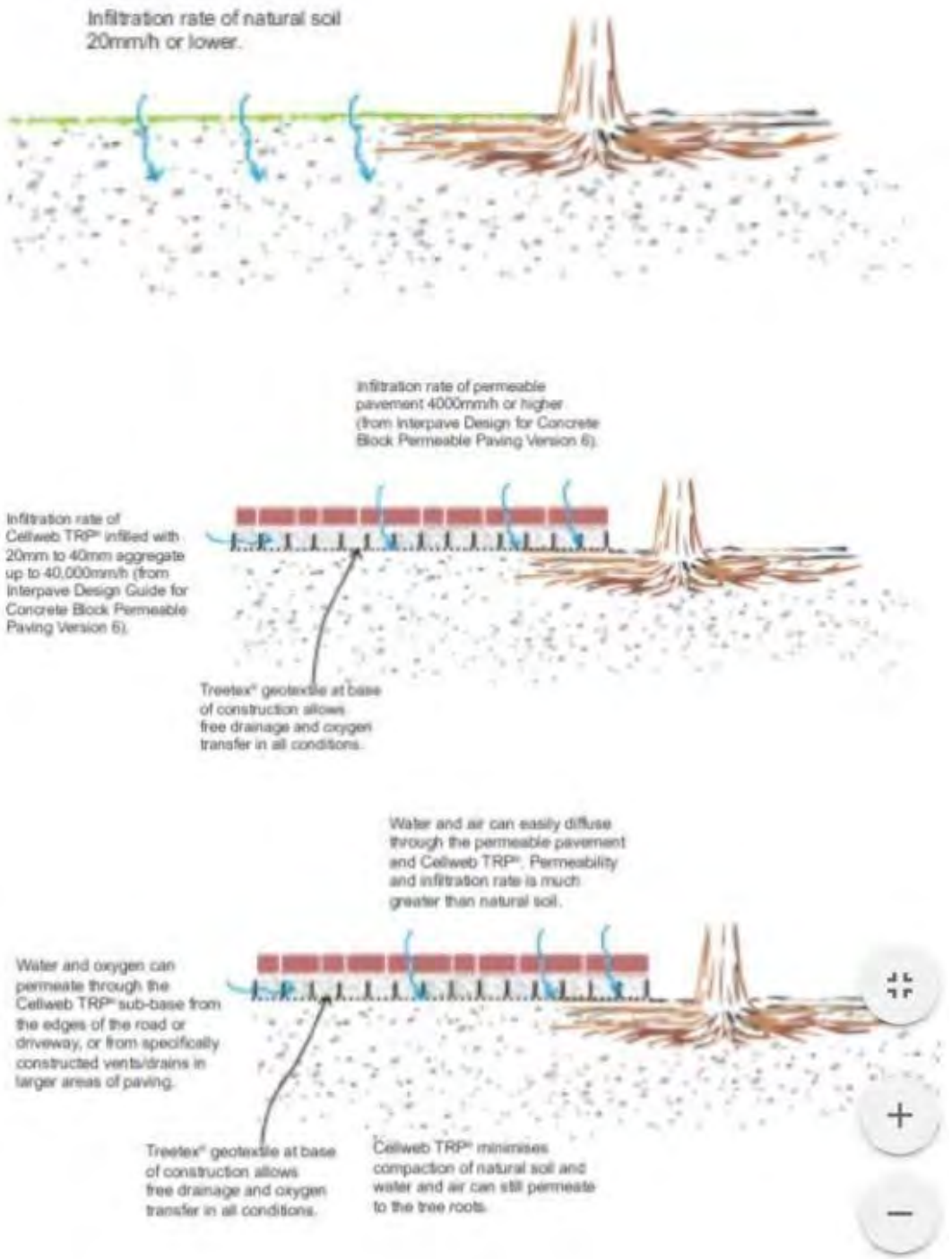


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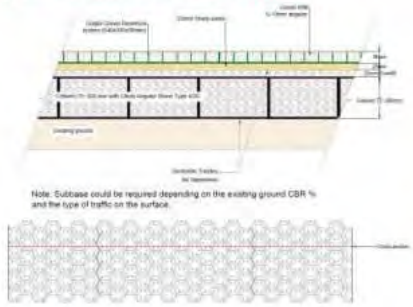

Treetex T300 Geotextile
Separation Fabric
Tarmac Surface to
Engineer's Details
Treated Timber
Edging
Cellweb Tree Root
Protection System
(100mm Deep)
Existing Ground
40/20mm Clean
Angular Stone


Block Paving
Treetex T300 Geotextile
Separation Fabric
Sand Bedding
Treated Timber
Edging
Cellweb Tree Root
Protective System
(200mm Deep)
Existing Ground
40/20mm Clean
Angular Stone


Infiltration rate of natural soil
20mm/h or lower.
Infiltration rate of permeable
pavement 4000mm/h or higher
(from Interpave Design for Concrete
Block Permeable Paving Version 6).
Infiltration rate of
Cellweb TRP® infilled with
20mm to 40mm aggregate
up to 40,000mm/h (from
Interpave Design Guide for
Concrete Block Permeable
Paving Version 6).
Treetex® geotextile at base
of construction allows
free drainage and oxygen
transfer in all conditions.
Water and air can easily diffuse
through the permeable pavement
and Cellweb TRP®. Permeability
and infiltration rate is much
greater than natural soil.
Water and oxygen can
permeate through the
Cellweb TRP® sub-base from
the edges of the road or
driveway, or from specifically
constructed vents/drains in
larger areas of paving.
Treetex® geotextile at base
of construction allows
free drainage and oxygen
transfer in all conditions.
Cellweb TRP® minimises
compaction of natural soil and
water and air can still permeate
to the tree roots.

Surfacing Options

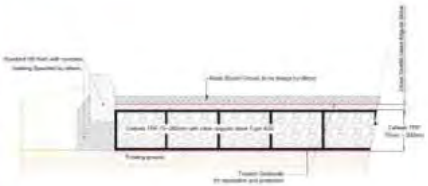
Golpla® Grass & Gravel Pavers





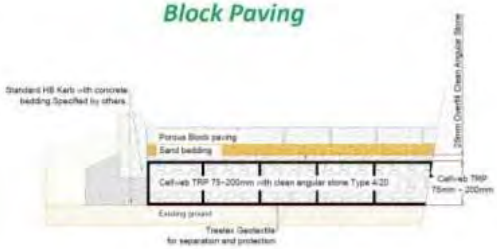
Resin Bound Gravel



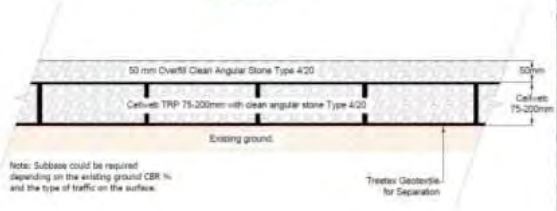




Block Paving



Gravel





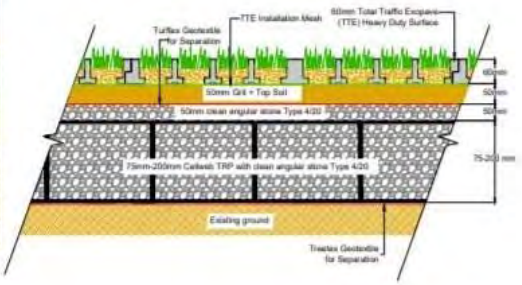
Porous Tarmac





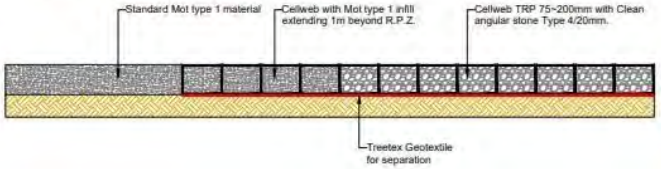
TTE® Heavy Duty Pavers



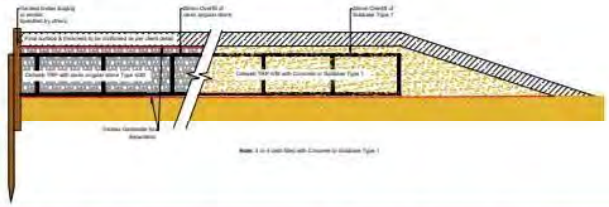


Edging and Transition Details

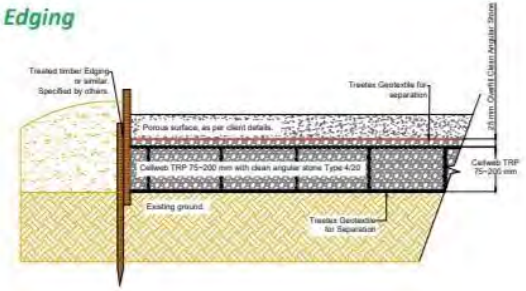
Transition Detail (Flat)



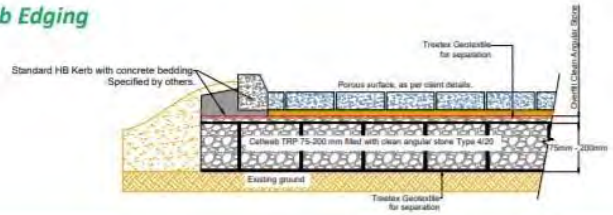
Transition Detail (Ramp)



Timber Edging



Kerb Edging



Adopted Roads and Footpaths



Cellweb® Tree Root protection is the UK's market leading tree root protection system and is widely specified for the construction of new hard surfaces within root protection areas in accordance with BS5837.

Difficulties when specifying the system often occur for the construction of public roads, footpaths and carparks where there is a requirement for the local authority to take responsibility for the maintenance of the new structure and formally adopt it.

The following page shows examples of where new hard surfaces constructed using the Cellweb® TRP system have been adopted by local authorities. This document is designed to provide examples to specifiers of the system and local authorities.

This document is designed to be used in conjunction with technical advice and site specific recommendations which are also available free of charge from Geosynthetics Limited.

NBS Specification Clause

I. The Tree Root Protection System shall be Cellweb® TRP by Geosynthetics Ltd 01455 617139

II. The Tree Root Protection System shall include Cellweb® TRP 3 dimensional cellular confinement panels measuring 8.1m in length x 2.56m wide. The system also includes a Treetex™ Pollution Control Geotextile.

III. The Cellweb® TRP shall incorporate perforated cell walls to provide lateral flow and frictional interaction between infill material and adjacent cells. Perforations shall be 11% of the cell wall surface area for Cell height of 100mm and 200mm and 16% for Cell height of 75mm and 150mm.

IV. The Cellweb® TRP shall incorporate a green identification strip along the length of the panel.

V. The seam peel strength of the cells shall be as shown in the following table:

Cell Height (mm)	75	100	150	200
Seam Peel Strength (N)	1065	1420	2130	2130

U.S.Army Corps of Engineers. Technical report GL86-19, Appendix A

VI. The expanded cell size (width x length) shall be 259mm x 224mm.

VII. The infill material shall be a clean angular stone typically 40mm to 20mm or 20mm to 4mm.

VIII. The system shall be installed strictly in accordance with the manufacturers installation instructions.

IX. Fact Sheets 1,2,3,4,and 5 provide factual evidence of the Cellweb® TRP and Treetex™ systems performance in the application of Tree Root Protection.

X. The system shall encorporate a 10 year guarantee which covers the replacement of any dead tree(s) up to a value of £10,000 per tree, as well as a replacement of the system which has failed up to the value of £50,000.

Root Pruning Methods

When pruning roots, there are guidelines regarding size: roots less than one inch (2.5 cm) in diameter can easily be cut with hand tools while cutting roots greater than three inches (7.5cm) in diameter should be avoided whenever possible. There are three general methods of root pruning in the one- to three-inch diameter range:

- Air/Water/Hand Excavation and Pruning- Excavating roots requires the use of the AirSpade®, hydro excavation or hand tools. This exposure allows the arborist to evaluate the best places to cut, preferably beyond sinker roots or junctions. Roots can be cut most cleanly with a sharp saw or lopper. Exposed fine roots that are to be preserved may be covered with burlap and sprayed with water, or they can be sprayed with a hydrated, fine, water-holding gel to prevent desiccation.

- Root-cutting Machinery- A root pruner, such as the Dosko or Vermeer Root Pruner, is faster than the previous method (Figure 1). These tools have teeth similar to a stump grinder and provide relatively clean root cuts. However, this method does not allow for the arborist to evaluate the exact location of the pruning cuts and will, likewise, be indiscriminate.

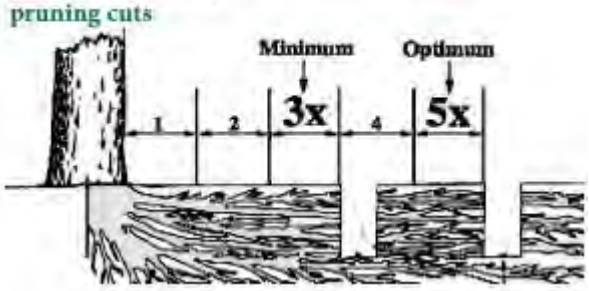
- Trencher or Excavator- A chain trencher or excavator is one of the worst ways to prune roots because they often lift surface roots out of the soil until they break and leave other roots crushed or torn. After using a trencher, it is better to prune the damaged ends by hand than to leave them untreated. Sometimes, due to site constraints, trenchers are the only option due to their flexibility.

Root Cut Placement

The further from the trunk that root cutting occurs, the better, but generally root cuts made outside a normal dripline of a tree rarely cause permanent tree damage. The preferred minimum distance from the trunk to the closest root cut is 5 to 6 times the DBH.

For example, with a 12-inch (30 cm) diameter tree, the root cut distance should be 60 to 72 inches (5 to 6 feet, 1.5 to 1.8 m). At this distance, there should be minimal impact on the health or stability of most tree species with proper aftercare. For root cuts on only one side of a tree, the root cut distance can be somewhat closer to the trunk than cuts on more than one side. The preferred minimum distance in this case is three times the DBH. For example, with a 12-inch (30 cm) diameter tree, the distance would be 36 inches (3 feet, 0.9m) (Figure 2). This distance is too close if there is pavement over the other side of the root system, if the tree has root decay, is leaning or has other indications of root disturbance. These trees also need proper aftercare to reduce the risk of health problems. Figure 2: General guidelines for locating root pruning cuts In all cases, consider variables such as tree species, age, tree health, and soil characteristics (including the presence of underground root obstructions) when determining location of root pruning. Cuts made closer to the trunk may dramatically compromise stability and health and should be avoided.

Figure 2: General guidelines for locating root pruning cuts



Plant Health Care Before and After Root Pruning

Tree health and soil moisture should be monitored frequently following root pruning. Root pruning should not be done immediately prior to or during a drought period unless the tree will have adequate irrigation. Irrigation should be applied prior to and after root pruning if there is not adequate rainfall. Monitor for secondary pests and apply protective treatments to susceptible trees for lethal invaders such as borers. Fertilizer and soil amendments should be applied according to soil or foliar nutrient analysis test results. Root Invigoration should be performed to promote root regeneration and a better environment for remaining roots. At a minimum, mulch should be applied to reduce soil moisture loss and promote root growth.

Annex C

Annex B (Informative)

Trees and the planning system

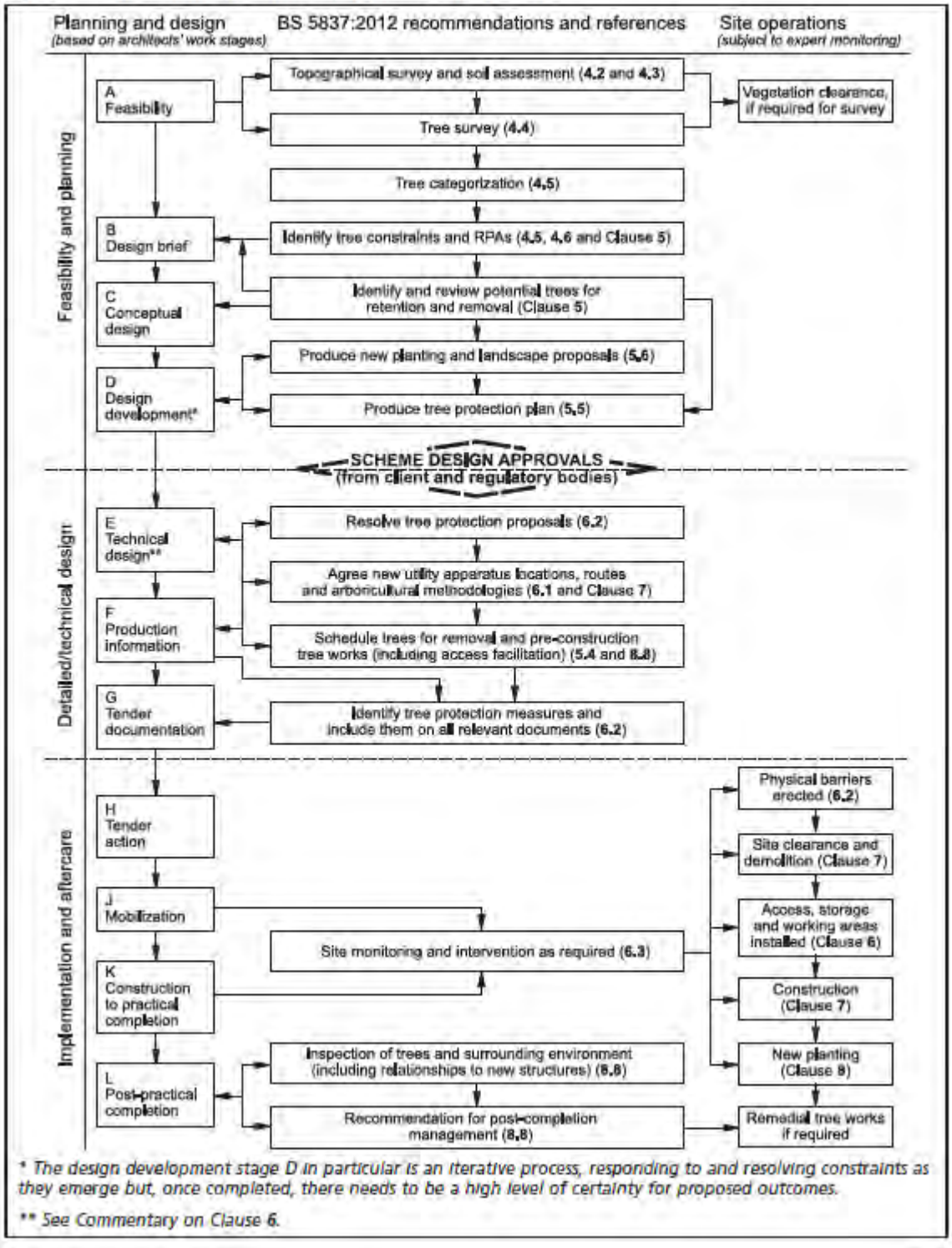
Under the UK planning system, local authorities have a statutory duty to consider the protection and planting of trees when granting planning permission for proposed development. The potential effect of development on trees, whether statutorily protected (e.g. by a tree preservation order or by their inclusion within a conservation area) or not, is a material consideration that is taken into account in dealing with planning applications. Where trees are statutorily protected, it is important to contact the local planning authority and follow the appropriate procedures before undertaking any works that might affect the protected trees.

The nature and level of detail of information required to enable a local planning authority to properly consider the implications and effects of development proposals varies between stages and in relation to what is proposed. Table B.1 provides advice to both developers and local authorities on an appropriate amount of information. The term "minimum detail" is intended to reflect information that local authorities are expected to seek, whilst the term "additional information" identifies further details that might reasonably be sought, especially where any construction is proposed within the RPA.

Table B.1 **Delivery of tree-related information into the planning system**

Stage of process	Minimum detail	Additional information
Pre-application	Tree survey	Tree retention/removal plan (draft)
Planning application	Tree survey (in the absence of pre-application discussions)	Existing and proposed finished levels
	Tree retention/removal plan (finalized)	Tree protection plan
	Retained trees and RPAs shown on proposed layout	Arboricultural method statement – heads of terms
	Strategic hard and soft landscape design, including species and location of new tree planting	Details for all special engineering within the RPA and other relevant construction details
	Arboricultural impact assessment	
Reserved matters/ planning conditions	Alignment of utility apparatus (including drainage), where outside the RPA or where installed using a trenchless method	Arboricultural site monitoring schedule
	Dimensioned tree protection plan	Tree and landscape management plan
	Arboricultural method statement – detailed	Post-construction remedial works
	Schedule of works to retained trees, e.g. access facilitation pruning	Landscape maintenance schedule
	Detailed hard and soft landscape design	

Figure 1 **The design and construction process and tree care**



** The design development stage D in particular is an iterative process, responding to and resolving constraints as they emerge but, once completed, there needs to be a high level of certainty for proposed outcomes.*

*** See Commentary on Clause 6.*

Annex D- Development Notes

BS5837: 2012 states:

In order to avoid disturbances to the physical protection forming the construction exclusion zone once it is installed, it is essential to consider, make allowances for and plan all construction operations which will be undertaken in the vicinity of the trees, in particular:

a) Site construction access;
b) The intensity and nature of the construction activity;
c) Contractor's car parking;
d) Phasing of construction works;
e) The space needed for all foundation excavations and construction works;
f) The availability of special construction techniques;
g) The location and space needed for all service runs including foul and surface water drains, land drains, soakaways, gas, oil, water, electricity, telephone, television or other communication cables;
h) All changes in ground level, including the location of retaining walls, steps and making adequate allowance for foundations of such walls and backfilling's;
i) Spaces for cranes, plant, scaffolding and access during works;
j) Space for site huts, temporary latrines (including their drainage) and other temporary structures; k) The type and extent of landscape works which will be needed within the protected areas and the effects these will have on the root system;
l) Space for storing (whether temporary or long-term) materials, spoil and fuel and the mixing of cement and concrete;
m) The effects of slope on the movement of potentially harmful liquid spillages towards or into protected areas.

Annex E- BS 5837: 2005 - Types of hard surfaces and their suitability in proximity to trees
General

If a hard surface is proposed above the granular material, a permeable and gas-porous finished surface (wearing course) should be installed. In some situations, consideration should be given to constructing the final surface prior to the main building works, so as to provide protection for the roots at subsequent stages. However, it may be desirable to protect the final surface from drainage with a temporary covering.

Washed gravel

Washed gravel retains its porosity unless excessively consolidated and is particularly useful where changes of level occur or an irregular shape is needed around the stem of a tree. Gravel is easily renewed or topped up. Although weeds may become established, they can be controlled by chemical or mechanical means. However, gravel is rarely suitable for use where there is vehicle or pedestrian traffic for example, in residential areas. Materials with a high fines content, such as binding gravels or hoggin, should not be used due to their almost impermeable texture when consolidated.

Paving slabs and block pavers

Paving slabs and block pavers are available with built in infiltration spaces between the slabs or blocks. These are ideal, though they should be laid dry-jointed on a sharp sand foundation to allow air and moisture to penetrate to the rooting area.

In situ concrete

As in situ concrete forms an impermeable surface, falls and openings should be provided for water and air to enter the soil. This can be achieved by forming 50mm diameter holes in the construction of a slab at regular spacing's of 300-600mm (as determined by an engineer) and back-filling the resulting holes with no-fines gravel or aggregate. A high standard of material and workmanship is needed if frost damaged and excessive wear are to be avoided.

Bitumen paving

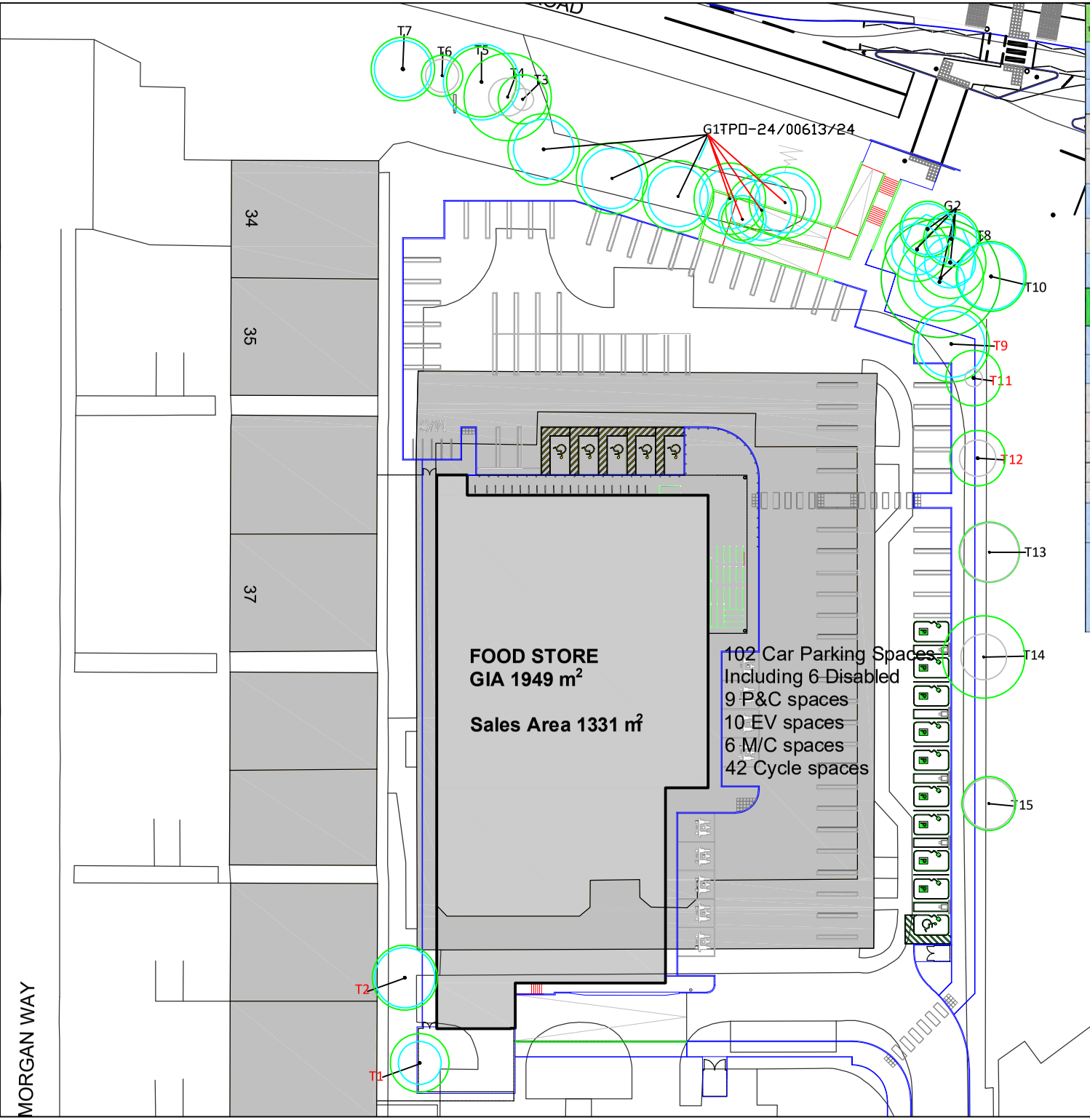
Bitumen paving can consist of porous or impermeable material. As the interstices in unsealed tar paving will eventually become blocked by silt, all such paving should be laid following the same principles as those for impermeable surfaces. Its use within the RPA should, therefore, be restricted to the following parameters: new impermeable surfacing within the RPA should be restricted to a maximum width of 3m and situated tangentially to one side of a tree only, or confined to an area no greater than 20% of the RPA whichever is smaller.

Edge supports

The excavation needed for the placement of kerbs, edgings and their associated foundations and haunching's can damage tree roots. Within the RPA, this should be avoided either by the use of alternative methods of edge support or by not using supports at all. For example, where kerbing is required for light structures, such as footpaths, peg and board edging may be acceptable. For more substantial structures, such as estate roads, railway sleepers may be acceptable, retained in place with track pins or road pins. In some situations, for example where the roadway needs to traverse a lateral slope, gabions could be used to provide a kerbing solution.

Annex F

Tree Protection Plan TPP- TO BE CONFIMRED PENDING PLANNING CONSENT



Tree No	Species	Circumference mm	Ht (m)	Diameter DBH (mm)	Canopy Radius (m)	Clearance height from ground to canopy	RPA radius (m)	Rpa m²	Condition- Good, Fair, Poor	Cat- A,B, C	Remaining Contribution	AGE- LM,M, SM, EM, V	Notes
T1	Alder	700	13	223	3.7	0.5	2.7	22.5	Good	B	40+	SM	Minor specimen off south-west corner of existigbuildig to be removed
T2	Silver birch	1000	13	318	4.1	3	3.8	45.8	Good	B	40+	SM	Minor specimen off south-west corner of existigbuildig to be removed
T3	Hawthorn	450	9	143	3.1	1	1.4	6.4	Fair	C	20-40	SM	Minor specimen within crowded area of small trees and shrubs
T4	Oak	625	9	199	5.5	1.8	2.4	17.9	Fair	C	40+	EM	Minor specimen within crowded area of small trees and shrubs
T5	Sycamore	1250	10	398	4.4	4	4.8	71.5	Fair	B	40+	SM	Located on north boundary parallel with Dereham Road
T6	Hazel	650	6.5	207	2.6	0.5	2.1	13.5	Fair	C	40+	SM	Minor specimen within crowded area of small trees and shrubs
T7	Common Lime	950	11	302	4	2.4	3.6	41.4	Good	B	40+	EM	Located on north boundary parallel with Dereham Road
T8	Sycamore	2100	15	668	5.4	3	8.0	202.2	Good	A	40+	M	Located in north-east corner close to proposed footpath/cycle path
T9	Willow	1100	11	350	4.8	6	4.2	55.5	Fair	B	20-40	EM	Located in overgrown north-east corner of site-to be removed
T10	Oak	1100	16	350	4.4	3.8	4.2	55.5	Fair	B	40+	EM	Falling just outside the red line boundary to the north-east corner
T11	Oak	300	7	95	3.5	1.1	1.1	4.1	Fair	C	40+	EM	Located on the east boundary set within area of cherry laurel shrubs
T12	Sycamore	600	10	191	3.8	1	2.3	16.5	Fair	C	40+	EM	Located on the east boundary set within area of cherry laurel shrubs
T13	Silver birch	1000	16	318	3.8	3.5	3.8	45.8	Fair	C	40+	M	Located offsite beyond east boundary
T14	Common Lime	900	16	286	5.2	2	2.9	25.8	Good	C	40+	EM	Multi stem
T15	Sycamore	850	15	271	3.4	2	3.2	33.1	Good	C	40+	EM	Outside boundary
G1	Oak	1000	9	318	4.5	2.8	3.8	45.8	Good	B	40+	EM	Group of 7 trees along north bank protected under TPO-24/00613'24. 4 Specimens to be removed from the group.
G2	Common lime and Oak	850	11	271	4	2.5	3.2	33.1	Fair	B	40+	EM	Crowded group of trees and self-set saplings within north-east corner of site around trees T8 and T9 Would benefit from somethinning and formative pruning of retained specimens to enhance the retained trees of note.

PLANNING

Namco/Lidl
10 Barnard Way
Norwich
NR5 9JB

Tree Constraints Plan-Drawing 3104-25-V4

Tree BS:5837 Canopy Spread
Tree BS:5837 Category A-RPA
Tree BS:5837 Category B-RPA
Tree BS:5837 Category C-RPA

Green Leaf Planning

1:500 Scale Bar
0 5m 10m 25m 50m

Appendix B

Copy of Tree Officer Consultation Comments (dated 12th November 2024)

From:	Hinchcliffe, Sarah
To:	DC TECH
Subject:	FW: 23/01615/F Barnard Rd
Date:	20 November 2024 17:56:57

Hi PRSTO

Can the consultee comments below be added to Civica and Uniform please?

Thanks

Sarah

From: Dunthorne, Mark <MarkDunthorne@norwich.gov.uk>
Sent: Tuesday, November 12, 2024 12:34 PM
To: Hinchcliffe, Sarah <SarahHinchcliffe@norwich.gov.uk>
Subject: 23/01615/F Barnard Rd

Hi Sarah,

I have some concerns over this application from a tree perspective. Particularly the large-scale loss of vegetation (including trees) along the eastern boundary. This is a valuable landscape feature, not only in terms of habitat, but also from an amenity/screening/softening the development standpoint. It'd be useful if the applicant could identify any individual specimens (trees) within this feature, which may warrant additional consideration/protection.
Regarding the loss of 4 oaks on the northern boundary; I would consider this to be acceptable if we could secure a 3 for 1 replacement plan, this would be much more achievable than paying strict adherence to the DM7 policy requirement of equivalent replacement biomass (but I'd be happy to adopt that approach if you felt it was necessary, or a 3 for 1 replacement couldn't be agreed).
It's also my understanding that further revisions of the application may involve additional tree loss at the north end of the site, but the arb reports/landscape plans seem to be a little inconsistent/unclear. Bearing all this in mind, would it be possible to get an updated AIA?

Regards,

Mark

Mark Dunthorne
Arboricultural officer
Development and city services
Norwich City Council

01603 989335

A fair and thriving city, full of ambition
NORWICH City Council

Appendix C

Copy of Tree Officer Consultation Comments (dated 15th April 2025)

From: planning@norwich.gov.uk
To: PLANNING
Subject: Consultee Comments for Planning Application 23/01615/F
Date: 15 April 2025 12:05:24

Consultee comments

Dear Sir/Madam,

A consultee has commented on a Planning Application. A summary of the comments is provided below.

Comments were submitted at 15/04/2025 12:05 PM from Mr Mark Dunthorne (Not Available) on behalf of Tree Protection Officer - Norwich City Council.

Application Summary

Reference:	23/01615/F
Address:	10 Barnard Road Norwich NR5 9JB
Proposal:	Construction of a Class E food store with associated access, car parking, servicing and landscaping.
Case Officer:	Sarah Hinchcliffe

Click for further information

Comments Details

Comments:	No objections from an arboricultural perspective. Recommend conditions TR4 - arb supervision for works within root protection areas, TR7 - works on site in accordance with AIA/AMS/TPP and TR12 - mitigatory replacement tree planting.

Kind regards

Appendix 3

NORWICH City Council

Mr Rawdon Gascoigne
Emery Planning
1-4 South Park Business Court
Hobson Street
Macclesfield
SK11 8BS

Please ask for:
Mark Dunthorne
Arboricultural officer (TPO)
Tel: 01603 989335
Email: planning@norwich.gov.uk
Date: 25 July 2024

Town and Country Planning Act 1990

TOWN & COUNTRY PLANNING (Tree Preservation) (England) REGULATIONS 2012

Dear Sir/Madam

CITY OF NORWICH TREE PRESERVATION ORDER NUMBER 613

Location: 10 Barnard Road Norwich NR5 9JB

Description: Tree Preservation Order, 2024 City of Norwich Number 613, 10 Barnard Road Norwich NR5 9JB

On 7 February 2024 the Council made the above Tree Preservation Order and sent you a copy of it along with a formal notice which requested the submission of any objections or comments by 6 March 2024.

The Order was provisionally in effect for six months from the date on which it was served. During that period the Council was required to consider whether the Order should be confirmed, that is to say whether it should take effect formally. The Council gave consideration to objections or comments about any of the trees covered by the Order, made by people affected by the Order and submitted within the 28 day period stated in the formal notice, and agreed to confirm the Order without modifications. The Order was duly confirmed by the City Council of Norwich on 25 July 2024.

The validity of a TPO cannot be challenged in any legal proceedings except by way of application to the High Court on a point of law. The Town and Country Planning Act 1990 and the Civil Procedure Rules 1998 set out the application process. An application to the High Court must be made before the end of the period of six weeks beginning with the day after the date of TPO confirmation above and may be made by any person who is 'aggrieved' by a TPO on the grounds:

(1) that the TPO is not within the powers of the Act, or

(2) that the requirements of the Act or Regulations have not been complied with in relation to the TPO.

To be 'aggrieved' applicants should be able to show that they have a sufficiently direct interest in the matter.

Anyone considering challenging the validity of an Order in the High Court is advised to seek legal advice.

For more information about this, please do not hesitate to contact the officer named above.

Yours sincerely



Sarah Ashurst
Head of planning and regulatory services
Planning Services

Appendix 4

NORWICH City Council

Mr Rawdon Gascoigne
Emery Planning
1-4 South Park Business Court
Hobson Street
Macclesfield
SK11 8BS

Please ask for:

Mark Dunthorne
Arboricultural officer (TPO)
Tel: 01603 989335
Email: planning@norwich.gov.uk
Date: 17 June 2025
Our reference: 25/00634/TPO
Please quote this when contacting us.

Dear Mr Rawdon Gascoigne

TOWN & COUNTRY PLANNING ACT 1990 (as amended).
TOWN & COUNTRY PLANNING (Tree Preservation) (England) REGULATIONS 2012

CITY OF NORWICH TREE PRESERVATION ORDER NUMBER 634

Location: 10 Barnard Road Norwich NR5 9JB

Description: Tree Preservation Order, 2025 City of Norwich Number 634, 10 Barnard Road Norwich NR5 9JB

I enclose a formal notice advising you that the Council has made a Tree Preservation Order at the above address. It is necessary for me to notify the owner/occupier of the land in question and any other persons interested in the land affected by the order. A copy of the Order is enclosed.

As you will see from the Notice, you may make written representations or objections in respect of the Order within a period of 28 days from the serving of this Notice. Any objections should be sent to the case officer named above to **planning@norwich.gov.uk** or the address below. Please be aware that your comments (including your name and address) will be available as public information. Therefore, please do not include any sensitive information and you may choose to provide your comments as an attachment if corresponding by email and exclude your signature.

I would be most grateful if you could give me the name and address of any other person(s) you know who may have an interest in the premises which belong to or are associated with you.

Yours sincerely

Mark Dunthorne
Tree Protection Officer
Norwich City Council

NORWICH City Council

Please ask for:
Mark Dunthorne
Arboricultural officer (TPO)
Tel: 01603 989335
Email: planning@norwich.gov.uk
Date: 17 June 2025

IMPORTANT – THIS COMMUNICATION MAY AFFECT YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 (as amended).

TOWN & COUNTRY PLANNING (Tree Preservation) (England) REGULATIONS 2012

TREE PRESERVATION ORDER 2025

THE CITY COUNCIL OF NORWICH NUMBER 634

ADDRESS:
10 Barnard Road
Norwich
NR5 9JB

DESCRIPTION: Tree Preservation Order, 2025 City of Norwich Number 634, 10 Barnard Road Norwich NR5 9JB

DATE: 17 June 2025

THIS IS A FORMAL NOTICE to let you know that on 17 June 2025, the Council made the above Tree Preservation Order.

A copy of the Order is enclosed. In simple terms, it prohibits anyone from cutting down, topping or lopping any of the trees described in the Schedule and shown on the map without the Council's consent. More information on Tree Preservation Orders can found on the government's Planning Practice Guidance website:

http://planningguidance.communities.gov.uk/blog/guidance/tree-preservation-orders/

The Council has made the Order to protect the amenity of the area.

The Order took effect, on a provisional basis, on 17 June 2025. It will continue in force on this basis for a further 6 months until the Order is confirmed by the Council, or if the Council decide not to confirm the order, the date on which the Council decide not to confirm the order, whichever occurs first.] The Council will consider whether the Order should be confirmed, that is to say, whether it should take effect formally. Before this decision is made, the people affected by the Order have a right to make objections or other representations about any of the trees, groups of trees or woodlands covered by the Order.

If you would like to make any objections or other comments, we must receive them in writing by 15 July 2025 (28 days after the date of the notice). Your comments must comply with Regulation 6 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012, a copy of which is provided overleaf. Please send any comments by

email to **planning@norwich.gov.uk** or to the Tree Protection Officer, Norwich City Council, City Hall, St Peter's Street, Norwich NR2 1NH. All valid objections or representations are carefully considered before a decision on whether to confirm the Order is made. The Council will write to you again when that decision has been made. In the meantime, if you would like any further information or have any questions about this letter, please contact the officer named above.

Yours sincerely



Sarah Ashurst
Head of planning and regulatory services

Copy of Regulation 6 of The Town and Country Planning (Tree Preservation)(England) Regulations 2012

Objections and representations

6.—*(1) Subject to paragraph (2), objections and representations—*

(a) shall be made in writing and—

(i) delivered to the authority not later than the date specified by them under regulation

5(2)(c); or

(ii) sent to the authority in a properly addressed and pre-paid letter posted at such time that, in the ordinary course of post, it would be delivered to them not later than that date;

(b) shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which such objections and representations are made; and

(c) in the case of an objection, shall state the reasons for the objection.

(2) The authority may treat as duly made objections and representations which do not comply
with the requirements of paragraph (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected.

NORWICH City Council

FORM OF TREE PRESERVATION ORDER

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

THE CITY OF NORWICH TREE PRESERVATION ORDER NUMBER 634

The City Council of Norwich, in exercise of the powers conferred on them by Section 198 of the Town and Country Planning Act 1990 hereby make the following Order –

Citation

1. This Order may be cited as Tree Preservation Order, 634 City of Norwich, 10 Barnard Road Norwich NR5 9JB

Interpretation

2. 1. In this Order "the authority" means the City Council of Norwich.

2. In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Effect

3. 1. Subject to article 4, this Order takes effect provisionally on the date on which it is made.

2. Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—

(a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of, any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

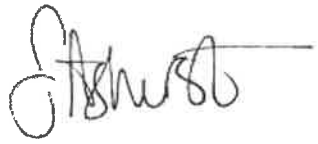
Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation

and planting of trees), this Order takes effect as from the time when the tree is planted.

DATED this 17 June 2025

Signed on behalf of the City Council of Norwich:



Sarah Ashurst
Head of planning and regulatory services

Authorised by the Council to sign in that behalf

SCHEDULE

Article 3
SPECIFICATION OF TREES

Trees specified individually (TREE)
(encircled in black on the map)

Reference on Map	Description	Situation
T1	1 x Silver Birch	On the Eastern side of the car park.
T2	1 x Silver Birch	On the Eastern side of the car park.
T3	1 x Silver Birch	On the Eastern side of the car park.
T4	1 x Silver Birch	On the Eastern side of the car park.

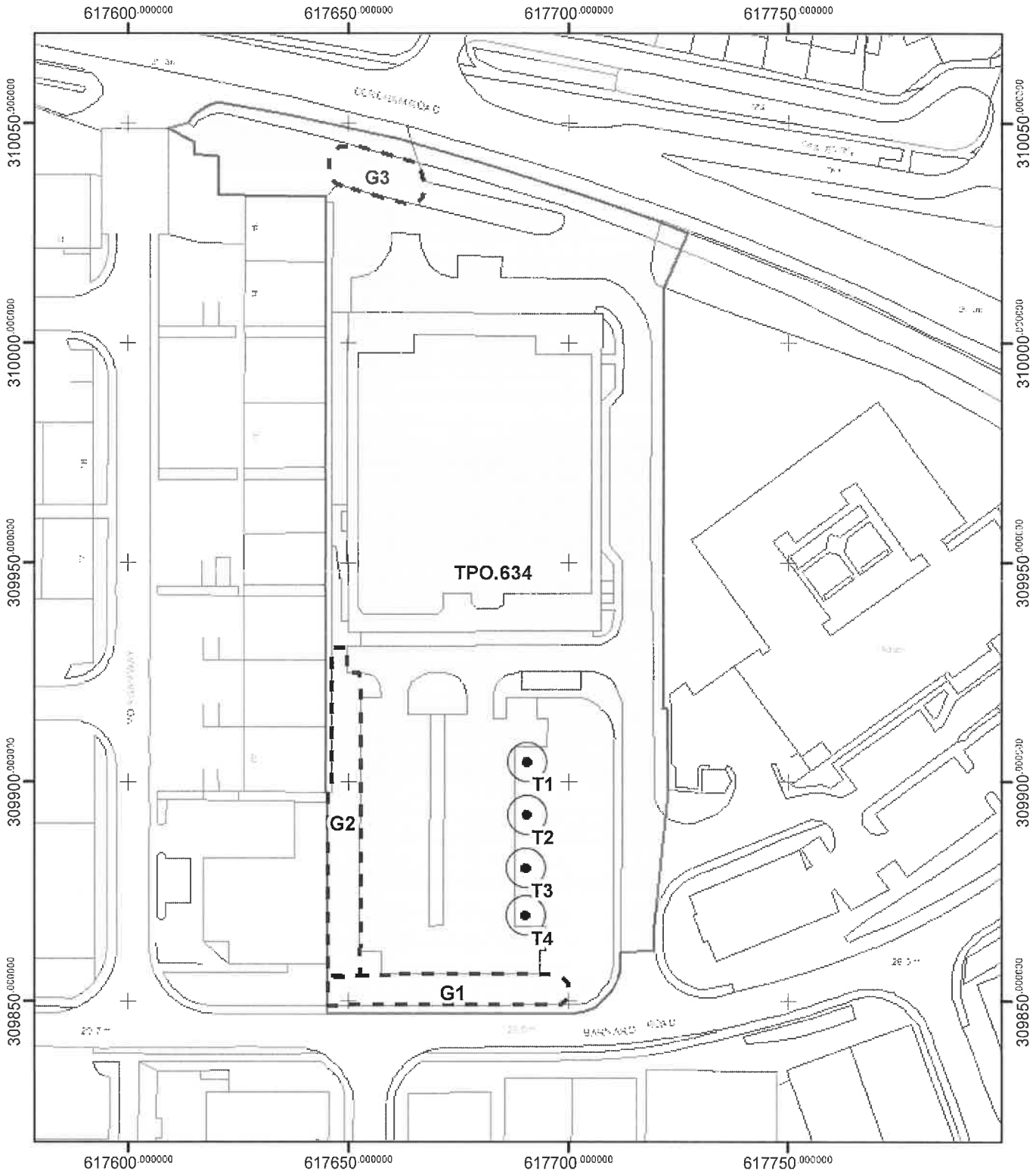
Groups of Trees (GROUP)
(within a broken black line on the map)

Reference on Map	Description	Situation
G1	Group consisting of alder, birch, pine, willow, maple and oak.	On the Southern side of the car park.
G2	Group consisting of birch, cherry, maple and alder.	On the Western side of the car park.
G3	Group consisting of oak, lime, hazel and hawthorn.	At the North of the site, adjacent to Dereham Road.

NORWICH
City Council

Tree Preservation Order Number : TPO 634

Location : 10 Barnard Road
Norwich



PLANNING SERVICES

Norwich City Council, City Hall,
Norwich, NR2 1NH
Telephone 0344 980 3333

Date : 12/06/2025

Scale : 1:1,250

Drawn by : NLD

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Appendix 5

NORWICH City Council

Alexa Burns
Emery Planning
Unit 2-4 South Park Business Court
Hobson Street
Macclesfield
Cheshire
SK11 8BS

19th May 2023

Your reference

Our reference 23/00276/PREAPP

By email

Dear Alexa

- **Proposed Class E Foodstore, 10 Barnard Road, Norwich**

Thank you for your request for advice relating to the above proposed development. This advice is provided further to a meeting between the council and yourself on 13th April 2023 and the submission of further correspondence relating to fall-back position received 5th May 2023.

You have applied for advice relating to proposals for redevelopment of the site to provide a Class E retail foodstore for a specific site operator (Lidl). You are seeking to agree the scope of the application, its retail assessment and transport assessment.

In terms of the acceptability of the proposals this has been assessed under the sections below.

Constraints

- Designated employment land – Bowthorpe Employment Area (policy DM16 applies).

Relevant planning policy

The following main policies, documents and guidance will be used in considering your proposal:

Joint Core Strategy for Broadland, Norwich and South Norfolk, 2011 amended 2014 (JCS) - available here;

- JCS1 Addressing climate change and protecting environmental assets
- JCS2 Promoting good design
- JCS3 Energy and water
- JCS5 The economy
- JCS6 Access and transportation
- JCS7 Supporting communities
- JCS9 Strategy for growth in the Norwich policy area

- JCS11 Norwich City Centre
- JCS19 The hierarchy of centres
- JCS20 Implementation

Norwich Development Management Policies Local Plan 2014 (DMPLP) – available here.

- DM1 Achieving and delivering sustainable development
- DM2 Ensuring satisfactory living and working conditions
- DM3 Delivering high quality design
- DM5 Flood resilience
- DM6 Protecting and enhancing the natural environment
- DM7 Trees and development
- DM11 Protecting against environmental hazards
- DM16 Supporting the needs of business
- DM18 Promoting and supporting centres
- DM20 Protecting and supporting city centre shopping
- DM21 Protecting and supporting district and local centres
- DM22 Planning for and safeguarding community facilities
- DM28 Encouraging sustainable travel
- DM30 Access and highway safety
- DM31 Car parking and servicing
- DM33 Planning obligations and development viability

Other material considerations
Relevant sections of the National Planning Policy Framework July 2021 (NPPF):

- NPPF 2 Achieving sustainable development
- NPPF 4 Decision-making
- NPPF6 Building a strong, competitive economy
- NPPF7 Ensuring the vitality of town centres
- NPPF8 Promoting healthy and safe communities
- NPPF9 Promoting sustainable transport
- NPPF11 Making effective use of land
- NPPF 12 Achieving well-designed places
- NPPF 14 Meeting the challenge of climate change, flooding and coastal change
- NPPF 15 Conserving and enhancing the natural environment

The NPPF is available at the following link:
https://www.gov.uk/government/publications/national-planning-policy-framework--2

- National Model Design Code,
- National Design Guide,
- Building for a Healthy Life

Emerging Policy
Greater Norwich Local Plan (GNLP) – still undergoing examination. Will replace the Joint Core Strategy and Site allocations and site specific policies plan only. Adoption likely early 2024.

The proposal
To demolish the existing building on the site (approx. 3,258sqm) to allow redevelopment and construction of a Class E foodstore, to be occupied by Lidl. The proposed building has a gross external area of 1,900sqm (approx. 1,250 sqm sales area) with 120-122 parking spaces, hard and soft landscaping and improved pedestrian and cycle access on the northern part of the site only. The site will continue to be accessed from the existing access from Barnard Road which is shared with the hotel site adjacent to the east. The southern part of the site may be subject to a further application in the future and would be served from the same point of access.

Planning history

Ref	Proposal	Decision	Date
4/2000/0399	Extensions and alterations to front of building, new mezzanine level restaurant and alterations to car park.	APPR	12/07/2000
4/1992/0793	No.2 Post mounted triangular signs.	TEMP	18/12/1992
4/1994/1013	Erection of signs.	APCON	06/01/1995
4/1999/0985	Extensions to building at front and rear and to car park.	APPR	17/02/2000
06/00056/O	Outline proposals for the demolition of existing bowling alley and erection of hotel and separate public house/restaurant.	WITHDN	27/04/2006
07/00056/O	Outline application for the erection of hotel and bowling alley.	REF APPEAL DISMISSED	30/04/2007

Principle of development
Loss of existing leisure use/community use
The site is in the Bowthorpe Employment Area and currently operational as a bowling centre, a leisure use which the NPPF defines as a 'main town centre use' and is therefore not currently in employment use (as defined by policy DM16). The existing bowling alley dates from the early 1990s and was approved prior to the adoption of the previous and current Local Plan (DMPLP), in the context of more permissive planning policies relating to the location of large-scale leisure development, and a relatively good supply of alternate sites and premises for B class employment use.

The premises is not currently vacant, however you suggest that the bowling centre will not be viable in the medium/long term. However, local knowledge together with historic information suggests that the business operating from the site is well attended by clubs and organised groups for structured bowling and provides a facility that meets specific demands which differ from other bowling facilities within Norwich aimed more at recreational/casual users, ensuring its continued success in this out of

centre location. The proposals would therefore result in the loss of a valued indoor leisure facility, currently used by community groups which falls within the local plan definition of 'community facilities/uses'.

DMPLP policy DM22 states that development resulting in the loss of an existing community facility will only be permitted where:

a) adequate alternative provision exists or will be provided in an equally accessible or more accessible location within 800 metres walking distance; or

b) all reasonable efforts have been made to preserve the facility but it has been demonstrated that it would not be economically viable, feasible or practicable to retain the building or site for its existing use; and

c) evidence is provided to confirm that the property or site has been marketed for a meaningful period and that there is no realistic interest in its retention for the current use or for an alternative community use.

As no alternative provision currently exists within 800 metres then you will need to satisfy the requirements of both (b) and (c) of the policy and demonstrate lack of viability concerning the continued use of the site for the existing use and lack of realistic interest in retaining the building for an alternative community use.

Based on the requirements of policy DM22 there may be merit in maintaining a continued bowling centre use of the site at a smaller scale than the existing if you are able to demonstrate that the need for a reduced size of facility would perhaps be a more viable longer term alternative and if this could be accommodated on part of the site which would fall outside of the requirements of the current retail operator interest.

Need to retain employment areas
Any proposals for redevelopment for other uses of the site need to be assessed against current planning policies. In November 2019 a Reg 10A review took place and conclusions for DM16 and DM18 were that these policies are considered to be fit for purpose at the present time, however a future review is considered desirable. Whilst the GNLP notes that committed employment land is sufficient in quantity and quality to meet the potential for enhanced growth, paragraph 295 of the Reg 19 version of the GNLP sets out that the 'Employment Town Centre and Retail study' reviewed existing employment sites and allocations and did not conclude that any should be reallocated for other uses. This position will be given further consideration when a review of the DM policies plan takes place (after adoption of the GNLP). At this point in time however the existing employment areas still apply and policy DM16 and DM18 are both relevant (and will remain in place and relevant once the GNLP is adopted). Of note here is the fact that the employment area is a policy designation and not a site allocation and such designation remains in place upon the adoption of the GNLP and until the DMPLP policies are reviewed.

Proposed retail use
Notwithstanding its current leisure use, the site remains designated as part of a defined 'employment area' promoted primarily for employment use. Under DMPLP policy DM16, within employment areas, proposals for new employment development (Use Class B1 (now Class E(g)), B2 and B8) will be prioritised along with other forms of economic development where this would not conflict with the requirements of

policy DM18 in relation to town centre uses [or with policy DM19 in relation to city centre office development], would not prejudice the function of the employment area and would not undermine committed proposals for its redevelopment or regeneration.

The site is an 'out of centre' location and the retail use proposed is a 'main town centre use' as defined by the DMPLP and NPPF. DMPLP Policy DM18 states that proposals for main town centre uses on employment areas will be assessed and determined in accordance with the criteria in policy DM16 (and, where applicable, DM17) prioritising these areas for employment and other economic development uses, and permitted exceptionally where:

a) the sequential and impact assessment requirements have been satisfied and it is demonstrated that it is not practical to accommodate the development on a more sequentially preferable or accessible site; and
b) the use is appropriate to the character and function of the employment area; or
c) the use is ancillary to or associated with an existing use already on the employment area.

The sequential and impact assessments must demonstrate clearly that:

- the proposal could not be accommodated on any reasonable alternative and available site or sites within or adjacent to a defined centre at the appropriate level of the hierarchy; and
- the proposal would not result in a significantly harmful impact on the vitality and viability of the city centre or other existing and proposed centres, would not compromise committed proposals for their expansion and would not significantly undermine prospects for their regeneration, improvement or enhancement.

The applicable floorspace threshold for such sequential and impact assessments as set out in appendix 4 of the DMPLP is 1000 sqm gross internal area. As mentioned above the Reg 10A review concluded that this policy is still fit for purpose. The NPPF sets out that the default threshold of 2,500sqm should only be used where there is no local threshold. Given that a local threshold exists which is not considered out of date, an impact assessment will be required rather than a Health Check of Bowthorpe district centre as you initially suggested.

Therefore in summary, subject to being able to justify the loss of community use from the site (or its retention at a smaller scale) in accordance with policy DM22, retail use could be permitted as an exception where the requirements of parts (a) and (b) or (a) and (c) of policy DM18 as set out above are met and the use would not prejudice the function of the employment area and would not undermine committed proposals for its redevelopment or regeneration as required by policy DM16.

Sequential and Impact Assessments
The adopted retail strategy for the Greater Norwich area, requires major retail development to be located in accordance with the identified hierarchy. Norwich city centre is located at the top of hierarchy of centres set out in JCS Policy 19 and is identified as the main focus in the sub-region for future retail development (Policy 11). Other district and local centres are also identified for lower order retail uses in the adopted Development Management Policies Local Plan.

You suggest that the proposed development will serve a very specific catchment area correlating to a 5 minute drive time catchment, however no further justification or explanation has been provided as to why such a specific catchment is relevant. It is however recognised that the nature of this type of retail use means that it would not compete directly with the mainly comparison based retail offer of the city centre.

As the site is located on the very edge of Norwich City Council's administrative area your assessment will need to extend into the adjacent district of South Norfolk Council. You go on to suggest a 10 minute peak drive time as an appropriate catchment area for a sequential assessment for a foodstore of the size and type proposed. I am aware that recent applications at Longwater retail park within South Norfolk district have used a 10 minute drive time as their core catchment area and therefore for consistency of approach I would suggest that a 10 minute drive time (not peak) represents an appropriate area of search for sequential site assessment.

The district and local centres which should be subject to impact and sequential testing which lie within a 10-minute drivetime catchment area of the proposal are:

- Bowthorpe District Centre (Norwich CC) – includes comparable food /convenience store
- The Larkham District Centre (Norwich CC) – includes comparable food /convenience store
- Norwich Road, Costessey Local Centre (South Norfolk DC)
- Earlham West Local Centre (Norwich CC)
- University of East Anglia Local Centre (Norwich CC)
- Colman Road, The Parade Local Centre (Norwich CC)
- Colman Road, The Avenues Local Centre (Norwich CC)
- Easton / Costessey (South Norfolk DC - Mixed Use allocation under EAS1)

The large car park at Bowthorpe District Centre should also be explored as a potential option which may have some scope for a new food store. This should be investigated further to establish whether there is capacity for a new build foodstore here at the expense of some car parking.

I am also aware that Lidl's closest store in the Drayton Road District Centre is just outside of a 10-minute drive time catchment and is expected to close soon. I would expect options for redevelopment of this site to be considered/addressed as part of the retail assessment.

In general, other relevant policies that require consideration in this case would be those concerning access and highway safety, protecting biodiversity and the natural environment and flood risk.

Fallback position: Class E conversion

Extensive changes to The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 created a new 'commercial, business and service' Class E, which incorporates a wide range of uses which previously fell within different use classes. With relevance to these proposals indoor sport and recreation, leisure uses (previously Class D2) now fall within the same use class as retail uses (previously Class A1).

As the planning history for the site does not suggest that the use was restricted by planning condition or that permitted development rights have been removed then it

would be reasonable to conclude that the use of the existing building on the site could be changed from its existing use as a bowling centre to the proposed retail use as a permitted change without the need for planning permission. Both uses now fall within the wider array of alternate proposals now possible within the same Class E Use class.

The changes to the Use Classes Order would only permit a change of use and not physical building works associated with the proposed change of use. You explain that the existing building (3,258sqm) is larger in floor area than that required of the proposed use and suggest that this represents a robust 'fall-back' position which should be afforded significant weight.

I agree that fall-back is a material consideration in the decision making process, of which the permitted development rights given by the Use Classes Order comprise an element. Case law suggests that regard must be had to an applicant's ability to implement a fall-back permission and whether the prospect of the fall-back taking place is realistic and not just theoretical. The weight to be attached to the fall-back position should be determined by the decision-maker accordingly.

You have already highlighted that the existing building is greater in size than Lidl's specific operational needs, necessitating an application to demolish and rebuild. In addition, the redevelopment only requires part of the site. It would therefore appear that neither the building nor the site meet the specific requirements of the proposed development as specified by Lidl in several ways. The change of use of the existing building is not likely to occur as it is not of a suitable size for the proposed operator, it is in excess of their requirements and would result in vacant floor space which could be occupied by another operator and as I understand it this would not be attractive to Lidl. I would therefore question whether these specific proposals represent a robust or realistic fall-back position and therefore consider it should only attract very limited weight as a material planning consideration. Also, as only part of the overall site is required by the potential retail operator this represents inefficient use of the site within your client's ownership as a whole leaving over a third of the site vacant and subject to uncertainty.

Further to our meeting you have provided additional information as to your thoughts on the matter of the fallback position at this site. It is important here to differentiate between your client's wider options for the site rather than the specific proposals initially presented to the Council around the use of the site by a specific retail operator (Lidl) and their specific store/site requirements. Your case has changed emphasis in your submission of 5th May to widen the scope of the fall back to your client seeking to find the most viable and feasible use of the site moving forward, not specific to one particular operator's requirements. This arguably becomes more of a theoretical approach to redevelopment. This differs from the position put to the Council in the initial stages of the pre-application enquiry which was focused on one specific operator's operational requirements, in this case Lidl. As you no doubt appreciate the matter of the weight to be attributed to fall-back may differ depending on the proposals.

A true fall back would allow a change of use to take place and occupation of a building for the new use without the need for any consent from the local planning authority.

It is however clear through initiating these discussions that your client intends to revisit the possibilities surrounding redevelopment of the site/putting it to an alternative use some 16 years since it was last considered by the council and tested at appeal. There have been some significant changes in the intervening period including the adoption of the current development plan in 2014; progress being made on a replacement Greater Norwich Local Plan; identified changes to the Use Classes Order surrounding commercial, business and service uses and the immediate and then more limited longer term impacts of the covid pandemic. However, the bowling centre use operating at the site has diversified and to date continues to operate from the site which suggests that at the current time at least it continues to be a viable operation.

Rather than concentrating on fallback I feel that it would be more beneficial to discuss (subject to meeting the policy requirements as set out above) the possibilities surrounding a mixed retail and leisure proposal for the whole of the site within your client's ownership.

Access and highways matters
As advised, I understand that you are progressing advice direct with Norfolk County Council as highway authority on specific matters relating to agreeing the scope of a Transport Assessment. It is assumed that you will also be discussing with them specific measures required to improve pedestrian and cycle access to the site.

Parking
Norwich City Council parking standards are found at Appendix 3 of the DMPLP.
Car parking (retail) Max 1 space per 20sqm gfa (1900sqm = 95 spaces), 5% of total disabled (4-5), 5% of total parent and child (4-5), 5% of level of car parking should be secure motor cycle parking. One electric vehicle charging space.

Cycle parking – Staff – 1 space (covered and secure) per 100sqm (19 spaces), customers 1 space per 50sqm adjacent to principle entrances (38 spaces).

In general terms the site is accessed from Barnard Road but also has a frontage (without direct access) to Dereham Road which is a corridor of movement.
Not only is this an out-of-centre location in policy terms, the area and this site in particular, is not sustainably located or sufficiently accessible to adopt a retail role as travel would predominantly be by private car, contrary to the objectives of JCS Policies 1 and 6 to minimise the need to travel, encourage walking, cycling and the use of public transport and to concentrate development close to essential services.

Accessibility
The site is poorly related to adjoining residential areas, with limited accessibility to public transport routes for both staff and customers and extremely limited opportunity for linked trips other than from a workplace within the employment area. Housing in Costessey to the north is located beyond the A1074 Dereham Road which has very limited crossing facilities. Housing in Chapel Break, Clover Hill and Three Score (part of Bowthorpe) is located to the south. This area has some footpath/cycle path provision from the employment area but is separated by Chapel Break Road which although this has footway provision it is not actively overlooked and only allows opportunity to cross in specific locations. Public transport to and from the city centre is available on Dereham Road and Chapel Break Road, however access to bus stops will require further investigation and likely improvements. The proposed use is

clearly intended for private car users and its location does little to reduce dependency on the private car, as it is not currently well related to the surrounding residential areas, or located in a centre where linked trips could be reasonably made. The location of the proposed development is thus contrary to the aims of policy DM1 and DM28 unless sufficient improvements can be made to rectify the issues identified and promote access to and through the site by sustainable travel modes other than the private car.

Layout observations
I understand that the choice of location of the proposed food store is on the northern part of the site so as to provide greatest visibility from Dereham Road. Large scale totem signage is proposed to the Dereham Road frontage, which would be a form of advertisement which is not particularly characteristic of the area. There is only one other such totem sign in the area at the Coop petrol filling station on Dereham Road. The Dereham Road edge of the Bowthorpe Employment Area is quite verdant and mainly heavily vegetated, with the exception of this part of the frontage which has less mature trees and smaller scale advertisements. There is residential development on the opposite side of the Dereham Road. Large scale signage is unlikely to be acceptable in this location. A more subtle form of signage would likely be required in this location, subject to input from the highway authority on highway safety considerations.

As set out in the highways matters section above the provision of approx. 120-122 car parking spaces represents an over provision of car parking for the amount of retail floor space proposed. There is no relief across the car parking area through the provision of landscaping. No details of cycle parking or pedestrian linkages through the site are shown.

A smaller parcel of land adjacent to the Barnard Road frontage is shown to be for ‘future development opportunity’. In adopting this approach however there is a potential that the food store could become hidden in future behind an unspecified other use towards the back of the site. Also, in the short term the frontage of the site would have the potential to become unsightly/unkempt which is not something that the council would want to see happen.

It is agreed that the site is not currently used in a very efficient way. A large, perhaps underutilised building is situated behind a large extent of underutilised car parking area. A more acceptable approach to explore as stated above could be to redevelop the entire site for a mixed use development which makes some reprovision of the bowling facility that exists on the site and accommodates the proposed operators food store.

Additional general advice
Any new development should look to seek a net increase in biodiversity (Biodiversity Net Gain) and connection with the adjacent habitats. Please note that NPPF para 174 states that the planning system should contribute to and enhance the natural and local environment by providing net gains in biodiversity. A mandatory 10% Biodiversity Net Gain (BNG) will be introduced under the Environment Act later in 2023. The Greater Norwich Local Plan (GNLP) requires 10% BNG, which has been subject to examination. As such a 10% requirement is likely to be required locally from when the plan is adopted. Developments of this scale would need to

demonstrate compliance, potentially utilising the Natural England metric (The Biodiversity Metric 3.0 - JP039).

Conclusion
Further consideration of the each of the issues detailed above will be required in order to address matters relating to the loss of the existing use and the principle of the new development proposed as presented within the pre-application submission.

I hope you find this advice of assistance. However, please remember that the advice given in this letter is based on the information submitted, a full planning history may not have been researched and is the opinion of the case officer and cannot in any way prejudice the decision made on a formal planning application by Norwich City Council.

Should you require any further assistance please do not hesitate to contact me.

Yours sincerely

Sarah Hinchcliffe
Senior Planner
Development and City Services
Norwich City Council
t: (01603) 989413
e: sarahhinchcliffe@norwich.gov.uk

Appendix 6

Bandai Namco Amusement Europe Ltd.
37-39 Kew Foot Road, Richmond TW9 2SS
Tel: +44 20 8324 6000
www.bandainamco-am.co.uk
www.namcofunscape.com
Registered in England No: 2824795

BANDAI NAMCO
Fun for All into the Future

14th December 2023

Strictly Private & Confidential

Statement by Bandai Namco Amusement Europe Ltd (BNAE) [redacted]

BNAE are the current leaseholders of the above premises, which operates as a tenpin bowling centre.

[redacted]

[redacted]

Yours sincerely

[redacted]

[redacted]
Director
Bandai Namco Amusement Europe Ltd.
[redacted]

Appendix 7

Alexa Burns

From: Hinchcliffe, Sarah [redacted]@norwich.gov.uk>
Sent: 28 May 2025 16:48
To: [redacted]
Cc: Rawdon Gascoigne; Alexa Burns; Tom Smith
Subject: [EXTERNAL] - RE: Planning application 23/01615/F - Lidl, Barnard Road, Norwich

Dear Peter

The situation with regards the lease was explained within the meeting that we had. Unfortunately however the circumstances at the site do not result in the council needing to intervene.

Regards

Sarah Hinchcliffe BSc (Hons) MA MRTPI (she/her)
Senior Planner
Development and City Services
Norwich City Council

01603 989413
My working days are Tuesday to Thursday
Using Microsoft Teams? Click here to contact me on Microsoft Teams

A fair and thriving city, full of ambition

NORWICH City Council

From: [redacted]
Sent: 28 May 2025 16:10
To: Hinchcliffe, Sarah [redacted]@norwich.gov.uk>
Cc: Rawdon Gascoigne [redacted] Alexa Burns [redacted]>; Tom Smith [redacted]
Subject: RE: Planning application 23/01615/F - Lidl, Barnard Road, Norwich

External Email: Be cautious about the sender email address, attachments and links. If uncertain please delete the email.

Dear Sarah,

Thank you for your email below.

I am grateful that you were able to forward the email from my Planning Consultant – Rawdon Gascoigne – to the Head of Property and Economic Development within the Council inviting their commentary and I note that they are not able to progress the suggestion further. However, I should point out that, separately to any redevelopment proposals, the existing Lessee will be vacating the premises in 18 months' time at the expiry of their extant Lease as their operation at Barnard Road has been loss-making for some time. They have also been clear that they would vacate earlier if circumstances allowed.

Best wishes,
Peter

From: Hinchcliffe, Sarah <[redacted]@norwich.gov.uk>
Sent: 28 May 2025 10:39
To: [redacted]
Cc: Rawdon Gascoigne [redacted]; Alexa Burns [redacted]; Tom Smith [redacted]
Subject: RE: Planning application 23/01615/F - Lidl, Barnard Road, Norwich

Dear [redacted]

I forwarded Rawdon's email (below) to the council's Head of Property and Economic Development and subsequently had a meeting with him in which he explained the council's position with regards the offer relating to your site at 10 Barnard Road, Norwich.

As a council we have demonstrated that we will intervene in sites where there is clear evidence of market failure, a couple of recent examples include the use of our revolving fund to acquire stalled development sites and pass them over to registered provides to deliver affordable homes and also the recent acquisition of Anglia Square with the support of Homes England.

In this case however, there is no evidence of market failure, the site still being in operation as a leisure facility. As such it is not something as a council that we would take further and therefore I have been asked to respond on his behalf.

Regards

Sarah Hinchcliffe BSc (Hons) MA MRTPI (she/her)
Senior Planner
Development and City Services
Norwich City Council

01603 989413
My working days are Tuesday to Thursday
Using Microsoft Teams? Click here to contact me on Microsoft Teams

A fair and thriving city, full of ambition
NORWICH City Council

From: Rawdon Gascoigne <[redacted]
Sent: 13 May 2025 17:59
To: Hinchcliffe, Sarah <[redacted]@norwich.gov.uk>
Cc: Tom Smith [redacted]>; Alexa Burns [redacted]; [redacted]
<[redacted]
Subject: RE: Planning application 23/01615/F - Lidl, Barnard Road, Norwich

External Email: Be cautious about the sender email address, attachments and links. If uncertain please delete the email.

Dear Sarah,

Further to Planning Committee last Thursday and our subsequent brief discussions after the resolution to refuse the application by members, I am writing as indicated to set out the potential options for retaining a 'community facility' on the site, to address the concerns raised by members. I would stress at the outset that this email is without prejudice to our very firm view that there is no planning basis for retaining either a bowl or other form of community facilities on site especially in light of the recommendation to approve the application and the conclusions in the committee report that the proposals for a new food store were policy compliant. However, whilst we have not yet received the decision notice, I have had extensive discussions with our client based on the debate at the planning committee and they are keen that we seek a view from the Council as a matter of urgency on your position with regards accepting a role in the ongoing provision on site.

At the time of the application, we indicated that our client would be willing to consider the provision of a community facility building (we had assumed a downsized bowling facility to address that need given the debate at the planning committee was that this was needed) alongside a new food store. That is still potentially an option however given the debate at the planning committee, our client is also willing to consider a further alternate option of retaining the existing building for the current use, provided it can be operated on a commercial basis, as you are aware, Namco will exit their current lease in 2027. On this basis, it is assumed that the City Council would effectively take on the tenancy of the building (earlier than 2027 as Namco will vacate earlier if they are able) and operate it for the benefit of the community.

In the case of the continued operation of the existing unit, our client's suggested terms would be as set out below to form the basis for further discussion:

The Terms

Proposed Tenant - Norwich City Council
The Unit – 10 Barnard Road Norwich
Size of Unit - 35,000 sq ft GIA
Lease Term - 35 years term certain
Initial Rent Passing - £[redacted] per sq ft
Rent Review – annually
Escalation Cap and Collar - [redacted]
Planning – Unchanged
Timescale – lease to be effected by 30 June 2025

If a new build unit is the Council's preference, then this would be subject to alternate terms that reflect the required additional costs, and our client would be happy to provide those and discuss further.

We would be grateful if you could pass this email on to the relevant department who would consider City Council Estate and/or Community matters, as I assume this would not be a consideration for the planning department and ask that they revert to our client Peter Williams who is copied into this email. We would ask that a response on the principle of this offer is provided as soon as possible, and preferably within the next week or so to allow discussion to commence, as our client is seeking to confirm his instructions to us on how we progress matters at Barnard Road given the resolution last week.

If you need to discuss anything further, then please do not hesitate to contact me.

Kind regards,

Rawdon Gascoigne BA (Hons), MRTPI

DIRECTOR



Direct Dial : 01625 442 796
Mobile : 07734 282 112
Email : RGascoigne@emeryplanning.com

emeryplanning.com

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Chester Business Park
CH4 9QR

01244 732447



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Appendix 8

Committee name: Planning applications

Committee date: 08/05/2025

Report title: 10 Barnard Road, Norwich, NR5 9JB

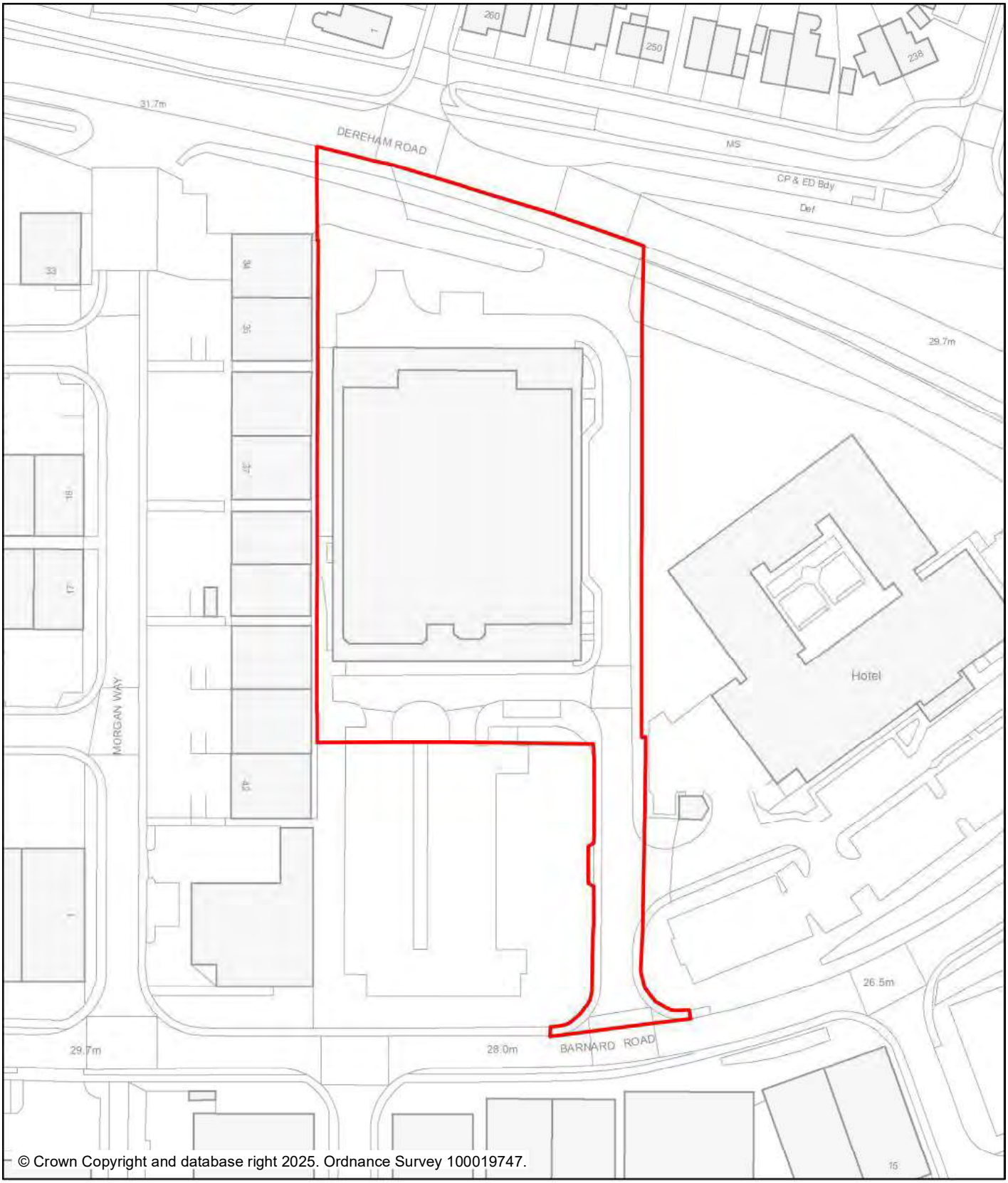
Report from: Head of planning and regulatory services

OPEN PUBLIC ITEM

Purpose:

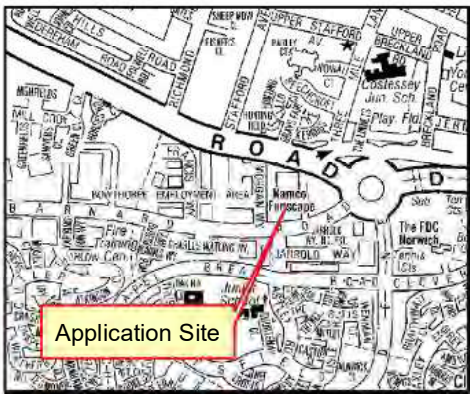
To determine:

Application no:	**23/01615/F**
Site Address:	**10 Barnard Road, Norwich, NR5 9JB**
Decision due by:	16/05/2024
Proposal:	Construction of a Class E food store with associated access, car parking, servicing and landscaping.
Key considerations:	Principle of development Introduction of a retail 'town centre use' in a designated employment area Loss of existing community facility Design Amenity Transport Trees and Landscaping Biodiversity Flood risk and drainage Energy and water efficiency Nutrient neutrality and increased recreational disturbance
Ward:	Bowthorpe



Scale: 1:1,250

N



Planning Application No: 23/01615/F
Site Address: 10 Barnard Road, Norwich NR5 9JB

NORWICH City Council
PLANNING SERVICES

Case Officer: Sarah Hinchcliffe

Applicant/agent: Honeyview Investments Ltd/Emery Planning

Reason at Committee: Objections

Recommendation:

It is recommended to approve the application for the reasons given in the report and subject to the planning conditions set out in paragraph 194 of this report, and grant planning permission.

The site and surroundings

1. The application site is 1.02 hectares and is located in the Bowthorpe Employment Area. An existing extensive single storey building on the site is currently used as a bowling facility operated by Namco Funscape.

2. The bowling facility includes 30 bowling lanes, a video games area, a café and separate 'Pro shop', which provides equipment and advice for bowlers who use their own equipment to bowl. There is also a large separate room with a bar which operates as a function suite and can be hired out for parties and group events.

3. There is parking for over 100 cars to the south of the building up to the road frontage with Barnard Road, which is within the applicant's ownership but does not form part of the application site.

4. Servicing for the existing building is to the north and east. The site is accessed from the south, directly from Barnard Road via an existing access road which also serves the adjacent hotel to the east. This access is intended to also serve a separate site in the applicant's ownership which will be created from the car parking area between the application site and Barnard Road, but is not being considered as part of this planning application.

5. On the adjacent site to the east is a hotel. To the north is Dereham Road and on the opposite side of this road is residential development in the parish of Costessey, within South Norfolk District. The site currently has no direct access to Dereham Road for vehicles, pedestrians or cyclists. To the south and west are brick and metal clad commercial buildings typical for an employment area, which extends further south and west. Further to the south are the extensive residential areas of Bowthorpe, Chapel Break, Clover Hill and Three Score.

Constraints

6. Designated employment land – Bowthorpe Employment Area (DM policy DM16 applies).

7. Tree Preservation Order - TPO 613 –1 Sycamore. Group of 7 oak (DM policy DM7 applies)

Relevant Planning History

8. The records held by the city council show the following planning history for the site.

Case no	Proposal	Decision	Date
4/2000/0399	Extensions and alterations to front of building, new mezzanine level restaurant and alterations to car park.	Approved	12/07/2000
4/1992/0793	No.2 Post mounted triangular signs.	Temporary consent	18/12/1992
4/1994/1013	Erection of signs.	Approved	06/01/1995
4/1999/0985	Extensions to building at front and rear and to car park.	Approved	17/02/2000
06/00056/O	Outline proposals for the demolition of existing bowling alley and erection of hotel and separate public house/restaurant.	Withdrawn	27/04/2006
07/00056/O	Outline application for the erection of hotel and bowling alley.	Refused and dismissed at appeal	30/04/2007

* Note the appeal grounds are materially different and not relevant to this application for retail use.

The Proposal

9. To demolish the existing building on the site (3,345sqm) to allow redevelopment and construction of a Class E food store. The building is intended to be occupied by the discount food operator Lidl and the building, servicing and parking arrangements reflect this.

10. The proposed building has a gross internal area of 1,949sqm, including a net sales area of 1,331sqm of which 1,001 sqm (approx. 80% of net floor space) will be for convenience goods sales and 250sqm (approx. 20% of net floor space) for comparison goods sales.

11. Supporting infrastructure includes 102 car parking spaces, 42 cycle parking spaces, hard and soft landscaping and improved pedestrian and cycle access, including from the north via a new access ramp into the site. The site will continue to be accessed from the existing access from Barnard Road which is shared with the hotel site adjacent to the east and will be modified to also provide a point of access to a separate parcel of land to the south of the application site.

12. The site will remain largely open with knee rail fencing as necessary around the perimeter of the car park. The rear of the building will be secured with 2 metre high weldmesh fencing.

Summary of Proposal – Key facts:

13. The key facts of the proposal are summarised in the tables below:

Scale	Key Facts
Total floorspace	1,949 square metres (GIA) 1,331sqm retail sales floor space • 1,001 sqm convenience goods sales • 250sqm comparison goods sales.
No. of storeys	Single storey
Max. dimensions	Length – 70 metres Width – 34 metres Height – 5 metres - 7.2 metres

Appearance	Key Facts
Materials	Walls – white and grey metal insulated composite panels. North elevation – glazed façade. Roof – light grey trapezoidal composite profiled metal, with solar panels.
Energy and resource efficiency measures	Roof mounted solar pv panels and air source heat pump

Operation	Key Facts
Opening hours	Monday – Saturday 08:00 – 22:00 Sunday – 10:00 – 18:00
Ancillary plant and equipment	Un-specified. Suggested a plant area will be enclosed by a close boarded acoustic fence adjacent to the loading ramp at the southern end of the building.

Transport Matters	Key Facts
Vehicular access	From Barnard Road
No of car parking spaces	Total = 102 spaces • 6 disabled spaces • 9 parent and child spaces • 10 electric vehicle charging spaces • 6 motorcycle space
No of cycle parking spaces	42
Servicing arrangements	Deliveries via a dedicated service ramp and delivery entrance at the southern end of the building. Waste provision inside the building.

Representations

14. Adjacent and neighbouring properties have been notified in writing. 27 letters of representation were received during initial consultation, 12 letters were received during a second round of consultation and 9 letters received after a final round of consultation. The issues raised across all consultations are summarised in the table below:

Issues raised	Response
The use currently occupying the site is a real asset to Bowthorpe and its surrounding communities, allowing for events, social activities and recreation for all ages. The community greatly benefits from diverse recreational facilities like this. It will be such a loss to the community.	See main issue 1 and assessment of the social benefits.
Place the Lidl in the Bowthorpe shopping centre, which in recent years has seen the departure of the police station, pharmacy & post office and needs new investment.	See main issue 1 and the sequential and impact assessment.
A safe crossing on Dereham Road is needed to access new cycle and walking facilities.	See main issue 4, a new crossing on Dereham Road forms part of the proposals.
It would attract people with cars and encourage more traffic into an already busy area so potentially more accidents, more congestion and pollution.	See main issue 4
Current pedestrian access to the industrial estate is a concern with substandard pavements and no cycling provision and no safe crossing of Barnard Road, with a large number of large articulated vehicles using Barnard Road.	See main issue 4, a number of off-site highway improvements to promote walking and cycling to the site are proposed.
We need this [existing] leisure facility and not another supermarket (in addition to Aldi, Roys and Sainsburys nearby, plus other retail amenities at nearby Longwater). Its loss will have a devastating effect on the local community.	See main issue 1.
Another supermarket would take business away from a local supermarket (Roys) and other business at Bowthorpe centre.	See main issue 1 and the retail impact assessment.
The Bowthorpe employment area is mainly industrial, with the exception of Namco, Castle Carvery and the Brook Hotel - it is not a retail park.	See main issue 1 and discussion around justification of uses in this location.
The alley has been a major part of Costessey and Bowthorpe for many years and provides the community with a ten-pin bowling facility including families, school children, people with a disability, members of the public, and league bowlers. Note that this is the only bowling facility in Norwich that provides league bowling.	See main issue 1.
The site has the only Anglian Pro Ten Pin	See main issue 1. Specialist

Issues raised	Response
Bowling shop in Norfolk. Where you can get a bowling ball, holes drilled to fit your fingers, and all the equipment needed for more serious bowlers without having to travel for many, many miles.	provision such as this may need to be sought further afield.
As chair of the Norfolk & Suffolk Tenpin Bowling Association I am deeply concerned about this development. This region has limited access to ten pin bowling facilities given the size of the county and the specific needs of our sports. My objection is on behalf of the 1000's of bowlers that use this centre every week for both competitive and recreational bowling. To lose this facility would erode further the sports facilities so badly needed by the residents of this City and the wider county. Reducing or removing any BTBA approved and sanctioned Tenpin Bowling facilities would seriously affect the County's ten pin bowling ability and the Norfolk & Suffolk County Association should be involved in any future discussions on removing this bowling facility!	See main issue 1. There are a number of bowling facilities within Norwich and the wider county that provide facilities for bowling at various levels.
Loss of this bowling alley will also mean the loss of junior, Adult & Senior league bowling facilities in Norwich. It is only 1 of the 2 County bowling facilities that is recognised by the British Tenpin Bowling Association. This would force people to travel significant distances for league bowling. There are a good number of Junior, Youth, Adult & Senior Norfolk Tenpin bowlers who are currently representing the England teams at home and in international tournaments. The loss of this facility would seriously impact their chances of future representation in their chosen sport! This sporting facility also supports disabled bowlers alongside the various and numerous visitors who enjoy the fun of bowling in a relaxed environment.	See main issue 1. There are a number of bowling facilities within Norwich and the wider county that provide facilities for bowling at various levels.
Neither of the other two [Norwich] centres are interested in supporting local	See main issue 1.

Issues raised	Response
bowlers. The other Norwich bowling alleys are just too expensive. The free car park and discounted prices are important for retired and young people.	
Access to the bowling alley is important to physical and mental wellbeing. People come together both young and old to have fun while keeping fit.	See main issue 1 which discusses the health and well-being implications.
The adapted rooms and bar area are used for socialising.	See main issue 1. There are community-based halls and public bars within the surrounding residential areas that could offer potential alternative arrangements.
The development would not comply with policies relating to employment land and it has not passed the sequential test for retail use to be located in this area.	See main issue 1 and discussion around justification of uses in this location.
It is highly unlikely that that the existing building would simply be converted into a retail use because the building does not lend itself to a retail use. It would be necessary to demolish the building, or at the very least, carry out substantial works to it, to allow it to be used for retail purposes	See main issue 1 and discussion around fall-back.
Potential devastating effect on local wildlife.	See main issue 6.
Lidl will bring affordability and quality to the area and a great employer.	See main issue 1 and the economic benefits of the proposals.
There is nothing in the public to domain to suggest Namco as the leaseholder wish to vacate the site. I believe the site is profitable so how does it compare with other of Namco's sites with regard to footfall, revenue, profitability and costs? If the Norwich site is out of alignment, then why, and what could be done to correct this?	See main issue 1. Due to commercial sensitivities associated with a tenant business, limited detailed information has been provided to the local planning authority for publication.
This bowling centre was designed to be used by the local community, league bowlers from the County and the sporting elite from the Country and Internationally. The building size, layout, carparking and location are still ideal for that purpose. If commercial operators do not want to invest in the bowling equipment and think they will not get a large enough profit from the site, then a combination of local government, community and sports interests could purchase and/or operate the bowl.	See main issues 1. Although a community facility it is also a private business. The site is privately owned, and the business operation is a private concern.
The Slimming World group operating	See main issue 1. There are

Issues raised	Response
from the function room [at the bowling centre] has supported thousands of people to lose weight, become more active and have a community group. Without the access to a Slimming World group in Bowthorpe many people with obesity would not have found the help & support to make healthier changes and have been able to dramatically change their lives, which in turn saves the NHS thousands every year and why the NHS and Norfolk County Council support referring local residents to funded places at my groups.	community-based halls and function rooms within the surrounding residential areas that could offer potential alternative arrangements.

15. In addition to the public representations, detailed representations were also made on behalf of Waitrose and Partners, ALDI Stores Ltd and Roys of Bowthorpe as summarised below.

16. Firstplan on behalf of Waitrose and Partners (Eaton Centre store)

    Objection (additional justification required in terms of compliance with sequential and impact tests) as the application can be considered contrary to development plan policy. Based on the justification which has been submitted, we do not believe that the applicants have satisfactorily demonstrated compliance with national and local policy requirements in respect of the application of the sequential and retail impact tests.

    Waitrose have traded from their branch at the Eaton Centre since 1995. The Waitrose store acts as the clear 'anchor' store to the district store and is one of the principal retailers serving the western side of the city and surrounding villages. The remaining small-scale retail and service outlets in the district centre are supported by the footfall attracted to the Waitrose store and consequently the Waitrose can be considered to play a critical role in supporting the wider vitality and viability of the district centre. The Waitrose store is located approximately 12 minutes' drive from the application site and our client considers there to be potential for the district centre to which they form the anchor store to be impacted.

17. Avison Young on behalf of ALDI Stores Ltd (Larkman District Centre store)

    Our objection relates to the loss of community facilities and thus conflict with Policy DM22, which has not been appropriately considered; impact on ALDI's in-centre store at Larkman District Centre; and issues with the methodology of the Retail Impact Assessment (RIA) more generally.

    The applicant has provided the local authority with an [retail] analysis which is based on out-of-date and inaccurate data; has omitted to include large sections of data which is required to properly assess the impact of the proposed development; and has presented a forecast pattern of trade diversion which is plainly incorrect. Therefore, under any reasonable examination, the applicant's impact assessment has failed to demonstrate compliance with Policy DM18 of the Development Management Policies Local Plan 2014 and paragraph 94 of

the latest version of the NPPF. For this reason alone, the local authority should reject the applicant's assessment and should refuse planning permission unless these deficiencies are addressed.

18. Lanpro on behalf of Roys of Bowthorpe (Bowthorpe District Centre store)

Our client operates the Roys store located within the Bowthorpe District Centre and also owns the Bowthorpe Shopping Centre.

In terms of retailing offer, Roys Store is the anchor to the shopping provision and supports the centre by way of linked trips and spin-off trade. Whilst identified as a 'variety store' Roys is a supermarket, offering predominantly convenience type goods. The store also offers a smaller range of comparison type goods including fashion and a garden centre. The shopping centre itself comprises 17 units that offer retail, service, food and drink and office uses. Whilst the perception of the Centre is relatively healthy, there is a comparatively high turnover of premises, with a continuous number of vacant units. Over the past years store closures include the Post Office, the Norwich & Peterborough Building Society, Corals betting, Boots Pharmacy and McColls convenience store.

Given the important role of Roys to the Bowthorpe District Centre for linked trips and spin off trade, the under performance of the store clearly illustrates the vulnerability of the centre to new competing developments.

It is advanced that the submitted Retail Impact Assessment has overestimated the turnover of the Roys store. Therefore, the potential retail impact of the proposed Lidl store on our client's store, and Bowthorpe District Centre, has been significantly underestimated. The factual position relating to the turnover of Roys has been stated above, and in reality, the proposed development has the potential to detrimentally impact on the vitality and viability of Bowthorpe District Centre. This would be contrary to the requirements of National Planning Policy Framework (NPPF) which supports and protects the viability and vitality of established town centres.

In terms of the fallback position, it is unlikely a food retailer would realistically consider the refurbishment of the existing building for a new store development. Such a development would result in a constrained store that would unlikely meet the operational requirements of a modern food store retailer and would potentially compromise the offer provided to the customer.

Due to the lack of up-to-date data, it is not possible to come to a robust conclusion on the efficacy of the submitted Retail Assessment.

The supporting Retail Assessment in its current form underestimates the retail impact on our client's retail store. Indeed, the potential impact on Roys store at Bowthorpe raises significant concern. Given that Roys is the anchor to Bowthorpe District Centre and supports the centre through linked trips and spin off trade, the anticipated trade diversion resulting from the proposed Lidl store has the potential to adversely affect the vitality and viability of the centre as a whole. Such negative impact is contrary to National Planning Policy Framework and National Planning Practice Guidance which seeks to protect town centres.

For the reasons stated above, it is submitted that planning permission for the proposed Lidl food store should not be granted.

19. A letter from Norwich Cycling Campaign includes critical observations of the transport elements of the proposals, including;

- Barnard Road carries traffic consisting in large part of HGV and other industrial traffic, has sub-standard walking infrastructure and no cycling provision, yet is the primary active travel desire line to the site of the new development, especially for residents of Bowthorpe.

- Do not support the proposed Toucan crossing of Dereham Road. The proposed crossing would interfere with the new segregated cycle route presently under construction on Dereham Road.

- There should be provision, at the developer's expense, cycle and walking infrastructure built to LTN 1/20 standard from the junction of Wendene, to connect across Wendene with the existing cycle/walking route from the direction of Bowthorpe Park, along Barnard Road, past the new development as far as Mayfly Way.

Consultation responses

20. Consultation responses are summarised below the full responses are available to view at http://planning.norwich.gov.uk/online-applications/ by entering the application number.

Statutory and non-statutory consultees

Anglian Water

21. No objection subject to imposition of conditions. Confirm that there are AW assets within and close to the site. In relation to wastewater treatment, they indicate the foul drainage from this development is in the catchment of Whitlingham Trowse Water Recycling Centre that will have available capacity for these flows. Conditions are recommended regarding on-site drainage and surface water disposal.

Environmental Protection (Norwich City Council)

22. Request that the following conditions are attached to any approval granted:

- No trade deliveries or collections shall take place before 07:00 hours and after 23:00 hours Monday to Saturday and before 09:00 and after 18:00 Sundays. There shall be no trade deliveries or collections, on Bank or Public Holidays.

- No use of the premises shall take place until a mechanical plant system has been installed in full accordance with a scheme to be first submitted to and agreed in writing with the local planning authority and, once installed, shall be retained as such thereafter. The scheme shall conform to the recommendations given at paragraphs 5.11 and 5.12 of the submitted noise impact assessment.

- Development shall not begin until a detailed noise and dust management plan/scheme to protect residential dwelling surrounding the site from noise, dust and smoke, has been submitted to, and approved in writing by the Local Planning Authority.

23. Have reviewed the report Phase II Geo-Environmental Site Investigation Reference: BRD4290-OR2-A dated 12th September 2023. The report finds no contamination in the area tested; however, the foundations have not yet been removed. The report recommends that there is attendance by a Geo-Environmental consultant during the removal of existing foundations as part of the demolition should be considered. Inspection of the subsequent excavations and the undertaking of a couple of trial pits would address the limitations in the exploratory point layout. I would like to add a condition to ensure this is carried out; by adapting the unknown contamination condition and using the asbestos informative.

24. I have reviewed the Air Quality Assessment, Report Ref – 2306810-R02 dated December 2023 produced by Ardent Consulting Engineers. Provided the mitigation measures in section 6.0 are implemented I have no objections and suggest this should be conditioned with the requirement for a Demolition and Construction Management Plan to formalise this. I do request the wording is changed in this document from “avoid bonfires” to “no bonfires”.

25. No occupation/use of the development hereby approved shall take place until details have been submitted to and agreed in writing by the local planning authority of all external lighting for the site, including any security or other intermittent lighting. Such details shall include specifications for the lighting proposed, its location and position within the site, height and levels of illumination proposed. The details shall also specify that any external lighting includes cowling, or other similar device, to ensure that the lighting only illuminates the site directly. The development shall be carried out in accordance with the details as agreed and retained as such thereafter.

Highway Authority (Norfolk County Council)

26. Following engagement with the Highway Authority, the applicant has produced an accepted package of offsite highway improvements to support active and sustainable travel to the site from the wider community.

27. A preliminary design of a toucan crossing to the north of the site has been produced. The applicant has liaised with colleagues in Highway Design who have been leading on the recent Dereham Road highway improvement scheme to ensure that the design of the crossing integrates with the recently completed works.

28. The applicant has also submitted a Stage 1 Road Safety Audit based on the submitted design of the toucan crossing. Further technical review of all associated highway improvement work will be undertaken as part of any forthcoming Section 278 agreement.

29. Therefore, the Highway Authority has no further comment to make and recommends conditions. (visibility splays, parking for construction workers, construction traffic management plan, off-site highway improvement works to be delivered by 278 agreement, travel plan).

Norfolk County Council (Minerals and Waste)

30. While the application site is partially underlain by a Mineral Safeguarding Area (Sand and Gravel), it is considered that as a result of the nature of the existing and proposed development and the site location it would be exempt from the

requirements of Policy CS16-safeguarding of the adopted Norfolk Minerals and Waste Core Strategy.

Norfolk Fire and Rescue Service

31. With reference to the proposed commercial development, based on the location and infrastructure already in place, we will require a minimum of 1 fire hydrant to be installed, in a location agreed by Norfolk Fire & Rescue Service to ensure adequate fire fighting water provision. The fire hydrant shall conform to BS750 and should provide a minimum sustained outlet discharge of no less than 20l/sec in line with the 'National guidance document on the provision of water for fire fighting' published by Water UK.

32. A minimum requirement for commercial/industrial development would normally be fire hydrants on no less than a 125mm main. This is subject to clarification of the type, size and use of the commercial premises. To comply with Building Regulations all commercial buildings, with any single compartment of more than 280m2, should have a hydrant provided, if there is not existing provision within 100mtrs of the building. Hydrant(s) should be located within a vehicular travel distance of 90 metres from the entry points of buildings or the inlet point of a Dry Riser where required. The developer is responsible for ensuring sufficient hydrants are installed, in compliance with water regulations and Building Regulations Approved Document B Volume 2 sections 15 & 16 (Fire Hydrants / Water Supplies and Vehicle Access) with reference to the 'National guidance document on the provision of water for fire fighting' published by Water UK. All proposed hydrant provision should be to the satisfaction of the Norfolk Fire and Rescue Service. All expenses incurred shall be borne by the developer, owner or occupier of the commercial entity.

33. Reminder of Building Regulations requirements around access and facilities for the fire service, including water supplies.

Norfolk Police Designing Out Crime Officer

34. Although Norfolk enjoys low crime levels, there should be no room for complacency. I have reviewed the crime records for this location over the previous 12 months. The types of crime include: Criminal Damage to and Theft from 10 Barnard Road, and also from the venue immediately adjacent the site. There have also been reports of theft of items from nearby businesses, together with incidences of theft from motor vehicles and theft of pedal cycle. It is therefore strongly advisable for the applicant to factor in protective security measures & practices to combat these types of offenses across this new development.

35. There is also an increasing problem with ‘car meets’ around the city’s peripheral road and associated antisocial behaviour, which we are keen to address at early stages and strongly recommend features to slow and prevent movement of traffic over the site when required (i.e. when venue closed).

36. The proposed layout does show that Crime Prevention Through Environmental Design features have been considered and incorporated, and I am encouraged by the reference to Security and Crime Prevention within the DAS & Planning Statement.

37. A major factor influencing the security of a facility is the nature of the surrounding land use and its location. The proposed site is located on the east of Bowthorpe Park Industrial Estate, adjacent to the A1074 arterial road just east of the Norwich Southern Bypass (A47). The site being some distance from 'active' buildings (to the north of A1074) cannot 'borrow' any additional guardianship from neighbouring buildings/dwellings and therefore may be vulnerable when the retails units are closed.

38. Vehicle access routes appear to be clearly defined off Barnard Road, with dedicated pedestrian and cycle access provided from Dereham Road to the north and Barnard Road to the south.

39. Be aware of the rising nuisance of 'car meets' taking place on industrial/commercial sites close to the city. To prevent unwelcome use of parking facilities when the site is closed, please consider:

    • ANPR cameras (or similar index recording cameras) & signage (indicating how space is intended to be used i.e. for patrons-only) at the main access point.

    • Installation of a vehicle barrier to be used when venue is closed - restricting any unwelcome movement around the site.

40. Whilst the location of the cycle parking is supported, the cycle stands provided must facilitate the locking of both wheels and the crossbar. Hooped rings set into the ground do not provide for this and the cycle racks may need rethinking. These should be replaced with the new more appropriate facilities. This may become more important with the increase in popularity of electric cycles in general. Crime records show that pedal cycles have been stolen from the nearby vicinity. Please consider separate secure cycle parking requirements for employees, ideally within an additional layer of security – such as the external compound area or the store/service area

41. The indication of installing a secure inner fence line within a less secure outer perimeter is noted and supported. This will restrict access along the vulnerable western elevation.

Tree Protection Officer (Norwich City Council)

42. No objections from an arboricultural perspective. Recommend conditions to secure arboricultural supervision for works within root protection areas, to ensure that works on site are carried out in accordance with AIA/AMS/TPP and mitigatory replacement tree planting condition.

Landscape Architect (Norwich City Council)

43. There are a number of items which require clarification or further consideration. Most notably:

    - Proposed Levels, ramp and western boundary.
    - Layout of car park for pedestrian access and ease of use
    - Western boundary treatment, mulched area
    - Planting areas, palette and principles
    - Sustainability of landscape design (suds)

44. Holding landscape objection in accordance with sections 12 and 15 of the NPPF, policy 2 and policy 3 of the Greater Norwich Local Plan 2024 Document 1, and policies DM2, DM3 and DM6 of the Development Management Policies Local Plan 2014.

Assessment of Planning Considerations

Relevant Development Plan Policies

45. **Greater Norwich Local Plan (2024) (GNLP)**

- GNLP1 The growth strategy
- GNLP2 Sustainable communities
- GNLP3 Environmental protection and enhancement
- GNLP6 The economy
- GNLP7.1 The Norwich Urban Area, including the fringe parishes

46. **Norwich Development Management Policies Local Plan adopted Dec. 2014 (DMPLP)**

- DM1 Achieving and delivering sustainable development
- DM2 Ensuring satisfactory living and working conditions
- DM3 Delivering high quality design
- DM5 Planning effectively for flood resilience
- DM6 Protecting and enhancing the natural environment
- DM7 Trees and development
- DM11 Protecting against environmental hazards
- DM16 Supporting the needs of business
- DM18 Promoting and supporting centres
- DM20 Protecting and supporting city centre shopping
- DM21 Protecting and supporting district and local centres
- DM22 Planning for and safeguarding community facilities
- DM28 Encouraging sustainable travel
- DM29 Managing car parking demand in the city centre
- DM30 Access and highway safety
- DM31 Car parking and servicing
- DM33 Planning obligations and development viability

Other material considerations

47. **Relevant sections of the National Planning Policy Framework December-2024 (NPPF):**

- NPPF2 Achieving sustainable development
- NPPF4 Decision-making
- NPPF6 Building a strong, competitive economy
- NPPF7 Ensuring the vitality of town centres

- NPPF8 Promoting healthy and safe communities
- NPPF9 Promoting sustainable transport
- NPPF11 Making effective use of land
- NPPF12 Achieving well-designed places
- NPPF14 Meeting the challenge of climate change, flooding and coastal change
- NPPF15 Conserving and enhancing the natural environment

48. **Supplementary Planning Documents (SPD)**

- Landscape and trees SPD adopted June 2016

49. **Advice Notes and Guidance**

- Water efficiency advice note October 2015

Case Assessment

50. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Relevant development plan polices are detailed above. Material considerations include policies in the National Planning Policy Framework (NPPF), the council's standing duties, other policy documents and guidance detailed above, and any other matters referred to specifically in the assessment below. The following paragraphs provide an assessment of the main planning issues in this case against relevant policies and material considerations.

Main Issue 1. Principle of development

51. Key policies and NPPF paragraphs – GNLP1, GNLP2, GNLP6, GNLP7.1, DM1, DM16, DM18 and DM22, NPPF section 6, 7 and 8.

52. The application raises several considerations in relation to the principle of development in this location. Firstly, there are the policy implications associated with the proposed use of the site, second there is the loss of the existing use operating from the site. Finally, the applicant has raised the issue of 'fall back' associated with the retail use proposed being a permitted use within the existing building without the need for planning permission. The weight to be attributed to the fall back position as a material consideration impacts the weight to be attributed to development plan policy when carrying out the overall planning balance.

53. Economic and social dimensions of sustainability also form part of the assessment around the principle of the development proposed.

Need to retain employment areas

54. As identified in the constraints section above, the site is located in the Bowthorpe Employment Area. The site is located on the very edge of that area and is not currently in a traditional employment use. Notwithstanding its current

leisure use, the site remains designated as part of a defined 'employment area' promoted primarily for employment use. Under Development Management Policies Local Plan (DMPLP) policy DM16 states that within employment areas, proposals for new employment development (Use Class B1 (now Class E(g)), B2 and B8, industrial, warehousing, office etc.) will be prioritised along with other forms of economic development where this would not conflict with the requirements of policy DM18 in relation to town centre uses, would not prejudice the function of the employment area and would not undermine committed proposals for its redevelopment or regeneration.

55. In November 2019 a Regulation 10A review of the Local Plan took place and concluded that policies DM16 and DM18 were fit for purpose at that time but a future review was considered desirable. More recently, whilst the Greater Norwich Local Plan (GNLP) 2024 notes that committed employment land is more than sufficient in quantity and quality to meet the potential for enhanced growth, the supporting 'Employment Land Assessment Addendum 2020' further reviewed existing employment sites and allocations and did not conclude that any should be reallocated for other uses. At this point in time therefore the existing employment areas still apply and policy DM16 and DM18 are both relevant to the determination of this planning application.

56. The site however is not currently in a use which is consistent with its employment designation. The loss of the bowling alley would therefore not result in the loss of an employment type use that is prioritised by policy DM16.

Proposed retail use

57. Although the application has been made with Lidl clearly stated as the end user, (and the supporting plans and documents are consistent with Lidl being the intended occupier, consistent with that company's operational requirements, store size and layout, car parking and delivery provision), an assessment of the proposed use has been made based on the principle of retail use in general within a specified 1,949 sqm store format accepting that this is more likely to attract a discount retailer.

58. The site is an 'out of centre' location and the retail use proposed is a 'main town centre use' as defined by the DMPLP and NPPF. DMPLP policy DM18 states that proposals for main town centre uses on employment areas will be assessed and determined in accordance with the criteria in policy DM16 (and, where applicable, DM17) prioritising these areas for employment and other economic development uses, and permitted exceptionally where:

a) the sequential and impact assessment requirements have been satisfied, and it is demonstrated that it is not practical to accommodate the development on a more sequentially preferable or accessible site; and
b) the use is appropriate to the character and function of the employment area; or
c) the use is ancillary to or associated with an existing use already on the employment area.

59. The development should be both sequentially suitable (i.e. sited in the right place at the most appropriate level of the hierarchy of defined centres, set out in policy GNLP6) and provided at a scale appropriate to the centre in which they would be located and the catchment they would serve. Appendix 4 of the DMPLP requires that any proposal outside of a defined centre which would

exceed 1000 sqm GIA should contain an assessment of the impact on existing and proposes defined centres.

60. The sequential and impact assessments must demonstrate clearly that:

- the proposal could not be accommodated on any reasonable alternative and available site or sites within or adjacent to a defined centre at the appropriate level of the hierarchy; and

- the proposal would not result in a significantly harmful impact on the vitality and viability of the city centre or other existing and proposed centres, would not compromise committed proposals for their expansion and would not significantly undermine prospects for their regeneration, improvement or enhancement.

61. A Planning and Retail statement (including both a sequential and impact assessment) and subsequent addendums were submitted by the applicant in support of the application. Independent advice was sought by officers on the applicant's retail assessment, together with consideration of the objections received on behalf of the three retailers operating in designated retail centres. A summary of those objections is set out at paragraphs 16 – 18 above. An assessment of retail matters is included in the sections that follow.

Sequential Assessment

62. The sequential test seeks to guide main town centre uses towards town centre locations first, then, if no town centre locations are available, to edge of centre locations, and then to out of town centre locations, with preference for accessible sites which are well connected to the town centre

63. The applicants sequential site assessment includes an assessment as to whether there is an alternative, suitable and available sequentially preferable site for the proposed development. A catchment/area scope that includes a 10-minute drive time was agreed with the applicant to ensure consistency with assessments at other sites. Their statement suggests that a typical Lidl food store will serve a more compact 5-minute drive time core catchment.

64. Their statement sets out market and locational requirements of the proposed development of a food store and how this has guided the range of alternative sites considered/assessed. A set of parameters around site area required, availability of surface level car parking, servicing arrangements and building requirements (single storey, open and un-restricted sales floor area) are considered to reasonably reflect the necessary requirements of a site to accommodate the type of retail store proposed and form the basis of the search for alternative sites. Many of these parameters will be quite standard across the industry, however proposed retail floor space will vary across retailers and can have an influence on the overall site area required.

65. The applicant has assessed sequentially preferable sites at seven centres:

- Bowthorpe Main Centre, District Retail Centre,

- The Larkman, District Retail Centre,

- Norwich Road, Costessey (in South Norfolk),

- Earlham West, Local Retail Centre,
- University of East Anglia, Local Retail Centre
- Colman Road/The Avenues, Local Retail Centre
- Colman Road/The Parade, Local Retail Centre.

66. The sequential assessment rules out the smaller Local Retail Centres and the area at Norwich Road, Costessey due to lack of availability of units, their small size and lack of parking provision. It also rules out provision on the UEA campus as being too specialist, with limited access to the general public and units which are too small. It is recognised that the provision in Costessey does not form part of a defined retail centre. The assessment also makes limited reference to a new development at Easton (within South Norfolk district), which includes a limited amount of retail provision. The assessment discounts this location due to the limited scale of provision.

67. The larger District Centre sites at The Larkman and Bowthorpe Main Centre are closer in distance to the application site and also with potential to accommodate the proposals while exercising some degree of flexibility. However, at both of these centres there are no available units of sufficient size to be close to accommodating the proposals. At The Larkman, Aldi provides the anchor to the centre and is currently operating and therefore this is not available.

68. Bowthorpe Main Centre is however much larger at over 3.5 hectares in area and with access to over 400 parking spaces. Roy's of Bowthorpe is the anchor store and is not currently available. At over 4,000sqm floor space the premises currently occupied by Roys would be capable of accommodating the application (Lidl's) 1,949sqm GIA requirement. Although there are vacant units in this centre (3 units out of 17 at the time of the councils most recent retail audit in October 2024), they are not large enough or adjacent to each other. A new development on the extensive area of car parking overprovision is explored and is also discounted due to it not being sufficient to accommodate a new store and the required amount of car parking and concerns relating to associated impacts on designated heritage assets at Bowthorpe Hall to the south. In order to accommodate the existing anchor store and the application proposals would require a complete redevelopment of the site and this would require agreement with the existing landowner and tenants which would put any such proposals beyond reasonable timescales for availability that paragraph 91 of the NPPF requires.

69. The applicant's assessment therefore concludes that there are no suitable and available sequentially preferrable sites to accommodate the proposed development within defined centres within a 10-minute drive time from the site.

70. Paragraph 92 of the NPPF states that 'when considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre.' Although not on the edge of a district centre the application site is accessible from a main public transport corridor into the city. Officers are not aware of any available alternative sites that are located in a more accessible location at this time.

71. Having regard to the information submitted and the independent advice that was received, it is considered that the application complies with policy GNLP6, DMPLP policy DM18 and paragraphs 91, 92 and 95 of the NPPF, as it has been demonstrated that there are no sequentially preferable sites that are available and suitable within designated centres or other out of centre locations that are more accessible.

Impact assessment

72. The requirement for a retail impact assessment is set out within the NPPF, with a threshold of 2,500 sqm gross floor space unless there is a locally set lower threshold. DMPLP policy DM18 (supported by Appendix 4) requires an assessment of impacts to be applied where the scale of development proposed outside of a defined centre would exceed the lower threshold of 1,000 sqm gross internal area. It should be noted that this lower threshold for assessment reflects particular local circumstances in Norwich, where district and local centres and anchor food stores are typically smaller than average. Given these characteristics they are considered more sensitive to the impact of development which diverts trade to out of centre locations. The purpose of the test is to ensure that over time the impact of proposed development on the vitality and viability of existing town centres/centres is not significantly adverse.

73. The applicant's Planning and Retail Statement and addendums includes a retail impact assessment, including an assessment of the current state/health of existing centres; assessment of the trading performance of existing stores; assessment of turnover and the pattern and extent of trade draw associated with the development and an assessment of whether this will harm the vitality and viability of existing centres in the catchment area.

74. A cumulative assessment of impacts considered reallocating turnover from the now closed Drayton Road, Lidl store, together with trade diversion from the relatively new Aldi store at Longwater, in addition to the proposed new store at the application site.

75. This element of the applicant's submission was scrutinised by a number of competing food retailers and was subject to further questions and scrutiny by the consultant advising on retail matters on behalf of the Council. Upon reconsultation and with the understanding that the Council was being advised by an independent retail consultant none of the retailers found it necessary to add any further comment.

76. The retail impact assessment considers the same 10-minute drive time catchment as agreed for the sequential assessment. It therefore considers existing retailers located within this area. Including,

- Aldi at The Larkman,
- Roys at Bowthorpe Main Centre,
- ASDA at Drayton High Road,
- Sainsburys at William Frost Way (Longwater),
- smaller scale stores such as Co-ops and Morrisons Daily.

Note that Eaton Centre does not feature within the assessment as it falls outside of the drivetime catchment.

77. Much of the convenience goods impact falls, in the main, on out of centre stores, with 10% diverted from Asda at Drayton High Road and 20% from Sainsbury's at Longwater, Costessey. These impacts are proportionate in scale and are considered to be reasonable. While the impact on the Waitrose store at Norwich Road, Eaton is not separately identified in the assessment it is agreed that the distance of this store from the application site and the distinct trading formats of both Waitrose and Lidl as the proposed occupier, means that the trade diversion and impact on this store is likely to be limited and not to give rise to a significant adverse impact on the Eaton centre as a whole.

78. The applicant concludes that the impact on the smaller local retail centres is 'de minimis' i.e. immaterial in planning terms. We are advised that predicting the impact on smaller centres involves a degree of judgement and while it is not accepted that these impacts are 'de minimis' in planning terms, it is agreed that these centres and the stores within them are largely focused on meeting local needs encompassing discrete, typically walk-in shopping catchments. The UEA centre in particular meets the needs of students and workers at the university and would not be materially impacted by the proposed store. The Co-op at Norwich Road and the smaller convenience stores at Earlham are also focused on serving the immediate residential areas within which they lie, with an emphasis on meeting top-up and non-bulky food shopping trips. Consequently, they are less likely to compete with a larger discount food store which will primarily cater for main food shopping needs. Overall, it is not considered that the predicted impact on these local centres would be materially harmful, and they would continue to serve the local communities within which they are located. These smaller centres contain a range of outlets and there is no evidence to suggest that the cumulative impact would give rise to any store closures.

79. The impact on two designated district retail centres in particular became a significant focus for the assessment of impacts. These are 'The Larkman' and 'Bowthorpe Main Centre'.

80. The Aldi store at The Larkman District Centre is based on the available evidence, estimated to be trading well at almost double the company average levels. Moreover, within the last year it has been subject to significant investment through complete refurbishment of the store. The cumulative impacts on Aldi at The Larkman District Centre are significant at a 21.3% trading impact. However, bearing in mind the existing store is overtrading, the assessment identifies a post impact turnover of £14.4m, which suggests that it would continue to trade well and comfortably in excess of company average levels. There would consequently be no materially adverse impact on the health and vitality of this centre as a consequence of this reduction in turnover or the continued vitality of the centre as a whole, the smaller shops and business within the centre not being materially impacted by the proposal either directly or as a consequence of Aldi's reduced turnover. These shops and businesses are focused on serving predominantly local needs and their role and function would not materially alter.

81. The assessment of impacts on Bowthorpe Main Centre are different for a number of reasons. Information relating to the turnover of 'Roys' store is not publicly available information and therefore some assumptions have had to be made within the applicant's submission. Roys suggest that the turnover of its store is based on out-of-date information, including shopping patterns and

expenditure flows. The applicant, in the absence of access to turnover figures specific to Roys has used information contained within the Greater Norwich Town Centres and Retail Study Update 2020 which formed part of the evidence base for the Greater Norwich Local Plan (GNLP). This has not been updated or replaced since publication. It is not unreasonable however to use this information to inform their assessment given that it continues to form part of the evidence base underpinning the GNLP. Roys have confirmed their turnover figures are below those estimated in the applicant's retail impact assessment and that this is considerably below the benchmark turnover used and is therefore under trading relative to company average levels. This is not contested by the applicant.

82. On the basis of the submitted information and considering the fact that Roys own the whole of the shopping centre and appear committed to trading from the centre and supporting existing retailers and businesses as well as seeking to re-let vacant units, it is concluded on balance that its closure is not probable as a consequence of a new Lidl store at Barnard Road (and taking into account the cumulative impacts of the developments highlighted at paragraph 74). The company appears to trade at an acceptable level albeit significantly below industry benchmark levels and this has been likely to have been the sitaution over a number of years. The company owns the centre and as a result benefits from rental income derived from other businesses. Its trading performance will also be supported by comparison goods sales (the information on turnover relates to convenience goods only, i.e. those purchased frequently) together with an established customer base. In addition the trade diversion of £0.6m or 6.7% trading impact identified by the applicant and not disputed by Roys reflects the fact that the new Lidl store is proportionately likely to compete more significantly with similar stores such as Aldi at The Larkman and the larger Sainsbury's at William Frost Way, Longwater, the latter also attributed to its very significant market share of food shopping in this part of the city.

83. In assessing whether the predicted trade diversion would give rise to a significant adverse impact taking into account the considerations in DMPLP policy DM18 and paragraph 94 of the NPPF, it is necessary to assess the impact on the centre as a whole. Bowthorpe Main Centre contains a range of uses including a health centre (including medical practice) and a public house. These along with retailers and other businesses in the centre will contribute to its overall performance. The centre is also served via a very extensive free car park and is capable of being conveniently accessed by bus and on foot from nearby residential areas and new areas still in planning and under construction at Three Score. Therefore, while a small diminution in customers visiting Roys annually could occur, the centre would remain the focus for a range of other trips. Consequently, on balance it is not considered that the impact on this centre would conflict with the requirements of Policy DM18 and paragraphs 94 of the NPPF.

84. Having regard to the information submitted and the independent advice that was received, it is considered that the application complies with policy GNLP6, DMPLP policy DM18 and paragraph 94 and 95 of the NPPF as it has been demonstrated that retail impacts and impacts on longer term vitality and viability will not be significantly adverse.

85. In conclusion, the proposed retail use could be permitted at this site in accordance with the requirements of DMPLP policy DM18. The requirements

of policy DM18 are met through (a) the satisfaction of the sequential and impact assessment as set out above and (b) confirmation that the proposed retail use at the very periphery of the employment area, adjacent to sites used for hospitality which are also 'main town centre uses' would not be an inappropriate use such that it impacts on the main character and function of the employment area as whole. For the same reasons the use would not prejudice the wider function of the employment area and would not undermine any committed proposals for its redevelopment or regeneration as required by DMPLP policy DM16.

Fall-back position: building conversion for retail use

86. It is important to note that changes to the planning use classes order within the last five years have resulted in the creation of a fall-back position for the applicant. An explanation of this is set out in more detail below, including the implications for this planning application.

87. Extensive changes to The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 created a new 'commercial, business and service' Class E, which incorporates a wide and more diverse range of uses which previously fell within different use classes. With relevance to these proposals indoor sport and recreation, leisure uses (previously Class D2) now fall within the same planning use class as retail uses (previously Class A1).

88. The bowling centre use is not restricted by planning condition and permitted development rights have not been removed. Consequently, the use of the existing building as a bowling alley now falls within the wider Class E use class and could be changed to retail use as a permitted change without the need for planning permission.

89. The changes to the Use Classes Order would only permit a change of use and not physical building works associated with the proposed change of use. Fall-back is a material consideration in the decision making process, of which the permitted development rights given by the Use Classes Order comprise an element. Case law suggests that regard must be had to an applicant's ability to implement a fall-back permission and whether the prospect of the fall-back taking place is realistic and not just theoretical. A true fall back would allow a change of use to take place and occupation of a building for the new use without the need for any consent from the local planning authority. The weight to be attached to the fall-back position should be determined by the decision-maker accordingly.

90. Although the existing building at 3,345 square metres is greater in floor area than the floor area (1,949 square metres GIA) being sought as part of the planning application it contains many of the physical and locational requirements that retailers/food retailers look for. Different retailers work from different floor area requirements, and some are comfortable with sharing a building/site with other retailers. The building is single storey, with a largely open interior, has access to an extensive car parking area and has servicing arrangements that are separate from the car parking. The site is located on a radial transport route alongside a public transport corridor. The retail sector is more easily than other sectors able to absorb costs associated with modifying an existing building allowing longer term investment in a building or them taking on a longer-term lease. Together this would suggest that the existing building

could be occupied quite readily for a retail use, in the same way that many other buildings have changed to retail use.

91. As a result of the change to the Use Classes Order a change of use of the existing building from the existing use to a retail use would not constitute development and the existing leisure/community facility of the building would be lost without the need for planning permission. Interestingly, the retail impacts associated with a larger extent of retail floor space created through conversion could theoretically be greater.

92. Given that the existing use could be lost and a retail use(s) introduced to the existing building without the need for planning permission and taking the view that there was a greater than theoretical possibility of this fallback being implemented, the fallback position can be given considerable weight as a material consideration that can be weighed against any conflict with the development plan.

Loss of existing leisure use/community use

93. As identified earlier, the site is currently operational as a bowling centre, a leisure use which the NPPF defines as a 'main town centre use'. The existing bowling alley dates from the early 1990s and was approved prior to the adoption of the current development plan, in the context of more permissive planning policies relating to the location of large-scale leisure development, and a relatively good supply of alternative sites and premises for employment use.

94. The premises at approx. 3,345 sqm, is not currently vacant, however it is suggested by the applicant that the use does not have a viable future, and the current operator wants to relinquish their use of the site. The existing operator has not however publicly confirmed the position with regards viability of the bowling operation at the site or their longer-term intentions. The proposal would however lead to the complete loss of the bowling facility from the site.

95. DMPLP policy DM22 concerns "planning for and safeguarding community facilities". A community facility or use is defined in the plan as "Facilities and uses generally available to and used by the local community at large for the purposes of leisure, social interaction, health and well-being or learning. This will include, but not be confined to, community centres, historic and community public houses, premises for indoor sport, leisure and cultural centres, places of worship, doctor's surgeries/ health centres, crèches, playgroups, libraries, schools and other training and educational facilities". This definition is similar to, and expands upon, the NPPF references to community facilities which mention health, education and cultural infrastructure, local shops, meeting places, sports clubs and venues, open space, cultural buildings, public houses, music venues and places of worship.

96. It is clear that the premises is currently used for indoor sport and leisure. It is also generally available to use by members of the public for leisure purposes and social interaction utilising its bowling alley and other ancillary facilities such as sports bar, café, arcade games, pool tables and hire of its function room for events. Officers are therefore of the opinion that the existing use is a community facility.

97. However, the applicant has suggested that a commercial bowling facility such as currently found at the site is not a community facility and is just like any

other commercial bowling /sports facility. Generally, community facilities are provided by a range of public, private and voluntary sectors organisations. There is no reference within the DMPLP definition to suggest that community facilities cannot be commercial businesses nor are they expected to be free to use or open to the general public without the need for membership or paying a fee to use the facilities.

98. Representations suggest that the business operating from the site is well attended by clubs and organised groups for structured bowling and league bowling and provides a facility that meets specific organised group demands which differ from other bowling facilities within Norwich, which may have contributed to its continued success in this out of centre location. Its 30 lanes provide competitive quality bowling supported by a pro-shop for the purchase of equipment and professional equipment care/maintenance. As a result, the customer base of the existing bowling facility is greater than the immediately local community (either the ward/parish adjacent to the site or even the Norwich City Council administrative area).

99. The periods of consultation have generated a significant number of public representations from residents of Norwich and Norfolk summarised at paragraph 14 above. A significant proportion of those representations explain quite emotively that the facility includes individual and specific group usage for leisure and to host leagues and tournaments, such as:

- Monthly usage by Age UK group,
- Use by schools,
- Use by people with a disability and carers,
- The only facility in Norwich which provides league bowling for junior, youth, adult and senior bowlers,
- Young Falcon Bowlers Club,
- Use by bowlers who bowl at a national level representing England/GB.

Many suggest that the facilities at the site would be difficult to replicate elsewhere and the benefit to local residents would be lost. Great emphasis is placed by those making representations on the facility being the hub of ten pin bowling in the East of England, including accessing professional facilities, coaching and specialist services assisting in up to county level sport through access to coaching and support.

100. The applicant contends however that the existing bowling facility does not meet specific demands, any more than any other commercial bowling facility and it should not therefore be afforded any special or different status to any other similar facility within the city. They suggest that any clubs and organised groups which use the existing bowling facility make up a small proportion of the facility's turnover and do not contribute enough to secure it as a viable entity moving forward. It is not possible to verify these claims due to a lack of involvement in the application from the existing bowling operator/tenant.

101. Information available to the local planning authority suggests that the existing use does fall under the local plan definition of 'community facilities/uses'. The proposals would therefore result in the loss of a valued indoor leisure facility, currently used by individuals and community groups.

102. DMPLP policy DM22 states that development resulting in the loss of an existing community facility will only be permitted where:

a) adequate alternative provision exists or will be provided in an equally accessible or more accessible location within 800 metres walking distance; or

b) all reasonable efforts have been made to preserve the facility but it has been demonstrated that it would not be economically viable, feasible or practicable to retain the building or site for its existing use; and

c) evidence is provided to confirm that the property or site has been marketed for a meaningful period and that there is no realistic interest in its retention for the current use or for an alternative community use.

103. In relation to part (a) the applicant highlights that there are at least 13 existing facilities which fall within the definition of 'community facilities/use' within 800 metres of the site. They list uses including a public house/restaurant, gym, football facility, primary schools and playgrounds. None of these listed community facilities represent 'adequate alternative provision' as they are not able to provide the specific space and equipment requirements of an indoor bowling centre. However, the purpose of this part of the policy is to ensure that an appropriate and accessible range and choice of community facilities is maintained within Norwich in order to promote healthy communities. Being quite a specialist type of use requiring a building of significant scale and with the ability to provide specialist equipment within the building it is not surprising that there is not adequate alternative provision within an 800 metre walking distance.

104. Therefore, when applying DMPLP policy DM22, as no known alternative provision currently exists within 800 metres then parts (b) and (c) of the policy go further to require applicants to demonstrate lack of viability concerning the continued use of the site for the existing use and lack of realistic interest in retaining the building for an alternative community use.

105. Whilst it is not the role of the development plan to seek to protect facilities indiscriminately which are clearly not economically viable or feasible to retain in any form, it is reasonable to require that the loss of any community facility of value should be justified by evidence before development proceeds, and it is important that sufficient evidence is provided to enable a proper assessment.

106. The applicant suggests that the current occupier would need to invest heavily to bring the existing bowling offer up to standard for continued use in the long term, with aging equipment within a building with increasing operating costs.

107. Due to sensitivities associated with an existing tenant continuing to operate from the building, no marketing exercise has taken place to determine whether there would be a realistic interest in the building being used for a similar use or an alternative community use. The applicant did however commission two pieces of work from a chartered surveyor that has knowledge of the Norwich commercial market, to explore the feasibility of alternative community uses within the existing building.

108. Information provided to the local planning authority would suggest that leisure operators favour being located in leisure/retail hubs or at the very least

in locations close to other significant anchors. The reality of this location is that it does not have those characteristics. The large scale of the building and open format reduces the amount and type of businesses or uses for which the existing building would be suitable. Alternative leisure or community uses would likely require significant investment to modernise the building and convert so that it is fit for an alternative use. Whether the investment comes from the tenant or landlord, plus the likely rent returns that could be commanded for such uses in this location, conversion of the building or site to other community uses is likely to not be viable. This general position was also confirmed to likely be the case by the council's own surveyor.

109. In conclusion, information available to the local planning authority suggests that the existing use does fall under the local plan definition of 'community facilities/uses'. The proposals would unfortunately result in the loss of a valued indoor leisure facility. However, evidence suggests that issues around longer-term viability of the bowling operation continuing at the site and the need for investment in the building just to ensure continued operation of the bowling facility, it is extremely likely that a bowling facility does not have a long term viable future at the site. Evidence has also been provided which suggests a likely lack of interest in a building of this age or a site in this location for alternative leisure or community uses. Notwithstanding that no specific marketing exercise was completed to ascertain 'realistic interest' in the site for alternative uses, in the absence of information to the contrary, the requirements of the policy are considered to have broadly been met, and the loss of the community facility has been justified.

110. Also as discussed in the paragraphs above relating to 'fall-back', broad and diverse changes to the Planning Use Classes Order intended to promote economic development and allow greater flexibility have resulted in much more broadly accepted use changes being permitted development. Unless uses are controlled by specific planning conditions (which is not the case here) then development plan policy can no longer be relied upon to protect or prevent uses associated with existing buildings.

111. We must not forget that the existing community use on the site is a 'main town centre use' which is located in an out of centre location, a use which under current policy would be equally difficult to justify in this location. There are currently three other bowling facilities located within and adjacent to the city centre retail and leisure area in more sustainable and accessible locations alongside complimentary uses, with much less emphasis on accessibility by private car. There are other bowling facilities across the county which appear to still offer a level of facility that is suitable for league bowling. Given the distances that customers tend to travel to use such specialist facilities, Norwich does appear to be well served with bowling facilities. Whether the alternative facilities are able to offer use by organised groups and more structured training alongside leisure bowling is to a certain extent for the market to determine.

112. The assessment of the loss of the community facility has not been assisted through confidentiality around information relating to the viability of the existing use and sensitivities around that use continuing to operate at the site while the planning application process takes place. However, a conclusion on this matter has been reached through further questioning around leisure and community operations, considered in the context of the possibility of the use of the building being permitted to change to a number of alternative uses which

would not be considered a community facility without the need for planning consent. As a result, the application is considered to broadly comply with the requirements of DMPLP policy DM22 and the loss of the existing community facility at the site can be accepted.

Economic and social issues

113. DMPLP policy DM16 generally confirms that "proposals which create employment and business development, … and allow accessible and equitable job opportunities for all will be permitted where consistent with the overall sustainability objectives set out in Policy DM1 and other policies of the plan". The retail use proposed represents economic development which would create 40 new on-site full-time equivalent jobs and in doing so would continue to contribute to the growth of the Norwich economy. The job creation and associated economic benefits would accord with the first criterion of DMPLP policy DM1. Although some of these will replace jobs that will be lost as a result of the closure of the bowling facility and the job creation is not of a scale in itself which is exceptional in the context of the wider Norwich economy.

114. The loss of the community use/leisure use from the site has consequential harmful impacts associated with loss of a facility that promotes social interaction, community cohesion and has positive health and wellbeing benefits that policies GNLP2, DM1 and section 8 of the NPPF promotes, and as expressed in many of the representations. The loss of the bowling facility is regrettable, but not unacceptable in policy terms. The applicant as part of their submission identified 13 existing community facilities within an 800 metre radius of the site including areas for play, sports and fitness facilities and places for people to meet. Chapel Break community centre and Breckland Hall, Costessey are located within 800 metres of the site with Clover Hill Village Hall a little further away. The activity of ten pin bowling aside, these existing buildings and spaces could be utilised to fulfil many of the social, health and wellbeing elements associated with the existing use. It is appreciated however, that they do not allow an alternative provision for the bowling use, which would need to be sought at existing facilities within the city centre or at Dereham and Kings Lynn. Therefore, on balance the harm associated with the loss of the existing bowling facility at the application site can be mitigated to some extent through there being opportunities locally to access other facilities intended to promote health, wellbeing and social interaction and there being other bowling facilities within the city and wider county to fulfil the specific bowling need. There will however remain a low level of harm to health, wellbeing, social interaction and community cohesion associated with the loss of the existing bowling facility and this must be considered in the context of other harm and benefits of the scheme in the overall planning balance.

Main Issue 2. Design

115. Key policies and NPPF paragraphs – GNLP2, DM3, NPPF section 12.

116. The single storey metal and glass clad building proposed is of a fairly standard discount food store design. The mono-pitch roof incorporates a projecting canopy along the main shopfront elevation and part of the side elevation to provide protection to the store entrance, trolley storage area and areas of cycle parking. The location however has no heritage or landscape constraints that would suggest that an alternative design should be sought.

117. The building will be located so as to be visible from Dereham Road, a main arterial road into and out of the city. Although access by vehicles will need to be navigated via the roundabout further east on Dereham Road and then Barnard Road, which provides access to the employment area. Visibility from the Dereham Road is restricted due to site levels, with the building being located approximately 2.5 metres below the level of Dereham Road and the proposed new single storey building being at least 1.5 metres less tall that the existing building found at the site.

118. From Barnard Road the building will be located well back from the site frontage, but this is not a dissimilar arrangement to the existing situation.

119. The Designing Out Crime Officer has made a number of recommendations around site security given that the site does not benefit from high levels of natural surveillance. Some of those recommendations seek to restrict access to the car parking area outside of the store opening hours to prevent anti-social behaviour. Any requirements for a site access barrier, provision of ANPR cameras and CCTV can be dealt with as may become necessary once the development takes place.

120. Totem signage is indicated to the Dereham Road frontage, which would require a separate application for advertisement consent requiring consideration of amenity and public safety.

121. As the application only proposes development on part of the site currently occupied by the bowling centre this will leave the area currently used as car parking for the bowling centre outside of the application site. This remaining parcel of land is of sufficient size and with a potential access option to ensure that the land could be developed for employment uses. Any proposed development here would however need to be subject to a separate planning application.

122. The development will not appear incongruous within the street scene and will relate appropriately to its surroundings in terms of its appearance, scale and layout as it responds to the character of this commercial area. The application therefore complies with policies GNLP2 and DM3 and paragraph 135 of the National Planning Policy Framework 2024.

Main Issue 3. Amenity

123. Key policies and NPPF paragraphs – DM2, DM11, NPPF section 12.

124. As the site is located within an existing employment area the closest residential (C3 use) properties are located over 40 metres away on the north side of Dereham Road within the parish of Costessey and the neighbouring South Norfolk district. Between the site and those closest properties is the A1074 Dereham Road, a main arterial road into the city centre, areas of landscaping and a small section of private road are all positioned between the application site and residential properties.

125. On the adjacent site to the east is a hotel. There are quite substantial boundary treatments in place (a combination of high walls, fences and mature landscaping) between the application site and the adjacent hotel.

126. Due to the separation distances involved there are unlikely to be significant residential amenity concerns as a result of the physical building or the use proposed at this site.

127. The proposed loading area is via a recessed access ramp which minimises noise break out during deliveries. The area is located at the southern end of the building facing away from residential properties. In addition, the level of deliveries associated with a retail use such as proposed is not considered significant in the context of the industrial area in which the site is located.

128. The applicants Noise Assessment was considered by Environmental Protection officers who suggest that noise and disturbance can be adequately controlled using planning conditions as necessary relating to operating/delivery hours, operation of plant and control of lighting. The application therefore complies with policies DM2 and DM11 and paragraph 135 of the National Planning Policy Framework 2024.

Main Issue 4. Transport

129. Key policies and NPPF paragraphs – GNLP2, DM28, DM30, DM31, NPPF section 9.

130. The applicants Transport Assessment has modelled the impact of traffic generation from the proposed development on key elements of local highway infrastructure. It concludes that the proposed development is unlikely to result in a material impact on local highway network operating performance. Any change in traffic flow demand would not result in severe changes in future highway network conditions. There will not be an unacceptable impact on highway safety and the cumulative impacts on the road network in conjunction with other relevant committed developments will not be severe as required by paragraph 116 of the NPPF.

131. In addition, the NPPF at paragraph 110 advises that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health.

Accessibility

132. As identified earlier the application site is located at the edge of an employment area, outside any defined retail centre. Although located at the edge of the city's administrative area, between the residential areas of Bowthorpe and New Costessey, there has also been significant amounts of new housing development along Dereham Road within the neighbouring South Norfolk district. The site is therefore within a practical walking and cycling distance of local residential areas. The application site does however stand separate from many existing services but is located adjacent to a hotel and public house and restaurant and a large employment area. The site currently benefits from good access by car, however any redevelopment proposals for the site will require improvements to allow safe and convenient access to the site for all through encouraging and improving walking, cycling and public transport access to the site as necessary and as required by policies GNLP2, DM1 and the NPPF.

133. The site is accessed from Barnard Road but also has a frontage (without direct access) to Dereham Road which is a corridor of movement and a public transport corridor with frequent bus services into the city. As part of the proposed site layout a continuous walk/cycle corridor is provided along the eastern site boundary, with a crossing point internal to the site connecting into improved shared pedestrian and cycle provision along the west side of the existing site access road. This provision will allow a safe and segregated route to the new store from both key approach directions. It will also allow pedestrians and cycles to pass through the site from the Dereham Road to Barnard Road in a more formalised way then exists at present.

134. The site is located very close to the Dereham Road transport corridor which over the last year has had a highway improvement scheme delivered by Norfolk County Council under the Transforming Cities Fund to provide improvements intended to "provide shorter and more consistent journey times for buses, improve connectivity between different modes of travel, as well as a safer environment for those walking or cycling along Dereham Road. It is also the aim to provide better connections between the two large communities on either side of the main road and provide safer access to local schools and other amenities". The results on the ground include a reduction in speed limit on Dereham Road, a new travel hub (an area less than 400 metres to the east with bus stops, real time passenger information and micromobility hub), a bus gate (diverting buses from the Wendene roundabout), a new section of inbound bus lane and segregated pedestrian and cycle facilities along Dereham Road adjacent to the site.

135. This planning application proposes a package of off-site highway improvements which work with these recent infrastructure changes and make modifications to provide a new Toucan crossing cycle route across the Dereham Road, with ramped and stepped access into the application site to provide access to the site. This will allow safe access for pedestrians and cyclists from the north and the Dereham Road and Costessey area in particular.

136. The applicant was also asked to investigate the extent of opportunities to improve active travel connections to the south of the site for residents accessing the site from Bowthorpe, Chapel Break and Clover Hill to the south and east.

137. The applicant has committed to deliver targeted improvements to infrastructure on Barnard Road and connecting links, to maximise accessibility to the application site on foot and cycle. There are currently limited pedestrian crossing facilities available within the immediate vicinity of the site, including at the site entrance connection to Barnard Road and at other surrounding linking side road junctions. There is no specific cycling infrastructure on Barnard Road itself. The applicant proposes a package of supporting pedestrian improvement works to promote improved active travel access, including

- New zebra crossing on Barnard Road (exact location and design to be agreed through safety audit) to provide safe pedestrian crossing opportunities to Barnard Road in the immediate vicinity of the application site access.

- Revision / extensions to existing double yellow line parking restrictions to local sections of Barnard Road to respond to the proposed new zebra crossing and to ensure safe large delivery vehicle access to / from the application site.

- New dropped crossings, including tactile paving, across the site access road connection to Barnard Road, plus an additional tactile crossing point of Barnard Way to the east of the application site access road junction, connecting to the current termination of the northern footway.

- New dropped crossing points and tactile paving across formal side roads connections to the northern side of Barnard Road (i.e. Francis Way & Morgan Way), improving pedestrian connections from the application site towards Mayfly Way (and onwards to Chapel Break and Bowthorpe Centre).

- New dropped crossing point and tactile paving across the Jarrold Way side road to the southern side of Barnard Way, therefore improving pedestrian connections between the application site and the existing public footpath that links towards Chapel Break Road.

- Improved crossing point of Chapel Break Road (new tactile paving) and relocation of existing street lighting column to reduce conflict with pedestrian movements at this crossing to enhance links on foot between the site and Chapel Break Road / Bowthorpe and the local bus stops on nearby Astley Road.

138. The existing industrial estate layout and restricted highway boundary along the northern side of Barnard Road has limited the potential for delivering segregated / off-carriageway cycle infrastructure. However, the proposed new walk / cycle connection and associated Toucan crossing from the site to Dereham Road to the north would provide a direct connection into the recently improved Dereham Road cycle corridor, offering wider linkages to Bowthorpe and Clover Hill, via Mayfly Way and Butterfly Way respectively. Whilst these connections are less direct when compared to a journey via Barnard Road, the additional distance is not significant, for cycle users. On balance, it is therefore considered that a lack of segregated cycle facilities on Barnard Road would not represent a significant barrier to customer/staff cycle journeys to and from the application site from areas to the south.

Parking

139. Norwich City Council parking standards require 95 car parking spaces, 5 parent and child spaces, 5 motorcycle spaces and one electric vehicle charging space for a retail store of this size.

140. The amount of parking proposed has been reduced at officers' request from 120 spaces to the 102 spaces now proposed. The division within the total amount of spaces between specific types of parking provision meets with the parking standards. In addition, the provision of 10 electric vehicle (EV) charging bays is very much welcomed and at 10% provision exceeds the councils parking standards. The remainder of the rear row of spaces (a further 11 spaces) will be constructed to include appropriate ducting to allow for future conversion to full EV spaces should this be identified as necessary in future, in response to increased EV demand levels.

141. The parking standards require 38 cycle spaces for customers (adjacent to principal entrances) and 19 for staff (covered and secure). The increased provision of 42 cycle spaces adjacent to the store entrance and under the cover of a high-level building canopy is sufficient for customer and staff needs. Staff cycle storage can also be accommodated within the non-public areas of the building as required.

142. The highway authority does not object to the development and support the delivery of a new Toucan crossing on Dereham Road where crossing demand is currently evident from observed trodden tracks across the highway verge adjacent to the site. Following engagement with the highway authority, the applicant has produced an accepted package of off-site highway improvements to support active and sustainable travel to the site from the wider community. A number of conditions are recommended to secure the necessary highways elements.

143. The on and off-site highway measures proposed provides enhanced active travel measures to the site which are more appropriate to the use proposed. They encourage public transport use and provide significant improvement to pedestrian and cycle access to and through the site and in particular within the wider employment area. The measures in turn help to reduce dependency on private car usage to access the site. The development proposed is therefore considered to broadly comply with the provisions of policy GNLP2, bullet 3 of policy DM1, DM28 and paragraphs 110, 115 and 117 of the National Planning Policy Framework 2024.

Main Issue 5. Trees and landscaping

144. Key policies and NPPF paragraphs – GNLP3, DM3, DM7, NPPF section 12 and 15.

145. There is approximately 2.5 metres levels difference between the Dereham Road to the north and the application site. A strip of highway verge at the same level as Dereham Road transitions to an embankment on which is located a group of seven semi-mature oak trees and a large sycamore tree which are subject to a tree preservation order. The embankment forms the edge of the northern most section of car parking/servicing area to the north of the existing building. There is a more substantial area of trees and shrubs in the north east and north west corner of the site.

146. The proposals involve the removal of some of the trees on the embankment and some reprofiling to accommodate a ramped and stepped pedestrian/cycle path to allow access to the site from the Dereham Road. A revised set of proposals has sought to modify the access ramp design and retain more of the embankment and trees along the Dereham Road boundary. As a result, four category B semi-mature oak trees in this location are proposed to be removed with replacements provided within the site landscaping scheme. Some of the replacement trees are proposed along the Dereham Road frontage in order to maintain the green corridor that exists along this section of Dereham Road.

147. The eastern boundary of the site is currently vegetated. Along this boundary there are large shrubs and ground cover and a small number of trees. The visual presence of laurel along this boundary originates from large laurel bushes which are located on the adjacent hotel site and which as a result of limited management have grown through the boundary fencing and into the

application site. Along the eastern boundary in order to deliver a pedestrian/cycle path the vegetation will be cut back to the boundary and three trees along the boundary (2 x category C, oak and sycamore and 1 x category B, willow) will be removed. The path will be of cellular 'no dig' construction' to limit wider impacts on remaining vegetation. New planting along this boundary will consist of ground cover shrubs.

148. A further two trees to the south of the site (both category B, alder and silver birch) require removal as they conflict with the position of the new building.

149. Outside of the proposed building footprint the remainder of the site consists of an area for car parking with limited areas of shrub, perennial and ground cover planting. The soft landscaping scheme proposes over 3,400 ornamental plants and shrubs and 246 grasses across together with 16 medium sized native replacement trees.

150. Replacement tree planting at a ratio short of 1:2 replacement is confirmed in locations to the Dereham Road frontage and along the southern site boundary adjacent to the vacant piece of land in the applicant's ownership. The applicant has considered the interrelated matters of tree removal, landscaping and biodiversity gain and made revised attempts to bolster the landscaping provision and the inclusion of new tree planting. As a result the replacement trees have risen in number from 6 originally proposed to 16 now proposed and the applicant feels that this maximises the trees that can comfortably be accommodated on the site while providing adequate space for them to grow unimpeded.

151. The landscaping proposals do little to break up the car parking area, however the arrangement of car parking arrangement wrapping around the building serves to reduce its dominance in the layout. The focus of landscaping around the site boundaries concentrates on the areas that the wider general public experience in order to provide greatest wider visual benefits. This is an approach that would not differ significantly from the general approach taken to functional and easily maintained site landscaping across the wider employment area.

152. Suggestions raised by the council's landscape architect around layout improvements and improving elements of the proposed landscaping to further increase biodiversity and climate resilience can largely be dealt with through a full landscaping condition.

153. The proposals would broadly accord with policy DM3 of the DMPLP and Policy 2 of the GNLP which require appropriate provision of landscaping and green infrastructure. They would also accord with the second criterion of policy DM1 which seeks to safeguard visual and environmental qualities of Norwich.

Main Issue 6. Biodiversity

154. Key policies and NPPF paragraphs – GNLP3, DM3, DM6, NPPF section 15.

155. A Preliminary Ecological Appraisal (PEA), including a preliminary bat roost assessment of the building highlighted that due to its type of construction and good state of maintenance the building has negligible roost potential.

156. A Biodiversity Net Gain Assessment (BNG) has been submitted (using the Statutory Biodiversity Metric). However, the application was submitted before mandatory net gain requirements were introduced and therefore provision of 10% statutory biodiversity net gain does not apply. Therefore, the test of the NPPF paragraph 187(d) requirement of 'providing net gains for biodiversity' should be applied. The governments Planning Practice Guidance has clarified that 'decision makers should not give weight to local policy which requires biodiversity gains for types of development which would be exempt under the statutory framework'.

157. A BNG Assessment has been provided solely to demonstrate that a net gain in biodiversity will be achieved on site. It identifies that the proposals will result in the loss of:

- an area of 1,300 square metres of modified grassland in poor condition at the northern edge of the existing carpark;
- 335 square metres of ornamental/non-native shrubs along the eastern boundary;
- 9 trees – 4 oaks in a TPO group along the Dereham Road frontage, 3 trees along the east boundary and 2 to the south west corner. Mostly approximately 30 years old.

158. The BNG hierarchy first requires a scheme to consider whether it can deliver net gains on site. A soft landscaping scheme proposes a modest amount of habitat creation including over 3,400 ornamental plants and shrubs, 246 grasses and 16 replacement trees across an area equating to over 1000 square metres around the edges of the site. The result is a 2% net gain of biodiversity.

159. In addition, there is a requirement to provide biodiversity/ecological mitigation and an opportunity to incorporate a number of enhancements to benefit species (in particular associated with the retained boundary features) as recommended within the PEA. This includes landscaping measures that are incorporated into the landscaping design, together with sensitive lighting design. Recommended ecological enhancements include incorporation of new bat roosting and bird nesting opportunities with bird and bat boxes, artificial refugia/hibernaculum for small mammals and insect hotels. Suggested enhancement measures can be secured planning condition.

160. The biodiversity and ecological assessments and landscaping proposals have together confirmed the site provides opportunity to incorporate appropriate measures to mitigate any potential impacts to ecological features and to demonstrate 'biodiversity net gain in accordance with NPPF and DMPLP policies DM3 and DM6.

Main Issue 7. Flood risk and drainage

161. Key policies and NPPF paragraphs – GNLP2, DM3, DM5, NPPF section 14.

162. It is a requirement of the NPPF that development does not increase flood risk elsewhere. Policy GNLP2 requires the incorporation of sustainable drainage systems unless there is clear evidence that this would be

inappropriate. DMPLP policies DM3 and DM5 go on to require the incorporation of mitigation measures to deal with surface water arising from development proposals to minimise and where possible reduce the risk of flooding on the site and minimise risk within the surrounding area.

163. A Flood Risk Assessment (FRA) and Drainage Strategy was submitted in support of the application which highlights, the existing application site is largely covered by a building of a large footprint and hard surfacing used for servicing the building. The site currently discharges surface water unrestricted into the existing surface water sewer within Barnard Road. The site is located within Flood Zone 1 and contains variable ground materials including large amounts of clay, which resulted in a poor infiltration rate from the limited amount of on-site testing carried out. There will however be an increase in impermeable area as a result of the proposed development.

164. Mapping from both the Environment Agency and the councils Strategic Flood Risk Assessment (SFRA) shows that the site is impacted by surface water flooding. The existing service road (to the east of the site) is at medium risk and a larger area to the north of the site is at a low risk, with smaller negligible areas at high risk.

165. The proposed site layout generally maintains the service road to the east and replaces some of it with car parking leaving the existing overland routes in place and unobstructed by proposed buildings. In addition to this the proposed building is recommended to be set a minimum of 150mm above external levels where feasible and external levels and drainage designed to divert and capture any overland flows away from the building.

166. As the ground conditions offer limited opportunity to provide infiltration drainage a surface water drainage design is proposed which can accommodate up to a 1 in 100-year critical storm event plus 40% climate change without flooding by providing onsite attenuation and then connection into the existing sewer network. The drainage strategy proposes tanked cellular storage beneath the car park area as a means of attenuation, before discharge to the public sewer within Barnard Road at a restricted discharge rate of 5.0/s to be agreed with Anglian Water. Water quality improvements are achieved through filter drains and a bypass separator.

167. Confirmation of any necessary connections will be required from Anglian Water who have requested a planning condition to secure a foul drainage strategy and surface water management strategy. A surface water planning condition is not considered necessary as sufficient information has been provided in this respect to satisfy officers that surface water is being appropriately dealt with. The proposals comply with policies GNLP2, DM3 and DM5 of the Development Management Policies Local Plan 2014 and section 14 of the National Planning Policy Framework 2024.

Main Issue 8. Energy and water efficiency

168. Key policies and NPPF paragraphs – GNLP2, DM1, NPPF paragraphs 165, 168.

169. The applicants Energy Statement proposes to reduce the regulated CO_2 emissions of the development by 49% when compared with Building Regulations requirements. The Energy Statement also proposes to contribute

159% energy from renewable energy (waste heat, air source heat pump, and solar photovoltaics). A total of 160 kWp (maximum power output under standard conditions equivalent to bright sunshine) solar photovoltaic capacity is proposed. The submission suggests that this equates to 721 m^2 roof space and could equate to 355 panels (depending on size). The panels are proposed to be mounted 'flush' (i.e., parallel) to the roof and orientated due west. The proposed roof plan confirms this through a large number of solar panels across the roof area totalling 404 panels.

170. The insulated building fabric with high thermal performance (low u-values), low airtightness, 100% energy efficient LED lightings, mechanical ventilation with heat recovery system, harnessing waste heat from the sales floor chillers to heat the retail area and high seasonal efficiency air source heat pump ensures energy demand and associated CO_2 emissions are reduced.

171. This exceeds the policy requirement of providing a minimum of 10% of the predicted energy needs of the development from decentralised and renewable or low-carbon energy.

172. As a commercial development a high level of water efficiency will be expected to be delivered to meet BREEAM 'very good' standard for water efficiency. The applicant advises that water consumption for the store will be reduced through water efficiency measures including efficient water fittings throughout the store, including services valves complete with flow restrictors, dual flush toilets, and low water consumption appliances where provided. The incoming mains cold water supply will also be separately metered, using a smart meter to easily monitor water consumption and will be connected to the stores central control system.

173. Suitably worded conditions will be used to secure delivery of the specified energy requirements and water efficiency measures as required by policy GNLP2.

Main Issue 9. Nutrient neutrality and recreational disturbance (GIRAMS)

174. Key policies and NPPF paragraphs – GNLP1, GNLP2, GNLP3, DM1, DM3, DM6, NPPF section 15.

175. The application has been assessed against the conservation objectives for the protected habitats of the River Wensum Special Area of Conservation and the Broads Special Area of Conservation and Ramsar site concerning nutrient pollution in accordance with the Conservation of Species and Habitats Regulations 2017 (as amended) (Habitats Regulations). The Habitat Regulations require Local Planning Authorities to ensure that new development does not cause adverse impacts to the integrity of protected habitats such as the River Wensum or the Broads prior to the granting planning permission.

176. The development proposed does not involve the creation of additional overnight accommodation and as such it is not likely to lead to a significant effect as it would not involve a net increase in population in the catchment and is also not considered a high water use development. This application has been screened, using a precautionary approach, as is not likely to have a significant effect on the conservation objectives either alone or in combination with other projects and there is no requirement for additional information to be submitted to further assess the effects. The application can, with regards

nutrient neutrality, be safely determined with regards the Conservation of Species Habitats Regulations 2017 (as amended).

177. The potential for recreational activities to disrupt the protection objectives of habitats sites in and around Norfolk is related to the level of growth in each Local Plan 'in combination'; specifically, an increase in population resulting from identified new housing requirements across the County that will in turn ensure more people visit habitats sites for recreation. The development proposed does not include new dwellings and therefore is not considered to contribute to an increase in population. This application has been screened, using a precautionary approach, as is not likely to have a significant effect on the conservation objectives either alone or in combination with other projects and there is no requirement for additional information to be submitted to further assess the effects. The application can, with regards increased recreational disturbance, be safely determined with regards the Conservation of Species Habitats Regulations 2017 (as amended).

178. Accordingly, this application is not liable for contributions to the Green Infrastructure Recreational Avoidance Mitigation Strategy (GIRAMS) as no additional dwellings are being created as part of the proposal.

Other matters

179. The following matters have been assessed and considered satisfactory and in accordance with relevant development plan policies, subject to appropriate conditions and mitigation: Contamination.

Equalities and diversity issues

180. There are equality or diversity issues, these are discussed below. Access to a facility that provides for people with specific needs, including those with disabilities will be lost through the closure and demolition of the existing bowling centre. The implications of this to the wider community have been addressed in the body of the report above.

181. The new retail use is designed to comply with relevant legislation to enable all customers to access the building as simply as possible. The car park is designed with customers in mind to ensure that cars and pedestrians can manoeuvre easily into and around the car park, with provision of disabled and parent and child specific parking spaces.

S106 Obligations

182. None.

Local finance considerations

183. Under Section 70(2) of the Town and Country Planning Act 1990 the council is required when determining planning applications to have regard to any local finance considerations, so far as material to the application. Local finance considerations are defined as a government grant or the Community Infrastructure Levy. Whether or not a local finance consideration is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It would not be appropriate to make

a decision on the potential for the development to raise money for a local authority.

184. The application is liable to pay the Community Infrastructure Levy. In this case local finance considerations are not considered to be material to the case.

Human Rights Act 1998

185. Officers have considered the implications of the Human Rights Act 1998 in reaching a recommendation to approve this application. They consider that the interference with the human rights of the applicant under Article 8/Article 1 of Protocol 1 is justifiable and proportionate for the protection of the rights and freedom of others or the control of his/her property in this way is in accordance with the general interest.

Section 17 of the Crime and Disorder Act 1998.

186. Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to grant planning permission, officers consider that the proposal will not undermine crime prevention or the promotion of community.

Planning Balance and Conclusion

187. This application requires the weighing up of a range of factors as set out in the sections above. The position of retail use fall-back within the existing building weighs significantly in favour of the application as a realistic alternative that would see the introduction of a retail use to the site and at the same time the loss of the existing community use without the need for planning permission. The matter of the 'fall-back' position is a significant material consideration which greatly effects the weight to be applied to the retail policies and polices associated with the loss of the community use.

188. The proposals are considered to comply with DMPLP policies DM16 and which permit main town centre uses in employment areas. Independent advice has been sought on the sequential approach taken by the applicant in selecting the site and the retail impact on designated retail centres. Following receipt and consideration of this, the council is satisfied that the sequential test has been passed and there will not be an unacceptable retail impact on vitality and viability of The Larkman and Bowthorpe Main Centre district retail centres or any other designated retail centre. In this regard, the application complies with DMPLP policies DM16 and DM18, GNLP6 and relevant paragraphs within section 7 of the NPPF.

189. Reasonable information has been provided to demonstrate that the existing community use does not have a long-term viable future in the building and use of the building or site for an alternative community use is likely not viable. Notwithstanding that no specific marketing exercise was completed to ascertain 'realistic interest' in the site for alternative uses, the proposals are broadly in compliance with DMPLP policy DM22. Considered together with the fact that the retail use fall-back diminishes the weight to be applied to this policy when the loss is somewhat inevitable, results in the conclusion that the loss of the existing community facility can be accepted.

190. A low level of harm to health, wellbeing, social interaction and community cohesion is a consequence of the loss of the existing bowling facility. This low level of harm is outweighed by the acceptance of the loss of the community use and its replacement with a retail use.

191. The proposals are supported by a package of on and off-site highway measures which provide enhanced active travel measures to the site and provide additional benefits to the wider employment area. They facilitate access to public transport and provide significant improvement to pedestrian and cycle access to and through the site and the wider employment area. The measures in turn help to reduce dependency on private car usage to access the site. The development therefore broadly complies with the provisions of policy GNLP2, bullet 3 of policy DM1, DM28 and paragraphs 110, 115 and 117 of the National Planning Policy Framework 2024.

192. Subject to the imposition of reasonable and necessary conditions, it is considered that the proposals will have acceptable impacts on the character and appearance of the area, residential amenity, highway safety, trees, ecology, drainage and flood risk and climate change. When having regard to these, the application on balance represents an acceptable form of development that complies with national planning guidance and the policies of the adopted development plan when read as a whole.

193. The development is in accordance with the requirements of the National Planning Policy Framework and the Development Plan, and it has been concluded that there are no material considerations that indicate it should be determined otherwise.

Recommendation

194. To approve application no.23/01615/F – 10 Barnard Road, Norwich, NR5 9JB and grant planning permission subject to the following conditions:

1. Standard time limit;
2. In accordance with plans;
3. Deliveries hours restriction – not before 07:00 or after 23:00 Monday to Saturdays or before 09:00 and after 18:00 Sundays, with no trade deliveries or collections on Bank or Public Holidays;
4. Details of any external plant and equipment to be agreed and to conform with sections 5.11 and 5.12 of the Noise Assessment;
5. Noise and dust management plan during construction;
6. Unidentified contamination condition;
7. Demolition and Construction Management Plan;
8. Details of external lighting;
9. Arboricultural supervision for works within root protection areas,
10. Works on site to be carried out in accordance with arboricultural information
11. Notwithstanding the submitted landscaping details an enhanced scheme including suitable replacement tree planting and detailed finished levels and contours of the embankment and ramp arrangement to Dereham Road shall be submitted and approved before the building is brought into use.
12. Car and motor cycle parking (including active and passive EV provision) and cycle parking to be provided before first use of the building;
13. Details of roads, footways, cycleways, including foul and surface water drainage to be approved prior to commencement;
14. Provision of required visibility splays prior to occupation;

15. Details of on-site construction worker parking to be agreed prior to commencement;
16. Construction Traffic Management Plan (CTMP) to be agreed prior to commencement;
17. CTMP implementation during construction;
18. No works above slab level until details of the off-site highway works are agreed;
19. Off-site highway works to be completed prior to first occupation;
20. Submission of a travel plan prior to first occupation;
21. Provision of fire hydrant;
22. Finished floor levels to be 150mm above external ground levels;
23. Foul drainage works, including connection point and discharge rate to be agreed with Anglian Water;
24. Energy reduction measures in accordance with energy report;
25. Water efficiency measures;
26. Biodiversity enhancement strategy to secure delivery of biodiversity enhancement measures;
27. Details of enclosure of the land outlined in blue to ensure sensitive and appropriate means of securing the site.

Informative notes

- Anglian Water
- Asbestos
- Check for bat usage of roof space before demolition of the building
- Works within public highway
- Need for a Section 278 agreement

Appendices: None

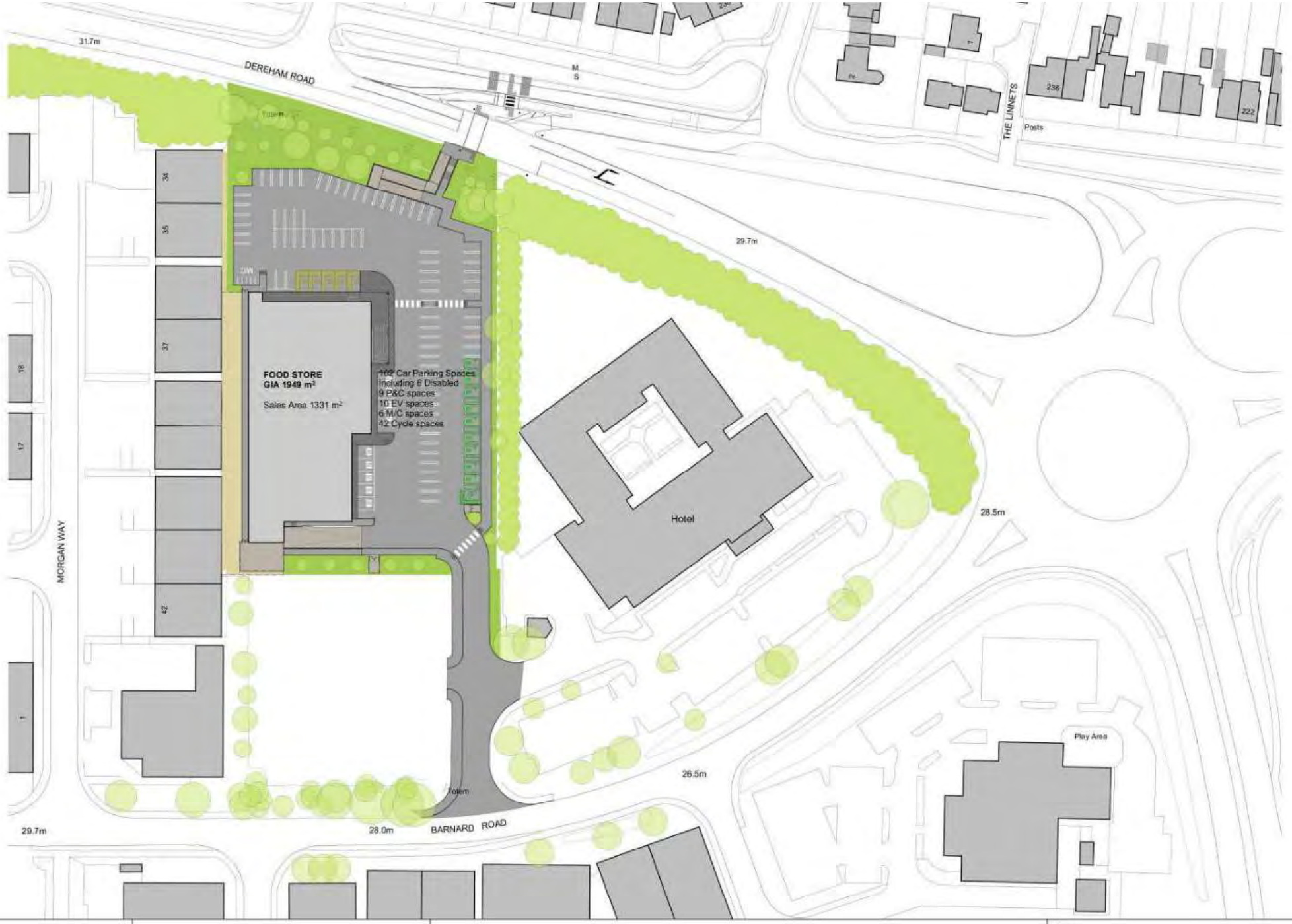
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Rev.	Description	Date	Drawn	Chk.
P-07	Additional trees added	25.02.25	DC	CW
P-06	Existing Tree positions updated	24.01.25	DC	CW
P-05	Ramp position amended	05.08.24	DC	CW
P-04	Trees Added Sleepiness updated following comments	05.08.24	DC	CW
P-03	Layout updated following comments	31.05.24	DC	CW
P-02	Layout updated following comments	17.04.24	DC	CW
P-01	Updated following consultation	21.03.24	DC	CW
P-00	ISSUED FOR PLANNING	18.10.23	DC	CW

Client
Williams Group

Project
Barnard Road
Norwich

Drawing Title
Proposed Site Plan

Drawing Status
PLANNING

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Drawing No. 19408-300 | Revision P-07

Drawn	Checked	Paper Size	Scale	Date
DC	CW	A1	1:500	OCT 23



NORTH

0 2.5 5.0 7.5 10.0 12.5 25.0m

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P-07	Additional trees added	25.02.25	DC	CW
P-06	Existing Tree positions updated	29.01.25	DC	CW
P-05	Ramp position amended	05.09.24	DC	CW
P-04	Trees Added/ Steps/ramp updated following comments	05.09.24	DC	CW
P-03	Layout updated following comments	21.05.24	DC	CW
P-02	Layout updated following comments	17.04.24	DC	CW
P-01	Updated following consultation	21.03.24	DC	CW
P-00	ISSUED FOR PLANNING	18.10.23	DC	CW
Rev	Description	Date	Drawn	Chk

Client
Williams Group

Project
Barnard Road
Norwich

Drawing Title
Proposed Site Plan

Drawing Status
PLANNING

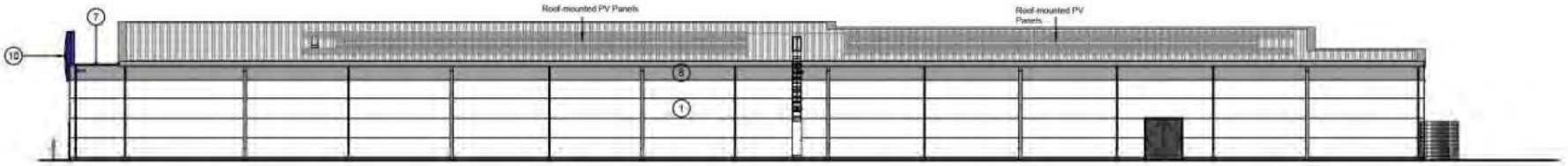
Corstorphine & Wright

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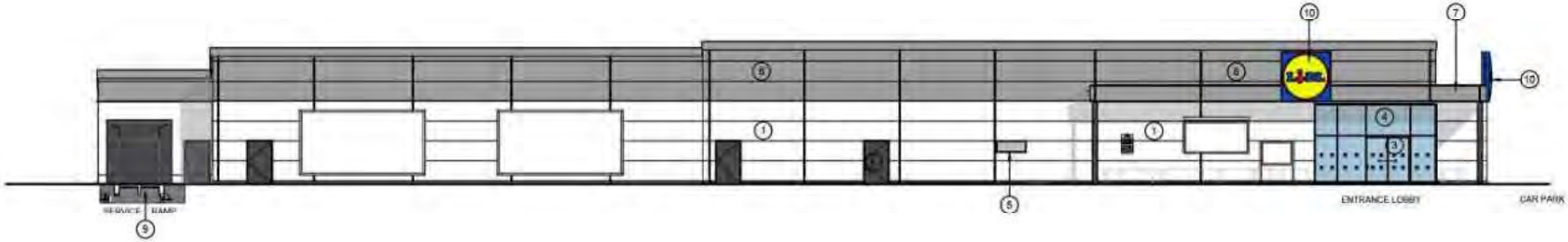
Drawing No.	Revision
19408-301	P-07

Drawn	Checked	Paper Size	Scale	Date
DC	CW	A1	1:250	OCT 23

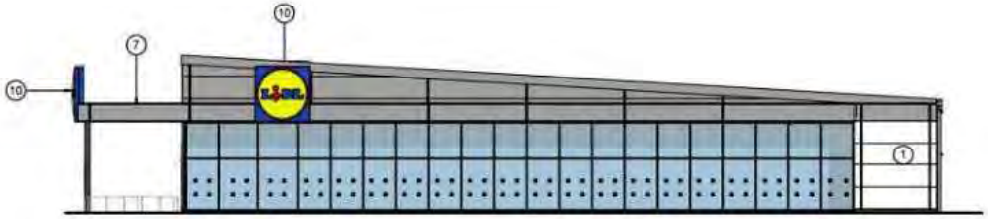
All signage indicative subject to a separate application for advertising consent



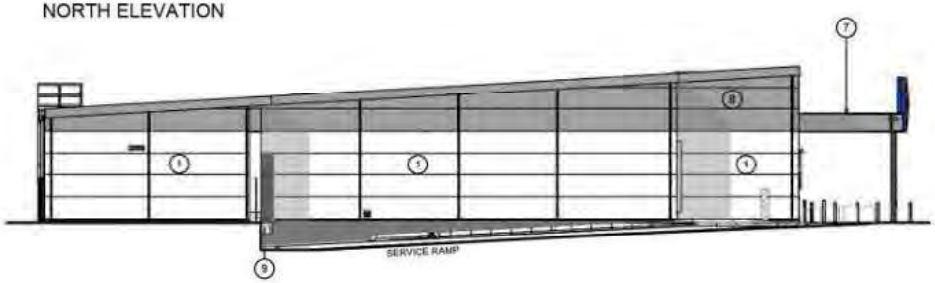
WEST ELEVATION



EAST ELEVATION



NORTH ELEVATION



SOUTH ELEVATION

1. WALL CLADDING PANELS - METAL INSULATED COMPOSITE PANELS COLOUR: WHITE RAL9010
2. 3° PITCH ROOF: PROFILED COMPOSITE METAL COLOUR: ALUMINIUM RAL 9006
3. POWDER COATED ALUMINIUM FRAMED GLAZED ENTRANCE LOBBY WITH AUTOMATIC DOORS COLOUR: GREY RAL7024
4. POWDER COATED ALUMINIUM FRAMED GLAZED SHOPFRONT COLOUR: GREY RAL7024
5. POWDER COATED ALUMINIUM FRAMED WINDOWS COLOUR: GREY RAL 7024
6. POWDER COATED STEEL DOOR COLOUR: GREY RAL7024
7. EAVES, SOFFITS AND FASCIA PANELS COLOUR: ALUMINIUM RAL9006
8. WALL CLADDING PANELS - METAL INSULATED COMPOSITE PANELS COLOUR: ALUMINIUM RAL9006
9. MINI STACK LEVELLER
10. INTERNALLY ILLUMINATED LIDL SIGNAGE

0 2.5 5.0 7.5 10.0 12.5 17.5m

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Rev	Description	Date	Drawn	Chk
P-00	ISSUED FOR PLANNING	16.10.23	DC	CW

Client: Willaims Group

Project: Barnard Road, Norwich

Drawing Title: Proposed Elevations

Drawing Status: PLANNING

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Drawing No.	Revision
19408-304	P-00

Drawn	Checked	Paper Size	Scale	Date
DC	CW	A3	1:250	OCT 2023



0 2.5 5.0 7.5 10.0 12.5 17.5m

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Rev	Description	Date	Drawn	Chk.
P-00	ISSUED FOR PLANNING	16.10.23	DC	CW

Client
Willaims Group

Project
Barnard Road,
Norwich

Drawing Title
Proposed Ground Floor Plan

Drawing Status
PLANNING

Corstorphine & Wright
Warwick Studio
Brook Hall, Brook Street, Warwick, CV34 4BL
01926 658 444
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Drawing No.	Revision
19408-302	P-00

Drawn	Checked	Paper Size	Scale	Date
DC	CW	A3	1:250	OCT 2023

Appendix 9

Alexa Burns

Subject: FW: [EXTERNAL] - 23/01616/F - 10 Barnard Road, Norwich - New Foodstore Scheme

From: Stuart Blake <stuart.blake@norfolk.gov.uk>
Sent: 24 September 2025 08:39
To: Andrew Bell <andrewbell@focustp.co.uk>
Subject: RE: [EXTERNAL] - 23/01616/F - 10 Barnard Road, Norwich - New Foodstore Scheme

Hello Andrew,

Hope you are well.

The LHA is unlikely to have an issue with the provision of a crossing at this location, subject to appropriate detail. Whilst the footpath is not adopted highway, it is clearly a well-used route so any crossing provision over Chapel Break Road at this location would be of benefit. It might be useful to support any designs with a RSA1 for review, but I have no issue with the principle of providing a crossing at this location.

I hope this is useful.

Kind regards
Stuart

Stuart Blake, Engineer - Major and Estate Development
Tel: 01603 221812
Growth & Investment
County Hall, Martineau Lane, Norwich, NR1 2SG

From: Andrew Bell <andrewbell@focustp.co.uk>
Sent: 22 September 2025 13:26
To: Stuart Blake <stuart.blake@norfolk.gov.uk>
Subject: RE: [EXTERNAL] - 23/01616/F - 10 Barnard Road, Norwich - New Foodstore Scheme

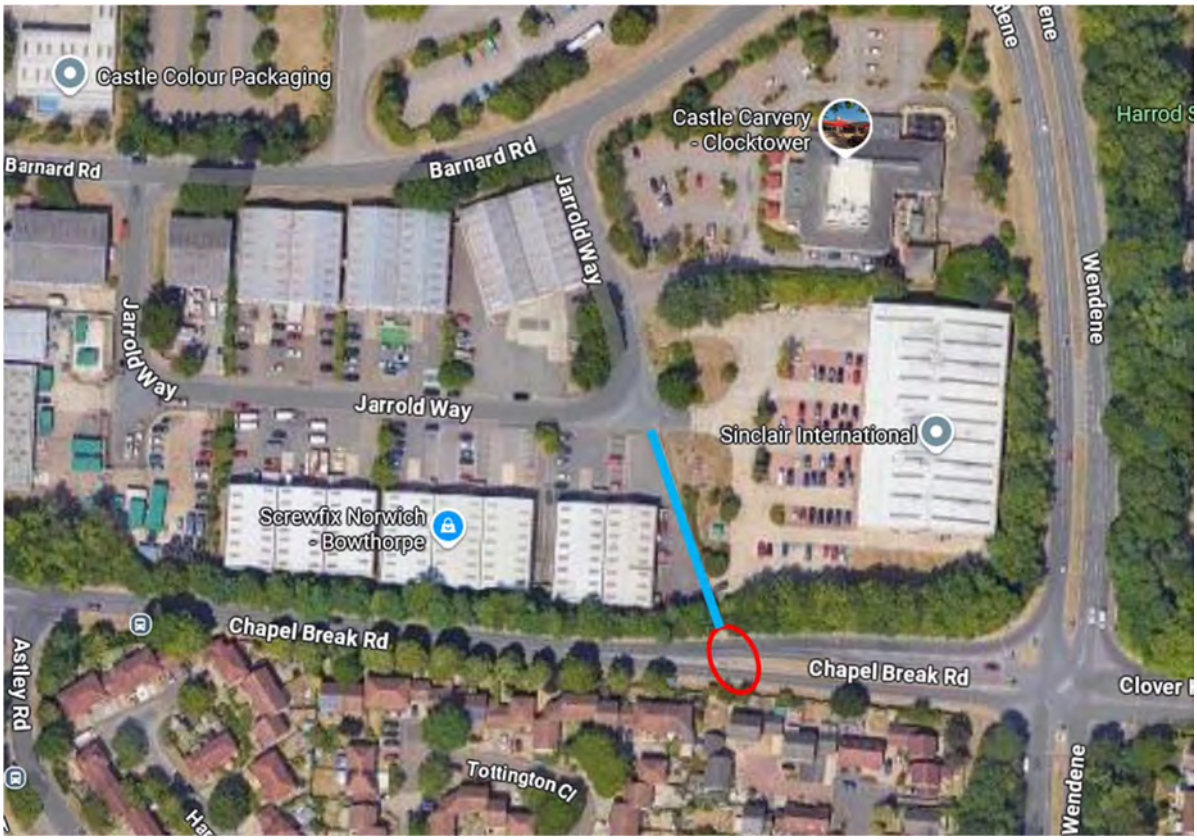
WARNING: EXTERNAL EMAIL: Don't open any links or attachments unless you trust the sender. Click Here for more information.

Stuart

Just following on from our e-mail exchange in June on the above project (included below for reference).

It is our client's intention to appeal against the Norwich City Council refusal of planning permission and the formal documentation regarding this appeal will be submitted to PINS shortly. I have been busy preparing draft evidence and an initial highways statement of common ground, the latter I will look to share with you in due course, once the appeal is formally under-way.

As part of the review of evidence, I took some time to re: watch the NCC committee meeting and noted that members did highlight concerns regarding pedestrians approaching the site from the Clover Hill direction and the need to ensure good pedestrian access from the south. Whilst there are a number of potential routes that pedestrians could take from Clover Hill, our client is aware that there is the unadopted footway route that we discussed in June, which is accessed via an 'informal' crossing of Chapel Break Road (see below).



To ensure a comprehensive pedestrian accessibility package, the client has identified that he would be prepared to fund a crossing improvement at this location, should the LHA consider this of merit. I attach a fairly simple OS based sketch of what we think could be achieved in this location – within the 'highway'. I'm not entirely convinced whether there would ultimately be a need to improve the central island to any great extent, quite possibly not, but it's hard to tell exactly at the moment, as google earth images are relatively limited and the OS isn't the most accurate to work off. Realistically however, the scale of any works at this location would be pretty limited and the applicant is comfortable that he could support such work from a viability perspective.

Could you have a think about whether this is something that the LHA would be happy to support and if, so whether it would be suitable to be included as an additional item that could be included as part of the 'south of the application site' works package to be conditioned (along with the works on Barnard Road and the other Chapel Break Road crossing point), should the appeal be successful.

Happy to discuss further once you have had the opportunity to review.

Regards

Andrew

Andrew Bell

Director
FOCUS TRANSPORT PLANNING
Pentland House | Village Way | Wilmslow | SK9 2GH
Office: 0161 8264631 | Mobile: 07711 508794



www.focustp.co.uk



Advanced Notice: I will be annual leave for the period Wednesday 1st October to Wednesday 8th October 2025 (inclusive). I will not be available to respond to e-mails during this period.

From: Stuart Blake <stuart.blake@norfolk.gov.uk>
Sent: 25 June 2025 07:58
To: Andrew Bell <andrewbell@focustp.co.uk>
Subject: RE: [EXTERNAL] - 23/01616/F - 10 Barnard Road, Norwich - New Foodstore Scheme

Hi Andrew,

Thank you for your email, I hope you are keeping well.

I have checked our mapping system and it shows that the footway between Jarrold Way and Chapel Break Road is private and not adopted by Norfolk County Council. The section off footway also has no PROW status. If you were to enquire with our highway boundaries team, they would be able to provide more information, but with the information I have available I'm confident that it is a private asset.

Kind regards
Stuart

Stuart Blake, Engineer - Major and Estate Development
Tel: 01603 221812
Growth & Investment
County Hall, Martineau Lane, Norwich, NR1 2SG



From: Andrew Bell <andrewbell@focustp.co.uk>
Sent: 24 June 2025 18:21
To: Stuart Blake <stuart.blake@norfolk.gov.uk>
Subject: RE: [EXTERNAL] - 23/01616/F - 10 Barnard Road, Norwich - New Foodstore Scheme

WARNING: External email, think before you click!

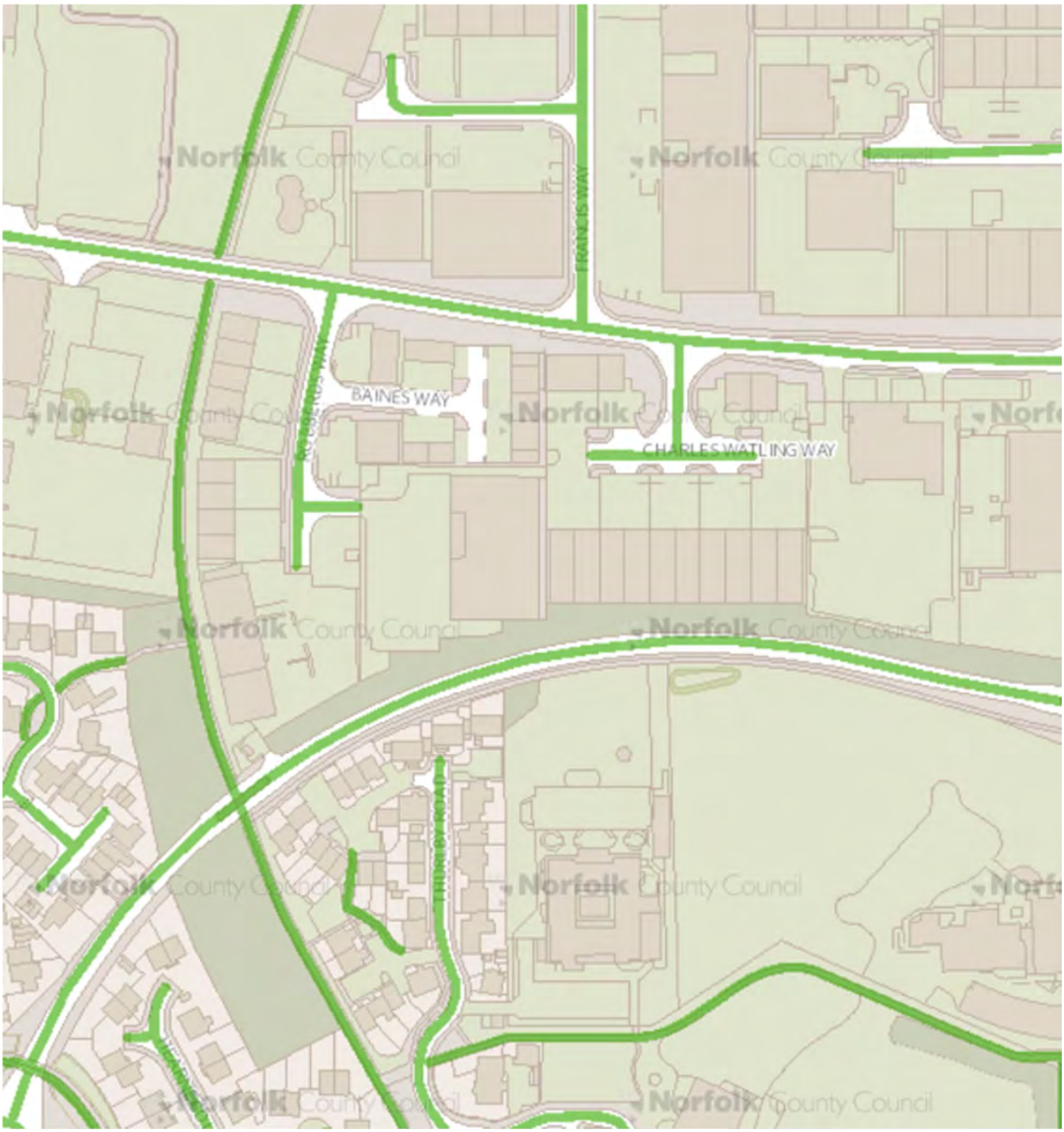
Stuart

You will no doubt recall our correspondence over the past couple of years regarding the planning application for a new foodstore at land off Barnard Way, which was refused by Norwich City Council planning members about a month or so ago – with a couple of the reasons for refusal relating to sustainable travel matters.

Our client is currently considering his options as to how to respond to this.

Earlier today I was with the project team and we were discussing our package of agreed sustainable transport measures to the south of the site and the client asked whether the footpath connection from Jarrold Way to Chapel Break Road was adopted and therefore could potentially be improved by some additional street lighting / more formal crossing of Chapel Break Road? It wasn't included in our agreed works package. Would you be able to confirm whether this plan shows up on your adoption register? It doesn't show up on the interactive PROW plan, which makes me believe that it is not an adopted / formal route and this is why we didn't propose / discuss any improvements here.

I'm mindful that it took a number of months to formally get adoption information from the Council, so I was hoping to avoid having to go down that route to get confirmation on this matter.


BAINES WAY
CHARLES WATLING WAY
Norfolk County Council





Andrew Bell
Director
FOCUS TRANSPORT PLANNING

Pentland House | Village Way | Wilmslow | SK9 2GH
Office: 0161 8264631 | Mobile: 07711 508794



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From: Stuart Blake <stuart.blake@norfolk.gov.uk>
Sent: 22 July 2024 08:29
To: Andrew Bell <andrewbell@focustp.co.uk>
Cc: Jiaqi Ren <jiaqi.ren@norfolk.gov.uk>
Subject: RE: [EXTERNAL] - 23/01616/F - 10 Barnard Road, Norwich - Transport Technical Note in response to consultation response from Norfolk CC

Good morning Andrew,

Unfortunately I do not have digital copies of the as built drawings. I have copied in Jiaqi who may be in a position to provide these for you.

Kind regards
Stuart

Stuart Blake, Engineer - Major and Estate Development
Tel: 01603 221812
Growth & Investment
County Hall, Martineau Lane, Norwich, NR1 2SG

From: Andrew Bell <andrewbell@focustp.co.uk>
Sent: Friday, July 19, 2024 12:03 PM
To: Stuart Blake <stuart.blake@norfolk.gov.uk>
Subject: FW: [EXTERNAL] - 23/01616/F - 10 Barnard Road, Norwich - Transport Technical Note in response to consultation response from Norfolk CC

WARNING: External email, think before you click!

Hi Stuart

The planning officer at the city council has requested additional updated drawings with respect to the proposed Dereham Road pedestrian crossing. I don't believe that we have any 'in principle' objections to doing, but it would be useful if we could have sight of the TCF as built / construction drawings in this location, to allow us to understand the

details of that scheme and whether suitable topo survey data is available or whether we need to undertake an updated survey to make sure any plan is fully in-line with on-the-ground circumstances. Are you able to send these over, preferably in both pdf and CAD format.

Once we have these plans, I can determine the extent and nature of work that might be available to inform the development team and highway / planning stakeholders.

Regards

Andrew Bell
Director
FOCUS TRANSPORT PLANNING
Pentland House | Village Way | Wilmslow | SK9 2GH
Office: 0161 8264631 | Mobile: 07711 508794

www.focustp.co.uk

From: Hinchcliffe, Sarah <SarahHinchcliffe@norwich.gov.uk>
Sent: Thursday, July 18, 2024 4:36 PM
To: Alexa Burns <ABurns@emeryplanning.com>
Cc: Rawdon Gascoigne <RGascoigne@emeryplanning.com>; Tom Smith <tsmith@emeryplanning.com>; Stuart Blake <stuart.blake@norfolk.gov.uk>
Subject: RE: [EXTERNAL] - 23/01616/F - 10 Barnard Road, Norwich - Transport Technical Note in response to consultation response from Norfolk CC

Hello Alexa

I am coming back to you specifically on the highways information that you provided last month after having further discussions with the highways officer.

The specific item that we want to raise further queries about is the crossing on Dereham Road. Given the fact that the Transforming Cities Fund (TCF) works are significantly advanced on the north side of Dereham Road, this now provides a good basis on which to work up a more detailed design of the crossing. Given the importance of securing such a crossing to improving accessibility to the site by pedestrians approaching from the north more certainty is required that the crossing can be achieved in a location along the site frontage (land within your clients control) that will be acceptable in highways terms and is therefore deliverable as part of the development proposed. Therefore, can I ask that your highways engineers work up engineering drawings based on a topographical survey with the existing/as built TCF funded scheme in place. In addition a Stage 1 Safety Audit will be required to support such plans.

Once in receipt of such information this will allow the highways officer to comment in more detailed terms on these elements of the proposals.

The other items that form part of the revised/additional information provided is positive and requires no further modification at this stage. There is a more minor query in relation to the zebra crossing on Barnard Road and its exact location which looks easier to resolve through the S278 process should planning permission be granted.

The additional information should ideally be provided in the coming weeks along with the package of other outstanding matters to allow a full consultation to take place with all consultees and the general public at the same time.

Regards

Sarah Hinchcliffe BSc MA MRTPI (she/her)
Senior Planner
Development and City Services
Norwich City Council

01603 989413
My working days are Monday to Friday
Using Microsoft Teams? Click here to contact me on Microsoft Teams



From: Alexa Burns <ABurns@emeryplanning.com>
Sent: Tuesday, June 18, 2024 2:20 PM
To: Hinchcliffe, Sarah <SarahHinchcliffe@norwich.gov.uk>
Cc: Parkin, David <DavidParkin@norwich.gov.uk>; Rawdon Gascoigne <RGascoigne@emeryplanning.com>; Tom Smith <tsmith@emeryplanning.com>
Subject: RE: [EXTERNAL] - 23/01616/F - 10 Barnard Road, Norwich - Transport Technical Note in response to consultation response from Norfolk CC

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Dear Sarah

Please find attached a Transport Technical Note and accompanying appendices to address Norfolk County Council's consultation comments, and also the comments from Norwich Cycling Campaign. In addition, the note reflects the revised parking layout and reduction in parking spaces submitted to align with the City Council's parking requirements.

The contents of the Technical Note reflect the discussions that have taken place between the Applicant's Highways consultant (Focus) and Norfolk CC over the last couple of months, also informed by further traffic surveys.

In parallel to this submission and the LPA formally sending the documents on to the County Council for review, Focus will send them direct to the County Council, given the context of the direct discussions that have been taking place.

Please let me know should you have any queries.

Kind regards
Alexa

Alexa Burns BA (Hons), Dip TP, MRTPI

ASSOCIATE

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01244 732447



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From: Hinchcliffe, Sarah <SarahHinchcliffe@norwich.gov.uk>
Sent: Wednesday, June 12, 2024 10:42 AM
To: Alexa Burns <ABurns@emeryplanning.com>
Subject: RE: [EXTERNAL] - 23/01616/F - 10 Barnard Road, Norwich - retail audit

Hello Alexa

Thank you for the update. I have made MWA aware to watchout for anything coming through while I am away.

Regards

Sarah Hinchcliffe BSc MA MRTPI (she/her)
Senior Planner
Development and City Services
Norwich City Council

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From: Alexa Burns <ABurns@emeryplanning.com>
Sent: Wednesday, June 12, 2024 10:34 AM
To: Hinchcliffe, Sarah <SarahHinchcliffe@norwich.gov.uk>; Tom Smith <tsmith@emeryplanning.com>
Cc: Rawdon Gascoigne <RGascoigne@emeryplanning.com>; Parkin, David <DavidParkin@norwich.gov.uk>
Subject: RE: [EXTERNAL] - 23/01616/F - 10 Barnard Road, Norwich - retail audit

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Dear Sarah

Thank you for your update. We are indeed working on a response which addresses both MWAs comments and also the non-retail comments from the LPA.

We won't be in a position to submit before you go away, as in order to inform our response we have needed to obtain further data from Experian (as per MWAs suggestion), as well obtaining revised supporting documents from several co-consultants, all of which takes some time.

We will submit our response as soon as possible, but it is likely that it will not be until your return from leave. If we are in a position to submit in the meantime, we will copy David in and hopefully he will be able to forward the retail response to MWA in your absence.

We hope you have a good break and will pick up with you on your return.

Kind regards
Alexa

Alexa Burns BA (Hons), Dip TP, MRTPI
ASSOCIATE

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Mobile : 07568 426 929
Email : ABurns@emeryplanning.com

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From: Hinchcliffe, Sarah <SarahHinchcliffe@norwich.gov.uk>
Sent: Wednesday, June 12, 2024 10:09 AM
To: Tom Smith <tsmith@emeryplanning.com>
Cc: Rawdon Gascoigne <RGascoigne@emeryplanning.com>; Alexa Burns <ABurns@emeryplanning.com>; Parkin, David <DavidParkin@norwich.gov.uk>
Subject: RE: [EXTERNAL] - 23/01616/F - 10 Barnard Road, Norwich - retail audit

Good morning Tom

Following on from our correspondence a couple of weeks ago relating to the above site I assume that you are working on a response.

Just to let you know I will be on annual leave in a couple of days time and am not due to return to work until Monday 8th July.

In my absence my manager David Parkin (copied in to this email) will keep an overall watching brief, however any active work on your submission will be picked up by myself on my return.

It would be beneficial if I was in receipt of your addendum report in response to Mark Wood's interim retail audit before I go on leave, This would allow me to send this on to Mark so that he can be taking a look while I am away. To do this I would need to receive your report before the end of the week and ideally by close of play tomorrow.

Not forgetting there remain other matters to be resolved which I assume you are still working on.

I look forward to hearing from you with anticipated timescales for provision of information to the council so that I can try to keep this moving as much as I am able to in my absence.

Regards

Sarah Hinchcliffe BSc MA MRTPI (she/her)
Senior Planner
Development and City Services
Norwich City Council

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From: Hinchcliffe, Sarah
Sent: Tuesday, June 4, 2024 2:03 PM
To: 'Tom Smith' <tsmith@emeryplanning.com>
Cc: Rawdon Gascoigne <RGascoigne@emeryplanning.com>; Alexa Burns <ABurns@emeryplanning.com>
Subject: RE: [EXTERNAL] - 23/01616/F - 10 Barnard Road, Norwich - retail audit

Good afternoon Tom

I am sorry for the delay, it is turning into one of those busy weeks!

There are no sites that either the council or our consultant have specifically identified which we think needs further consideration. However, we were seeking a little more from you than a simple assertion that a search for other sites did not come up with anything. A little more elaboration on this point will be required.

As for your suggestion that an addendum be used to provide answers to the questions raised. This could also work, so long as it is structured such that it captures the questions asked and provides updates as necessary including any conclusions in a way that is logical to follow. It may also be worth capturing the contents of your previous correspondence which sought to address the queries and comments raised by two other third parties within the addendum.

Regards

Sarah Hinchcliffe BSc MA MRTPI (she/her)
Senior Planner
Development and City Services
Norwich City Council

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My working days are Monday to Friday
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From: Tom Smith <tsmith@emeryplanning.com>
Sent: Friday, May 31, 2024 12:46 PM
To: Hinchcliffe, Sarah <SarahHinchcliffe@norwich.gov.uk>
Cc: Rawdon Gascoigne <RGascoigne@emeryplanning.com>; Alexa Burns <ABurns@emeryplanning.com>
Subject: RE: [EXTERNAL] - 23/01616/F - 10 Barnard Road, Norwich - retail audit

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Hi Sarah

Given that our Planning & Retail Statement is already in the public domain and has been commented upon, would you accept an Addendum, rather than an update? An Addendum is typically provided in this scenario.

In relation to the sequential test, is the Council aware of any sequentially preferable sites in the catchment area of our proposals, that we should consider, other than those we have already commented upon? We note that MWA does not suggest any.

Kind regards

Tom

Tom Smith Bsc (Hons), MPlan, MRTPI

ASSOCIATE

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Mobile : 07955 315 086
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Herons Way
Chester Business Park
CH4 9QR

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From: Hinchcliffe, Sarah <SarahHinchcliffe@norwich.gov.uk>
Sent: Friday, May 31, 2024 10:27 AM
To: Alexa Burns <ABurns@emeryplanning.com>
Cc: Rawdon Gascoigne <RGascoigne@emeryplanning.com>; Tom Smith <tsmith@emeryplanning.com>; Peter Williams <peter@williamsgrp.co.uk>
Subject: [EXTERNAL] - 23/01616/F - 10 Barnard Road, Norwich - retail audit

Good morning Alexa

After a short delay I am now in a position to share the interim retail audit that our retail planning consultant has produced following several visits to the area and a meeting with the council to present his findings. As you will

see MWA are recommending that further information and clarification of some points are required in relation to both the sequential and impact assessments to allow final advice/recommendations to be made to the council. Once this information is provided, preferably in a revised retail statement with the changed sections clearly highlighted then I can seek final comments from MWA and reconsult on this revised content.

The issues as set out in my email of 16 May also need to be addressed in order for a full revised package of information to be reconsulted upon.

Once you have had opportunity to consider the above if you need to discuss anything please let me know.

Regards

Sarah Hinchcliffe BSc MA MRTPI (she/her)
Senior Planner
Development and City Services
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Appendix 10

Norwich City Council

PLANNING DEPARTMENT

Brian Smith, Dip. T.P., M.R.T.P.I., D.M.S., M.B.I.M.
City Planning Officer

City Hall Norwich NR2 1NH
Telephone (0603) 622233
Telex 9312133224 (RM G)
Fax (0603) 760006
DX 5278 Norwich

TOWN AND COUNTRY PLANNING ACT 1990

PLANNING PERMISSION

Application submitted by:

Griffiths McAllister Designs Ltd.,
Cornfields,
Wicks Lane,
Earl Stonham,
Suffolk, IP14 5HL

On behalf of :

Solar Bowl

Date of application : 23rd August 1991

Application No. : 4910701/F

Decision Date: 12th February 1992

Location and Proposal :

Site EM1A Barnard Road, Bowthorpe

Erection of single storey building to provide 30 lane ten pin bowling centre with associated parking.

Conditions :

01 The development must be begun not later than the expiration of five years beginning with the date of this permission.

02 Within six months of the completion or first occupation of the development hereby permitted (whichever is the earlier) landscaping, planting and site treatment works shall be carried out in accordance with a scheme to be first approved by the Council and shall be permanently retained thereafter.

03 The existing tree belt along the north end of the site shall be protected during construction by the erection of a Chestnut paling fence and the planting belt shall be reinstated to the satisfaction of the City Council following construction of the embankment between the

Brian Smith

City Planning Officer

DECISION SENT 17 FEB 1992

Norwich City Council

PLANNING DEPARTMENT

Brian Smith, Dip. T.P., M.R.T.P.I., D.M.S., M.B.I.M.
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DX 5278 Norwich

planting belt and the service road.

04 The installation of any plant or machinery on the premises shall be in accordance with a scheme approved by the Council for the reduction, where necessary, of the level of noise and vibration emanating from the premises.

05 Details of any extract ventilation or fume extraction system including the position of ventilation, fume or flue outlet points and the type of filtration or other fume treatment to be installed and used in the premises in pursuance of this permission shall be first approved by the Council and installed before the use hereby permitted commences and thereafter retained in full accordance with the approved details.

06 Prior to the first occupation of the buildings hereby permitted car parking areas shall be laid out, surfaced and available for use and bicycle storage provided, in accordance with the plan (no.016/91-021) attached to this consent and shall thereafter be permanently retained.

07 Prior to the first occupation of the buildings hereby permitted servicing areas shall be laid out, surfaced and available for use and refuse storage areas shall be provided, in accordance with the plan (no.016/91-021) attached to this consent and shall thereafter be permanently retained.

08 Within five years of the first occupation of the building the area indicated on the plan as "future parking if required" shall be laid out and surfaced to match the main car park and made available for use for visitor parking, unless before that time application is made to the City Council to vary or remove this requirement following monitoring of the levels of use of the building and the main car park.

09 The materials to be used in the construction of the building shall be as specified in the agent's letter of 31st January 1992, except that the blue colour shall correspond to RAL 5019.

Brian Smith

City Planning Officer

Norwich City Council

PLANNING DEPARTMENT

Brian Smith, Dip. T.P., M.R.T.P.I., D.M.S., M.B.I.M.
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DX 5278 Norwich

Reasons for Conditions :

01 Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

02 To enhance the visual amenity of the area.

03 To safeguard the existing trees on the site.

04 To prevent nuisance arising from noise.

05 To protect the visual amenity of the area and prevent nuisance arising from the discharge of fumes.

06 To ensure an acceptable minimum provision of parking on the site.

07 To ensure proper servicing provision is with the site.

08 To ensure adequate parking on the site.

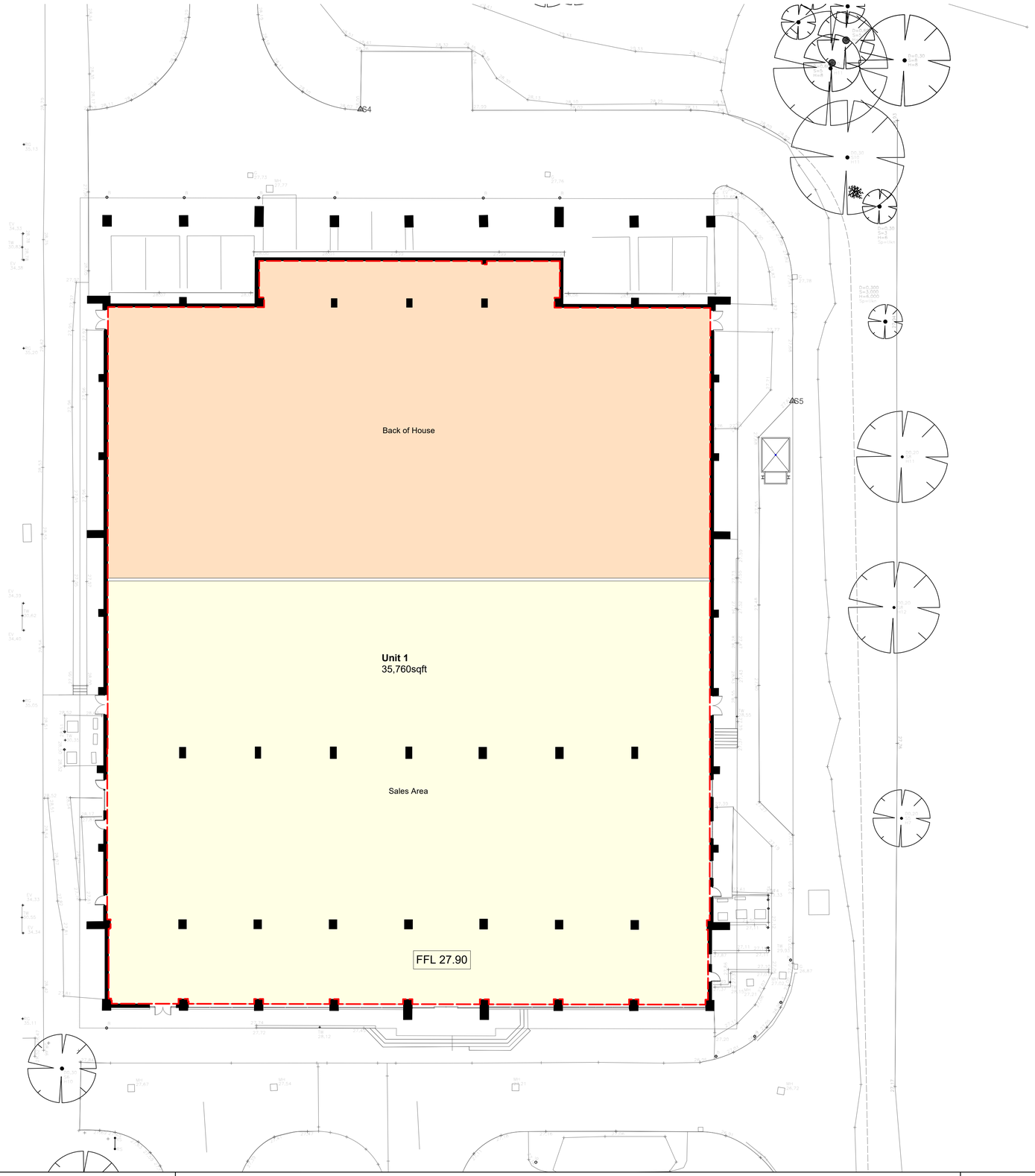
09 To ensure the appropriate detailing of the scheme.

NOTE:
The approved drawings are;
Site plan 016/91-15
Floor plan 016/91-02
Amended elevations 016/91-019 Received 25th November 1991
Amended site layout plan 016/91-021 Received 4th February 1992.

Brian Smith

City Planning Officer

Appendix 11



NORTH

0 2.0 4.0 6.0 8.0 10.0 20.0m

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Rev.	Description	Date	Drawn	Chk.

Client
Williams Group

Project
Barnard Road
Norwich

Drawing Title
Existing Building Conversion
Plan Option 1

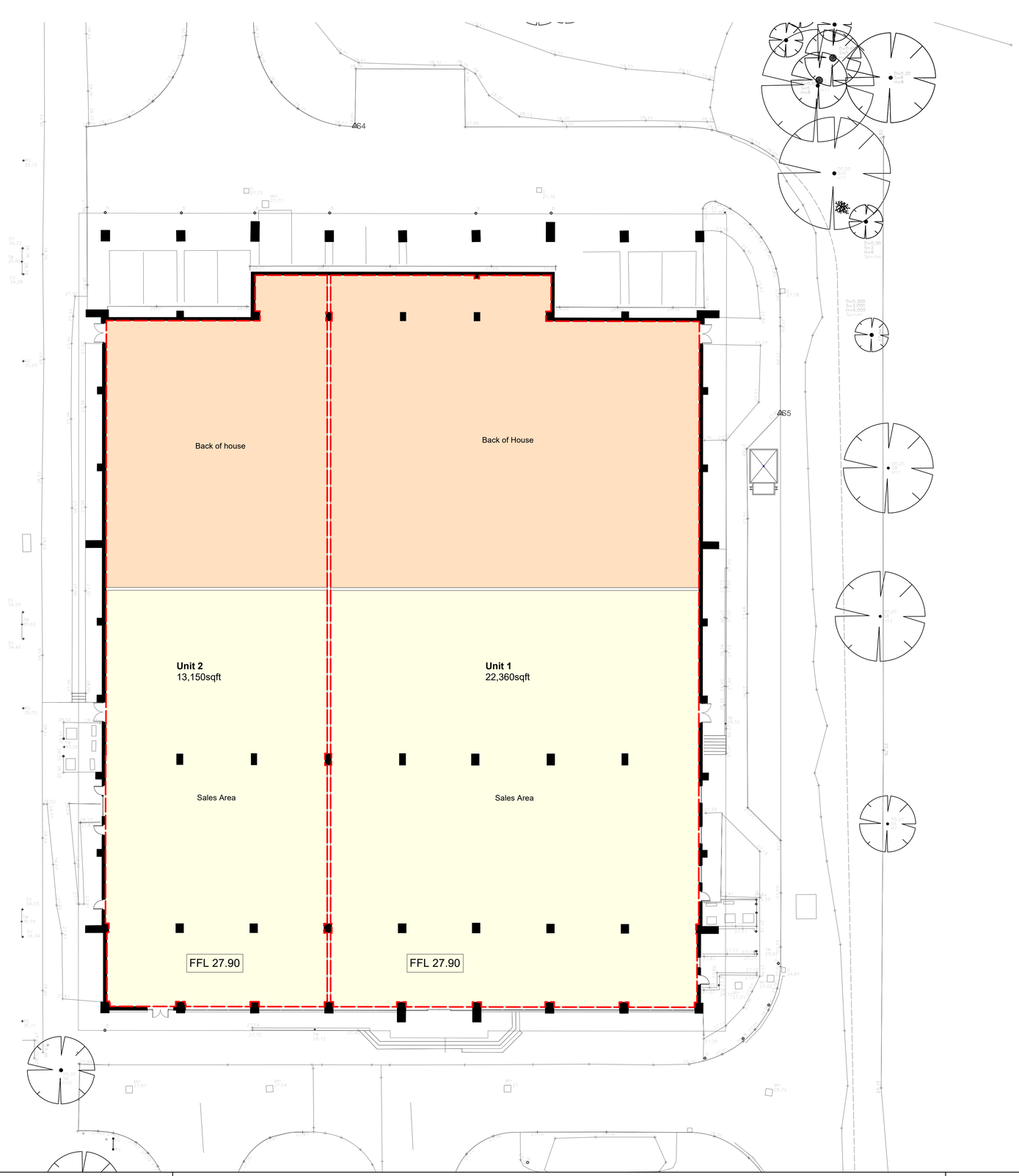
Drawing Status
INFORMATION

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Client
Williams Group

Project
Barnard Road
Norwich

Drawing Title
Existing Building Conversion
Plan Option 2

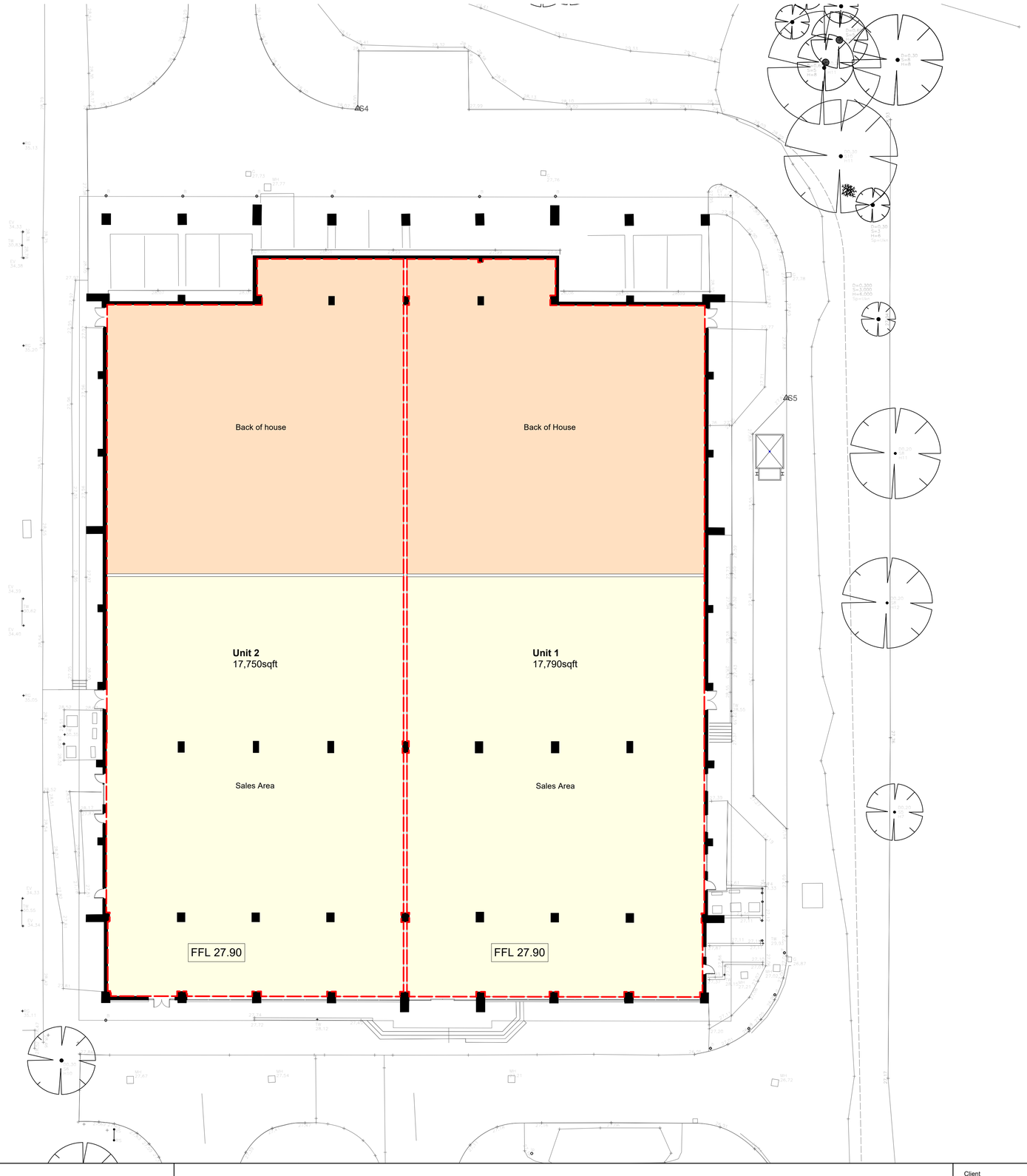
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Drawing Title
Existing Building Conversion
Plan Option 3

Drawing Status
INFORMATION

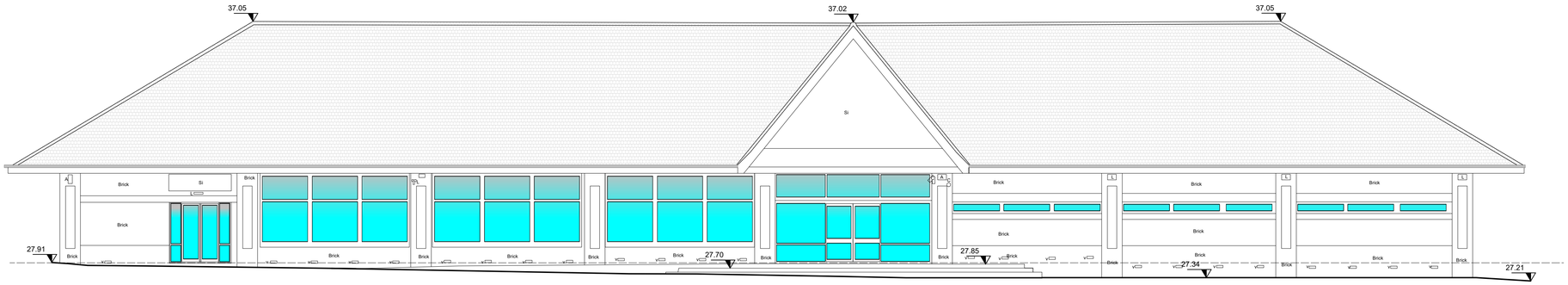
Corstorphine & Wright

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Drawing No.	Revision
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Drawn	Checked	Paper Size	Scale	Date
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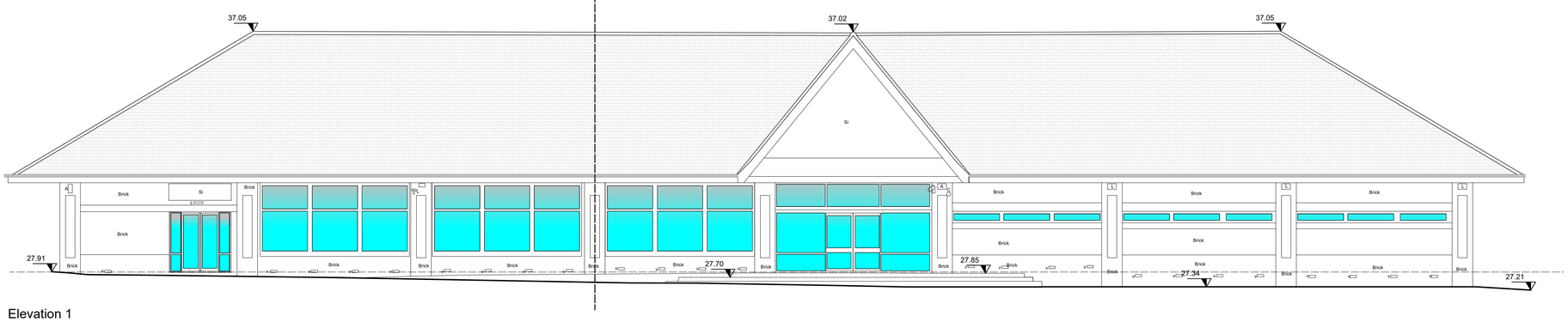
Elevation 1



Elevation 1
Existing / Option 1

Unit 2 | Unit 1

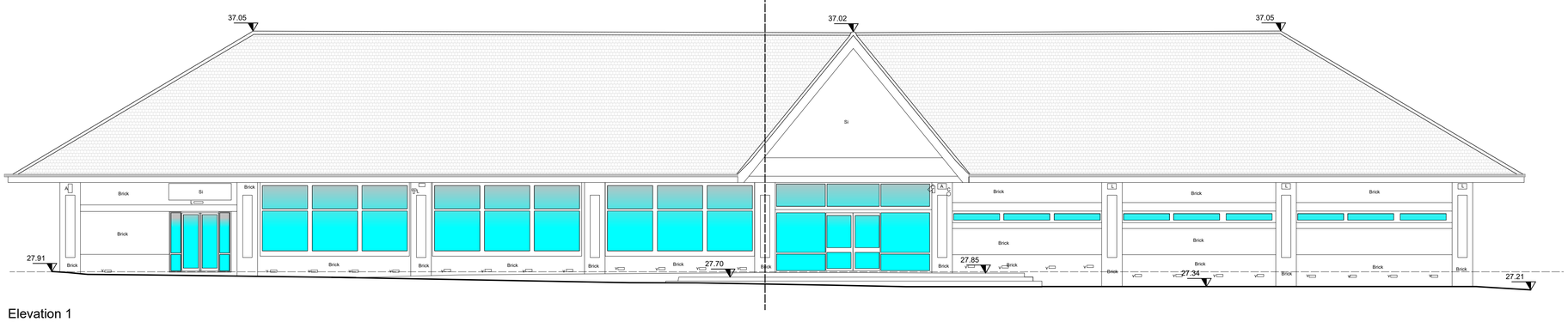
Elevation 1



Elevation 1
Option 2

Unit 2 | Unit 1

Elevation 1



Elevation 1
Option 3

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Rev.	Description	Date	Drawn	Chk.

Client
Williams Group

Project
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Drawing Title
Existing Building Conversion
Elevation Options

Drawing Status
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Drawing No.	Revision
19408-113	00

Drawn	Checked	Paper Size	Scale	Date
DC	CW	A1	1:100	07.08.25

Appendix 12



Neutral Citation Number: [2017] EWCA Civ 1314

Case No: C1/2016/4488

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE ADMINISTRATIVE COURT
PLANNING COURT
MR JUSTICE GARNHAM
[2016] EWHC 2832 (Admin)

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 8 September 2017

Before:

The Chancellor of the High Court
Lord Justice Lindblom
and
Lord Justice Hickinbottom

- -

Between:

Michael Mansell	**Appellant**
- and -	
Tonbridge and Malling Borough Council	**Respondent**
- and -	
(1) Croudace Portland **(2) The East Malling Trust**	**Interested Parties**

- -
- -

Ms Annabel Graham Paul (instructed by **Richard Buxton Environmental and Public Law**) for the **Appellant**
Mr Juan Lopez (instructed by **Tonbridge and Malling Borough Council Legal Services**) for the **Respondent**
The interested parties did not appear and were not represented

Hearing date: 4 July 2017

- -

Judgment Approved by the court
for handing down
(subject to editorial corrections)

Lord Justice Lindblom:

Introduction

1. Should the judge in the court below have quashed a local planning authority's grant of planning permission for the redevelopment of the site of a large barn and a bungalow to provide four dwellings? That is what we must decide in this appeal. It is contended that the authority misdirected itself in considering a "fallback position" available to the landowner, and also that it misapplied the "presumption in favour of sustainable development" in the National Planning Policy Framework ("the NPPF") – a question that can now be dealt with in the light of this court's recent decision in *Barwood Strategic Land II LLP v East Staffordshire Borough Council* [2017] EWCA Civ 893.

2. The appellant, Mr Michael Mansell, appeals against the order of Garnham J., dated 10 November 2016, dismissing his claim for judicial review of the planning permission granted on 13 January 2016 by the respondent, Tonbridge and Malling Borough Council, for development proposed by the first interested party, Croudace Portland, on land owned by the second interested party, the East Malling Trust, at Rocks Farm, The Rocks Road, East Malling. The proposal was to demolish the barn and the bungalow on the land and to construct four detached dwellings, with garages and gardens. Mr Mansell lives in a neighbouring property, at 132-136 The Rocks Road – a grade II listed building. He was an objector.

3. It was common ground that the proposal was in conflict with the development plan. Rocks Farm is outside the village of East Malling to its south-east, within the "countryside" as designated in the Tonbridge and Malling Borough Core Strategy. The site of the proposed development extends to about 1.3 hectares. The barn, about 600 square metres in area, had once been used to store apples. The bungalow was lived in by a caretaker. The application for planning permission came before the council's Area 3 Planning Committee on 7 January 2016. In his reports to committee the council's planning officer recommended that planning permission be granted, and that recommendation was accepted by the committee. The officer guided the members on the "fallback position" that was said to arise, at least partly, through the "permitted development" rights for changes of use from the use of a building as an agricultural building to its use as a dwelling-house, under Class Q in Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 ("the GPDO").

4. Mr Mansell's challenge to the planning permission attacked the officer's approach to the "fallback position" and his assessment of the proposal on its planning merits. Garnham J. dismissed the claim for judicial review on all grounds. Permission to appeal was granted by McCombe L.J. on 21 February 2017.

The issues in the appeal

5. The appeal raises three main issues:

    (1) whether the council correctly interpreted and lawfully applied the provisions of Class Q in the GPDO (ground 1 in the appellant's notice);

(2) whether the council was entitled to accept there was a real prospect of the fallback development being implemented (ground 2); and
(3) whether the council misunderstood or misapplied the "presumption in favour of sustainable development" (ground 3).

Did the council correctly interpret and lawfully apply the provisions of Class Q?

6. When the council determined the application for planning permission the permitted development rights under Class Q were in these terms, so far is relevant here:

> "Q. Permitted development
>
> Development consisting of –
> (a) a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; and
> (b) building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.
>
> Q.1 Development not permitted
>
> Development is not permitted by Class Q if –
> …
> (b) the cumulative floor space of the existing building or buildings changing use under Class Q within an established agricultural unit exceeds 450 square metres;
> (c) the cumulative number of separate dwellinghouses developed under Class Q within an established agricultural unit exceeds 3;
> …
> (g) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;
> (h) the development under Class Q (together with any previous development under Class Q) would result in a building or buildings having more than 450 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;
> … ."

The permitted development rights under Class Q are subject to several "Conditions" in paragraph Q.2, none of them controversial here.

7. In section 6 of his main report to committee for its meeting on 7 January 2016 the officer dealt at length with the "Determining Issues". In discussing those issues he considered the "fallback position" in paragraphs 6.14 to 6.19:

> "6.14 In practical terms for this site, the new permitted development rights mean that the existing agricultural barn could be converted into three residential units. Some representations point out that only a proportion of the barn could be

converted in such a manner (up to 450sqm) but the remainder – a small proportion in terms of the overall footprint – could conceivably be left unconverted and the resultant impacts for the site in terms of the amount of residential activity would be essentially the same. The building could be physically adapted in certain ways that would allow for partial residential occupation and the extensive area of hardstanding which exists between the building and the northern boundary could be used for parking and turning facilities.

6.15 The existing bungalow within the site could be replaced in accordance with policy CP14 with a new residential building provided that it was not materially larger than the existing building. Such a scenario would, in effect, give rise to the site being occupied by a total of four residential units albeit of a different form and type to that proposed by this application. This provides a realistic fallback position in terms of how the site could be developed.

6.16 I appreciate that discussion concerning realistic 'fallback' positions is rather complicated but, in making an assessment of any application for development, we are bound to consider what the alternatives might be for a site: in terms of what could occur on the site without requiring any permission at all (historic use rights) or using permitted development rights for alternative forms of development.

6.17 In this instance a scheme confined to taking advantage of permitted development would, in my view, be to the detriment of the site as a whole in visual terms. Specifically, it would have to be developed in a contrived and piecemeal fashion in order to conform to the requirements of the permitted development rights, including the need to adhere to the restrictions on the floor space that can be converted using the permitted development rights.

6.18 I would also mention that should the applicant wish to convert the entire barn for residential purposes, above the permitted development thresholds, such a scheme (subject to detailed design) would wholly accord with adopted policy. Again, this provides a strong indicator as to how the site could be developed in an alternative way that would still retain the same degree of residential activity as proposed by the current application but in a more contrived manner and with a far more direct physical relationship with the nearest residential properties.

6.19 The current proposal therefore, in my view, offers an opportunity for a more comprehensive and coherent redevelopment of the site as opposed to a more piecemeal form of development that would arise should the applicant seek to undertake to implement permitted development rights."

8. For Mr Mansell, Ms Annabel Graham Paul submitted to us, as she did to the judge, that the officer's advice in those six paragraphs betrays a misunderstanding of the provisions of Class Q in the GPDO, in particular sub-paragraphs Q.1(b) and Q.1(h). She argued that the restriction to 450 square metres in sub-paragraph Q.1(b) applies to the total floor space of the agricultural building or buildings in question, not to the floor space actually "changing use". Before the judge, though not in her submissions in this court, Ms Graham Paul sought to bolster that contention with a passage in an inspector's decision letter

relating to a proposal for development on a site referred to by the judge as "Mannings Farm". The inspector had observed that "[the] floor space of the existing building … far exceeds the maximum permitted threshold, of 450 sq m, as set out in [sub-paragraph] Q.1(b)", and that "the intention is to reduce the size of the building as part of the proposal but Q.1(b) clearly relates to existing floorspace and there is no provision in the GPDO for this to be assessed on any other basis".

9. Garnham J. rejected Ms Graham Paul's argument. In paragraph 30 of his judgment he said:

> "30. In my judgment this construction of paragraph Q.1(b) fails because it disregards the definition section of the Order. The critical expression in subparagraph (b) is "*the existing building or buildings*". Paragraph 2 of the Order defines "*building*" as "*any part of a building*". Accordingly, the paragraph should be read as meaning "*the cumulative floor space of the existing building or any part of the building changing use* …". If that is right, it is self-evident that the limit on floor space relates only to that part of the building which is changing use."

10. The judge found support for that conclusion in several inspectors' decisions, one of them a decision on proposed development at Bennetts Lane, Binegar in Somerset. In correspondence in that case the Department for Communities and Local Government had pointed to the definition of a "building" in the "Interpretation" provisions in paragraph 2 of the GPDO. Because that definition included "any part of a building", their view was that "in the case of a large agricultural building, part of it could change use … and the rest remain in agricultural use" (paragraph 32 of the judgment). However, as was accepted on both sides in this appeal, the court must construe the provisions of the GPDO for itself, applying familiar principles of statutory interpretation.

11. In paragraph 34 of his judgment Garnham J. said this:

> "34. Ms Graham Paul contends that that construction of subparagraph (b) means that it adds nothing to subparagraph (h). I can see the force of that submission and, as a matter of first principle, statutory provisions should be construed on the assumption that the draftsman was intending to add something substantive by each relevant provision. Nonetheless, giving the interpretation section its proper weight, I see no alternative to the conclusion that Class Q imposes a floor space limit on those parts of the buildings which will change use as a result of the development. In those circumstances, I reject the Claimant's challenge to the Officer's construction of the Class Q provisions in the 2015 Order."

12. Ms Graham Paul submitted that this interpretation of the relevant provisions would render sub-paragraph Q.1(b) of Class Q redundant, because sub-paragraph Q.1(h) already limits the residential floor space resulting from the change of use under Class Q to a maximum of 450 square metres. The statutory provisions for permitted development rights in the GPDO ought to be interpreted consistently. The interpretation favoured by the judge, submitted Ms Graham Paul, depends on reading into sub-paragraph Q.1(b) the additional words "any part of a building" after the words "the existing building or buildings", which, she said, is wholly unnecessary. Statutory provisions ought to be construed on the

assumption that the draftsman was intending to add something of substance in each provision. The judge's interpretation offends that principle, said Ms Graham Paul, because it would, in effect, subsume sub-paragraph Q.1(b) into sub-paragraph Q.1(h). Only her interpretation of sub-paragraph Q.1(b) would enable sub-paragraph Q.1(h) to add something of substance to the provisions of Class Q. And in principle, Ms Graham Paul argued, it makes good sense to prevent, without an express grant of planning permission, the partial conversion of large agricultural buildings to accommodate residential use, leaving other parts of the building either in active agricultural use or simply vacant.

13. Ms Graham Paul sought to reinforce these submissions by pointing to other provisions of the GPDO where similar wording is used: Class M, which provides permitted development rights for changes of use of buildings in retail or betting office or pay day loan shop use to Class C3 use, and states in sub-paragraph M.1(c) that development is not permitted if "the cumulative floor space of the existing building changing use under Class M exceeds 150 square metres"; and Class N, which provides permitted development rights for changes of use from specified sui generis uses, including use as an amusement arcade or centre, and use as a casino, to Class C3 use, and states in sub-paragraph N.1(b) that development is not permitted if "the cumulative floor space of the existing building changing use under Class N exceeds 150 square metres".

14. I cannot accept Ms Graham Paul's argument. I think the judge's understanding of Class Q was correct. The provisions of Class Q relating to the scope of permitted development rights should be given their literal meaning. When this is done, they make perfectly good sense in their statutory context and do not give rise to any duplication or redundancy.

15. The focus here is on the provisions as to development that is "not permitted" under paragraph Q.1, and in particular the provisions of sub-paragraphs Q.1(b) and Q.1(h). Sub-paragraph Q.1(b) establishes the "cumulative floor space of the existing building or buildings" that is "changing use under Class Q …". The limit on such "cumulative floor space …" is 450 square metres. This restriction is stated to be a restriction on the change of use, not on the size of the building or buildings in which the change of use occurs. Sub-paragraph Q.1(b) relates to a single act of development in which the building in question, or part of it, is "changing use". The floor space limit set by it relates not to the total floor space of the building or buildings concerned. It relates, as one would expect, to the permitted development rights themselves, which apply to the "cumulative" amount of floor space actually "changing use under Class Q". The use of the word "cumulative" in this context – as elsewhere in the GPDO – is perfectly clear. It connotes, in relevant circumstances, the adding together of separate elements of floor space within a building or buildings, or, again in relevant circumstances, a single element of floor space, which in either case must not exceed 450 square metres. The total floor space of the building or buildings concerned may itself be more than 450 square metres. But the cumulative amount of floor space whose use is permitted to be changed within that total floor space must not exceed 450 square metres.

16. This interpretation of sub-paragraph Q.1(b) avoids arbitrary consequences in the application of the permitted development rights under Class Q. It does not make the availability of those rights for a qualifying "agricultural building" depend on the total floor space of the building itself. It would not, therefore, create a situation in which the permitted development rights under Class Q would be available for a building whose total floor space was 450 square metres, but not for a building with a floor space of 451 square

metres or an area greater than that. If the consequence is that the permitted development rights, when fully used, would result in a building partly in use as a dwelling-house and partly still in agricultural use, that is an outcome contemplated by the GPDO. I see no difficulty in that.

17. Had the draftsman intended to confer permitted development rights under Class Q only to a building or buildings whose total floor space was not more than 450 square metres, the relevant provision would have been framed differently. There would have been no need to use the word "cumulative" or some other such word. The provision would simply have stated, for example, "the total floor space of the existing building or buildings within an established agricultural unit in which the change of use under Class Q is being undertaken does not exceed 450 square metres". But that is not what sub-paragraph Q.1(b) says, or, in my view, what it means.

18. Nor can I see how an interpretation of sub-paragraph Q.1(b) in which the restriction of 450 square metres applies not to the floor space actually changing use but to the total floor space of the building or buildings in which the change of use is taking place can be reconciled with the definition of "building" in paragraph 2 of the GPDO as including "part of a building". Unless one disapplies that part of the definition of a building to sub-paragraph Q.1(b), one must read that provision as meaning "the cumulative floor space of the existing building or buildings or part of a building changing use under Class Q … exceeds 450 square metres" (my emphasis). That understanding of sub-paragraph Q.1(b) would not sit happily with the concept that the restriction of 450 square metres applies not to the floor space changing use but to the total floor space of the building itself.

19. My interpretation of sub-paragraph Q.1(b) does not leave sub-paragraph Q.1(h) redundant. Sub-paragraph Q.1(h) achieves a different purpose. It prevents, for example, a change of use as "permitted development" in an agricultural building of which part is already in Class C3 use, or an aggregation of successive changes of use through separate acts of development, that would result in more than 450 square metres of floor space in a building or buildings being in Class C3 use. Neither of those outcomes would necessarily be prevented by sub-paragraph Q.1(b).

20. Finally, there is nothing in the provisions of Class M and Class N, or in any other provision of the GPDO, to suggest a different understanding of Class Q. The provisions in sub-paragraphs M.1(c) and N.1(b) also contain the word "cumulative" in referring to the floor space "changing use", not to the total floor space of the "existing building or buildings" in which the change of use is taking place. And in both Class M and Class N the draftsman has also included a provision – respectively in sub-paragraphs M.1(d) and N.1(c) – stating that "the development (together with any previous development under [the relevant class]) would result in more than 150 square metres of floor space in the building having changed use under [the relevant class]". Although we are not deciding those questions, it seems to me that the same analysis would hold good for those provisions too.

21. In my view, therefore, the officer did not misrepresent the permitted development rights under Class Q in his advice to the committee on the "fallback position". The provisions of Class Q were correctly interpreted and lawfully applied.

Was the council entitled to accept that there was a real prospect of the fallback development being implemented?

22. Garnham J. accepted that the council was entitled to conclude that there was a "realistic" fallback. In paragraphs 36 and 37 of his judgment he said:

> "36. In paragraph 6.15 of the report the Officer concluded that the fall back position was "realistic". In my judgment he was entitled so to conclude. The evidence establishes that there had been prior discussions between the Council and the Planning Agent acting for the East Malling Trust who owns the site. It was crystal clear from that contact that the Trust were intending, one way or another to develop the site. Alternative proposals had been advanced seeking the Council's likely reaction to planning applications. It is in my view wholly unrealistic to imagine that were all such proposals to be turned down the owner of the site would not take advantage of the permitted development provided for by Class Q to the fullest extent possible.
>
> 37. It was not a precondition to the Council's consideration of the fall back option that the interested party had made an application indicating an intention to take advantage of Class Q. There was no requirement that there be a formulated proposal to that effect. The officer was entitled to have regard to the planning history which was within his knowledge and the obvious preference of the Trust to make the most valuable use it could of the site."

23. The judge accepted the submission of Mr Juan Lopez for the council that the committee did not have to ignore fallback development that included elements for which planning permission would be required and had not yet been granted. He noted that "[the] building could be converted, so as to provide dwelling houses limited in floor space to 450m^2 by the construction of internal walls without using the whole of the internal space of the barn" (paragraph 40). And he went on to say (in paragraph 41):

> "41. In my judgment therefore, it would have been unrealistic to have concluded that, were the present application for permission to be rejected, the interested party would do nothing to develop this site. On the contrary it was plain that development was contemplated and that some development could have taken place pursuant to Class Q. The Council was entitled to have regard to the fact that there might be separate applications for permission in respect of some elements of the scheme and to advise that appropriate regard must be had to material planning considerations including the permitted development fall back position. Accordingly I reject the second element of the Claimant's challenge on ground 1."

24. Ms Graham Paul criticized the judge's approach. She said it would enable permitted development rights under the GPDO to be relied on as a fallback even where there was no evidence that the landowner or developer would in fact resort to such development. The judge did not consider whether the council had satisfied itself that there was a "real prospect" of the fallback development being implemented (see the judgment of Sullivan L.J. in *Samuel Smith Old Brewery (Tadcaster) v Secretary of State for Communities and Local Government* [2009] J.P.L. 1326, at paragraph 21). The "real prospect", submitted Ms Graham Paul, must relate to a particular fallback development contemplated by the

landowner or developer, not merely some general concept of development that might be possible on the site. Only a specific fallback makes it possible for a comparison to be made between the planning merits of the development proposed and the fallback development. The relevance of a fallback depends on there being a "finding of actually intended use as opposed to a mere legal or theoretical entitlement" (see the judgment of Mr Christopher Lockhart-Mummery Q.C., sitting as a deputy judge of the High Court, in *R. v Secretary of State for the Environment and Havering London Borough Council, ex parte P.F. Ahern (London) Ltd.* [1998] Env. L.R. 189, at p.196).

25. Ms Graham Paul said there was nothing before the council to show that either the East Malling Trust or Croudace Portland contemplated the site being developed in the way the officer described in his report. On the contrary, the conversion of the barn for residential use – as opposed to its demolition and replacement with new dwellings – seems to have been regarded as impracticable or uneconomic. The East Malling Trust's planning consultant, Broadlands Planning Ltd., had submitted a "Planning Statement" to the council in December 2013, seeking the council's advice before the submission of an application for planning permission. In that document two possible schemes for the site were referred to (at paragraph 26). Neither could have been achieved using permitted development rights. One involved the retention of the barn and its conversion to four dwelling-houses, the other a "wholesale redevelopment of the site", perhaps with the replacement of the bungalow, to create five new dwellings. In a letter to Broadlands Planning Ltd. dated 30 January 2014 the council's Senior Planning Officer, Ms Holland, said she was "not convinced that the proposal would result in the building being converted, but rather [that] large portions would be removed and a new building created". And the East Malling Trust's marketing agent, Smiths Gore, in a letter to potential developers dated 27 February 2014, suggested it was "unlikely that a developer would contemplate the conversion of the Apple Store". There was, said Ms Graham Paul, no other contemporaneous evidence to lend substance to the fallback scheme to which the officer referred in his report, and no evidence of the council trying to find out what, if anything, was actually contemplated. The evidence did not demonstrate a "real prospect" – as opposed to a merely "theoretical" prospect – of such a development being carried out. The judge should have recognized that the fallback development referred to in the officer's report was not a material consideration.

26. I cannot accept that argument. In my view the officer did not misunderstand any principle of law relating to a fallback development. His advice to the members was sound.

27. The status of a fallback development as a material consideration in a planning decision is not a novel concept. It is very familiar. Three things can be said about it:

    (1) Here, as in other aspects of the law of planning, the court must resist a prescriptive or formulaic approach, and must keep in mind the scope for a lawful exercise of planning judgment by a decision-maker.

    (2) The relevant law as to a "real prospect" of a fallback development being implemented was applied by this court in *Samuel Smith Old Brewery* (see, in particular, paragraphs 17 to 30 of Sullivan L.J.'s judgment, with which the Master of the Rolls and Toulson L.J. agreed; and the judgment of Supperstone J. in *R. (on the application of Kverndal) v London Borough of Hounslow Council* [2015] EWHC 3084 (Admin), at paragraphs 17 and 42 to 53). As

Sullivan L.J. said in his judgment in *Samuel Smith Old Brewery*, in this context a "real" prospect is the antithesis of one that is "merely theoretical" (paragraph 20). The basic principle is that "… for a prospect to be a real prospect, it does not have to be probable or likely: a possibility will suffice" (paragraph 21). Previous decisions at first instance, including *Ahern* and *Brentwood Borough Council v Secretary of State for the Environment* [1996] 72 P. & C.R. 61 must be read with care in the light of that statement of the law, and bearing in mind, as Sullivan L.J. emphasized, "… "fall back" cases tend to be very fact-specific" (ibid.). The role of planning judgment is vital. And "[it] is important … not to constrain what is, or should be, in each case the exercise of a broad planning discretion, based on the individual circumstances of that case, by seeking to constrain appeal decisions within judicial formulations that are not enactments of general application but are themselves simply the judge's response to the facts of the case before the court" (paragraph 22).

(3) Therefore, when the court is considering whether a decision-maker has properly identified a "real prospect" of a fallback development being carried out should planning permission for the proposed development be refused, there is no rule of law that, in every case, the "real prospect" will depend, for example, on the site having been allocated for the alternative development in the development plan or planning permission having been granted for that development, or on there being a firm design for the alternative scheme, or on the landowner or developer having said precisely how he would make use of any permitted development rights available to him under the GPDO. In some cases that degree of clarity and commitment may be necessary; in others, not. This will always be a matter for the decision-maker's planning judgment in the particular circumstances of the case in hand.

28. In this case, in the circumstances as they were when the application for planning permission went before the committee, it was plainly appropriate, indeed necessary, for the members to take into account the fallback available to the East Malling Trust as the owner of the land, including the permitted development rights arising under Class Q in the GPDO and the relevant provisions of the development plan, in particular policy CP14 of the core strategy. Not to have done so would have been a failure to have regard to a material consideration, and thus an error of law.

29. That the East Malling Trust was intent upon achieving the greatest possible value from the redevelopment of the site for housing had by then been made quite plain. The "Planning Statement" of December 2013 had referred to two alternative proposals for the redevelopment of the site (paragraph 26), pointing out that both "[the] redevelopment and replacement of [the] bungalow" and "[the] conversion of the existing storage and packing shed" were "permissible in principle" (paragraph 35). The firm intention of the East Malling Trust to go ahead with a residential development was entirely clear at that stage.

30. In my view it was, in the circumstances, entirely reasonable to assume that any relevant permitted development rights by which the East Malling Trust could achieve residential development value from the site would ultimately be relied upon if an application for planning permission for the construction of new dwellings were refused. That was a simple and obvious reality – whether explicitly stated by the East Malling Trust or not. It was accurately and quite properly reflected in the officer's report to committee. It is

reinforced by evidence before the court – in the witness statement of Mr Humphrey, the council's Director of Planning, Housing and Environmental Health, dated 18 March 2016 (in paragraphs 6 to 24), in the witness statement of Mr Wilkinson, the Land and Sales Manager of Croudace Portland, also dated 18 March 2016 (in paragraphs 4 to 7), in the first witness statement of Ms Flanagan, the Property and Commercial Director of the East Malling Trust, dated 17 March 2016 (in paragraphs 4 to 6), and in Ms Flanagan's second witness statement, dated 17 June 2016 (in paragraphs 2 to 5).

31. As Ms Flanagan says (in paragraph 2 of her second witness statement):

> "2. At paragraph 6 of my first witness statement, I state that there was no doubt that the Trust would consider alternatives to the preferred scheme. To further amplify, the Trust (as a charitable body) is tasked with obtaining best value upon the disposal of its assets. A number of alternative uses were considered for the site, including industrial uses. However the Board was aware that a residential scheme of some type would provide the best value for the application land, even were that to include a conversion of the existing agricultural building."

Ms Flanagan goes on to refer to Smiths Gore's letter of 27 February 2014 (in paragraphs 4 and 5):

> "4. … This letter … states that at that time [Smith Gore's] opinion was that it was unlikely that a scheme of conversion would be contemplated by any developer. However, this letter pre-dated the permitted development rights that subsequently came into effect in April 2014. By the time the planning application had formally been submitted, these permitted development rights were in effect.
>
> 5. Had no other scheme proven acceptable in planning terms, and if planning permission had been refused for the development the subject of the planning application, the Trust would have built out a "permitted development" scheme to the fullest extent possible in order to realise the highest value for the land, in order to thereafter seek disposal to a developer."

32. That evidence is wholly unsurprising. And it confirms the East Malling Trust's intentions as they were when the council made its decision to grant planning permission in January 2016, by which time the current provisions for "permitted development" under Class Q of the GPDO had come into effect. It states the East Malling Trust's position as landowner at that stage – as opposed to the view expressed by an officer of the council, and an opinion by a marketing agent in a letter to developers, almost two years before. It is consistent with what was being said on behalf of the East Malling Trust in its dealings with the council from the outset – in effect, that the site was going to be redeveloped for housing even if this had to involve the conversion and change of use of the barn to residential use. It reflects the fiduciary duty of the trustees. And it bears out what the council's officer said about the "fallback position" in his report to committee.

33. I do not see how it can be said that the officer's assessment of the "fallback position", which the committee adopted, offends any relevant principle in the case law – in particular the concept of a "real prospect" as explained by Sullivan L.J. in *Samuel Smith Old*

Brewery. It was, in my view, a faithful application of the principles in the authorities in the particular circumstances of this case. It also demonstrates common sense.

34. The officer did not simply consider the fallback in a general way, without regard to the facts. He considered it in specific terms, gauging the likelihood of its being brought about if the council were to reject the present proposal. In the end, of course, these were matters of fact and planning judgment for the committee. But the officer's advice in paragraphs 6.14 to 6.19 of his report was, I believe, impeccable. He was right to say, in paragraph 6.14, that the "new permitted development rights" – under Class Q in the GPDO – would enable the barn to be converted into three residential units; in the same paragraph, that the building "could be physically adapted in certain ways that would allow for partial residential occupation …"; and, in paragraph 6.15, that the bungalow "could be replaced in accordance with policy CP14 with a new residential building provided that it was not materially larger than the existing building". He was also right to say, therefore, that the site could be developed for "four residential units albeit of a different form and type to that proposed by this application". All of this was factually correct, and represented what the council knew to be so. It did not overstate the position. It went no further than the least that could realistically be achieved by way of a fallback development – through the use of permitted development rights under Class Q and an application for planning permission complying with policy CP14.

35. The officer also guided the committee appropriately in what he said about the realism of the "fallback position". At the end of paragraph 6.15 of his report he said that the fallback development he had described was "a realistic fallback position in terms of how the site could be developed". He was well aware of the need to take into account only a fallback development that was truly "realistic", not merely "theoretical". He came back, in paragraph 6.16, to the question of "realistic 'fallback' positions", again reminding the members that this was what had to be considered. He went on to acknowledge, rightly, that the council had to consider what could be achieved "using permitted development rights for alternative forms of development". The context for this advice was that in his view, as he said in paragraph 6.15, he was dealing with "a realistic fallback position". He went on in paragraph 6.17 to consider what "would" happen if a scheme taking advantage of permitted development rights came forward. And in paragraph 6.18 his advice was that a redevelopment involving the conversion of "the entire barn for residential purposes, above the permitted development thresholds … would wholly accord with adopted policy". That was a legally sound planning judgment. The same may also be said of the officer's conclusion in paragraph 6.19, where he compared the proposal before the committee with the "more piecemeal form of development that would arise should the applicant seek to undertake to implement permitted development rights".

36. In short, none of the advice given to the council's committee on the "fallback position" can, in the particular circumstances of this case, be criticized. It was, I think, unimpeachable.

37. In my view, therefore, the council was entitled to accept that there was a "real prospect" of the fallback development being implemented, and to give the weight it evidently did to that fallback as a material consideration. In doing so, it made no error of law.

Was the judge right to conclude that the council did not misunderstand or misapply the "presumption in favour of sustainable development" in the NPPF?

38. Paragraph 14 of the NPPF states:

> "14. At the heart of [the NPPF] is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.
>
> …
>
> For decision-taking 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 development should be restricted."

39. In *Barwood v East Staffordshire Borough Council* this court stated its understanding of the policy for the "presumption in favour of sustainable development" in the NPPF, and how that presumption is intended to operate (see paragraphs 34 and 35 of my judgment). In doing so, it approved the relevant parts of the judgment of Holgate J. in *Trustees of the Barker Mill Estates v Secretary of State for Communities and Local Government* [2016] EWHC 3028 (Admin) (in particular paragraphs 126, 131, 136, and 140 to 143). Three simple points emerged (see paragraph 35 of my judgment). The first and second of those three points need not be set out again here. The third, however, is worth repeating – because it bears on the issue we are considering now. I shall emphasize the most important principle for our purposes here:

> " …
>
> (3) <u>When the section 38(6) duty is lawfully performed, a development which does not earn the "presumption in favour of sustainable development" – and does not, therefore, have the benefit of the "tilted balance" in its favour – may still merit the grant of planning permission. On the other hand, a development which does have the benefit of the "tilted balance" may still be found unacceptable, and planning permission for it refused … . This is the territory of planning judgment, where the court will not go except to apply the relevant principles of public law</u> … . The "presumption in favour of sustainable development" is not irrebuttable. Thus, in a case where a proposal for the development of housing is in conflict with a local plan whose policies for the supply of housing are out of date, the decision-maker is left to judge, in the particular circumstances of the case in hand, how much weight should be given to that conflict. The absence of a five-year supply of housing land will not necessarily be conclusive in favour of the grant of planning permission. This is not a matter of law. It is a matter of planning judgment (see paragraphs 70 to

74 of the judgment in [*Crane v Secretary of State for Communities and Local Government* [2015] EWHC 425 (Admin)]).”

40. The judgments in this court in *Barwood v East Staffordshire Borough Council* entirely supersede the corresponding parts of several judgments at first instance – including, most recently, *Reigate and Banstead Borough Council v Secretary of State for Communities and Local Government* [2017] EWHC 1562 (Admin). In those cases, judges in the Planning Court have offered various interpretations of NPPF policy for the “presumption in favour of sustainable development”, and have explained how, in their view, the presumption should work. There is no need for that to continue. After the decision of the Court of Appeal in *Barwood v East Staffordshire Borough Council*, it is no longer necessary, or appropriate, to cite to this court or to judges in the Planning Court any of the first instance judgments in which the meaning of the presumption has been considered.

41. The Planning Court – and this court too – must always be vigilant against excessive legalism infecting the planning system. A planning decision is not akin to an adjudication made by a court (see paragraph 50 of my judgment in *Barwood v East Staffordshire Borough Council*). The courts must keep in mind that the function of planning decision-making has been assigned by Parliament, not to judges, but – at local level – to elected councillors with the benefit of advice given to them by planning officers, most of whom are professional planners, and – on appeal – to the Secretary of State and his inspectors. They should remember too that the making of planning policy is not an end in itself, but a means to achieving reasonably predictable decision-making, consistent with the aims of the policy-maker. Though the interpretation of planning policy is, ultimately, a matter for the court, planning policies do not normally require intricate discussion of their meaning. A particular policy, or even a particular phrase or word in a policy, will sometimes provide planning lawyers with a “doctrinal controversy”. But even when the higher courts disagree as to the meaning of the words in dispute, and even when the policy-maker’s own understanding of the policy has not been accepted, the debate in which lawyers have engaged may turn out to have been in vain – because, when a planning decision has to be made, the effect of the relevant policies, taken together, may be exactly the same whichever construction is right (see paragraph 22 of my judgment in *Barwood v East Staffordshire Borough Council*). That of course may not always be so. One thing, however, is certain, and ought to be stressed. Planning officers and inspectors are entitled to expect that both national and local planning policy is as simply and clearly stated as it can be, and also – however well or badly a policy is expressed – that the court’s interpretation of it will be straightforward, without undue or elaborate exposition. Equally, they are entitled to expect – in every case – good sense and fairness in the court’s review of a planning decision, not the hypercritical approach the court is often urged to adopt.

42. The principles on which the court will act when criticism is made of a planning officer’s report to committee are well settled. To summarize the law as it stands:

    (1) The essential principles are as stated by the Court of Appeal in *R. v Selby District Council, ex parte Oxton Farms* [1997] E.G.C.S. 60 (see, in particular, the judgment of Judge L.J., as he then was). They have since been confirmed several times by this court, notably by Sullivan L.J. in *R. (on the application of Siraj) v Kirklees Metropolitan Borough Council* [2010] EWCA Civ 1286, at paragraph 19, and applied in many cases at first instance (see, for example, the judgment of Hickinbottom J., as he then was, in *R. (on the application of*

Zurich Assurance Ltd., t/a Threadneedle Property Investments) v North Lincolnshire Council [2012] EWHC 3708 (Admin), at paragraph 15).

(2) The principles are not complicated. Planning officers' reports to committee are not to be read with undue rigour, but with reasonable benevolence, and bearing in mind that they are written for councillors with local knowledge (see the judgment of Baroness Hale of Richmond in *R. (on the application of Morge) v Hampshire County Council* [2011] UKSC 2, at paragraph 36, and the judgment of Sullivan J., as he then was, in *R. v Mendip District Council, ex parte Fabre* (2000) 80 P. & C.R. 500, at p.509). Unless there is evidence to suggest otherwise, it may reasonably be assumed that, if the members followed the officer's recommendation, they did so on the basis of the advice that he or she gave (see the judgment of Lewison L.J. in *Palmer v Herefordshire Council* [2016] EWCA Civ 1061, at paragraph 7). The question for the court will always be whether, on a fair reading of the report as a whole, the officer has materially misled the members on a matter bearing upon their decision, and the error has gone uncorrected before the decision was made. Minor or inconsequential errors may be excused. It is only if the advice in the officer's report is such as to misdirect the members in a material way – so that, but for the flawed advice it was given, the committee's decision would or might have been different – that the court will be able to conclude that the decision itself was rendered unlawful by that advice.

(3) Where the line is drawn between an officer's advice that is significantly or seriously misleading – misleading in a material way – and advice that is misleading but not significantly so will always depend on the context and circumstances in which the advice was given, and on the possible consequences of it. There will be cases in which a planning officer has inadvertently led a committee astray by making some significant error of fact (see, for example *R. (on the application of Loader) v Rother District Council* [2016] EWCA Civ 795), or has plainly misdirected the members as to the meaning of a relevant policy (see, for example, *Watermead Parish Council v Aylesbury Vale District Council* [2017] EWCA Civ 152). There will be others where the officer has simply failed to deal with a matter on which the committee ought to receive explicit advice if the local planning authority is to be seen to have performed its decision-making duties in accordance with the law (see, for example, *R. (on the application of Williams) v Powys County Council* [2017] EWCA Civ 427). But unless there is some distinct and material defect in the officer's advice, the court will not interfere.

43. Was the officer's advice to the members in this case flawed in that way? I do not think so.

44. In paragraph 6.1 of his report the officer said:

"6.1 As Members are aware, the Council in its role as Local Planning Authority is required to determine planning applications and other similar submissions in accordance with the Development Plan in force unless material considerations indicate otherwise. … The NPPF and the associated [Planning Practice Guidance] are important material considerations."

He went on to consider the relevant policies of the development plan, in particular policies CP11, CP12, CP13 and CP14 of the core strategy, and then advised the committee, in paragraph 6.6:

> "6.6 With the above policy context in mind, it is clear that the proposal relates to new development outside the village confines (on land which is not defined as "previously developed" for the purposes of applying NPPF policy), is not part of a wider plan of farm diversification and is not intended to provide affordable housing as an exceptions site. Consequently, the proposed development falls outside of the requirements of these policies and there is an objection to the principle of the proposed development in the broad policy terms."

and in paragraph 6.7:

> "6.7 It is therefore necessary to establish whether any other material planning considerations exist that outweigh the policy objections to the scheme in these particular circumstances."

45. In paragraph 6.8 the officer acknowledged, in the light of the relevant guidance in the Planning Practice Guidance, that "the policies contained in … the NPPF are material considerations and must be taken into account", and, in paragraph 6.9, that since the core strategy had been adopted in 2007 it was "necessary to establish how consistent the above policies are with the policies contained within the NPPF". His advice in paragraphs 6.10 to 6.13 of his report was this:

> "6.10 With this in mind, it must be noted that paragraph 49 of the NPPF states that applications for new housing development should be considered in the context of the presumption in favour of sustainable development. Paragraph 50 of the NPPF emphasises the importance of providing a wide choice of high quality homes, to widen opportunities for home ownership and create sustainable, inclusive and mixed communities. Paragraph 55 states 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.
>
> 6.11 These criteria all demonstrate a clear government momentum in favour of sustainable development to create new homes and drive economic development. The proposed development would create four high quality new homes on the very edge of an existing village settlement.
>
> 6.12 A further indicator of such emphasis is borne out of the recent changes to the regime of permitted development rights set out by national government by the Town and Country Planning (General Permitted Development) Order 2015. This allows for far more development to take place without the need for planning permission from Local Authorities and generally provides a steer as to government's thinking on how to boost the country's economy through the delivery of new homes.
>
> 6.13 Such continued emphasis from government is a material consideration that must be balanced against the policy context set out in the TMBCS."

46. I have already referred to the officer's advice on the "fallback position" in paragraphs 6.14 to 6.19 of his report. In paragraphs 6.20 to 6.42 he considered the planning merits of the proposal and its advantages by comparison with the fallback development, drawing the committee's attention to relevant policies both in the core strategy and in the NPPF. He advised that the design and density of the proposed development were acceptable and beneficial (paragraphs 6.20 to 6.23). In paragraph 6.24 he said:

> "6.24 With these considerations in mind, particularly the emphasis contained within the NPPF concerning sustainable development generally, the impetus behind the provision of new homes, the benefits of removing existing structures and the permitted development "fallback" position, it is my view that, on balance, other material considerations can weigh in favour of the grant of planning permission."

47. He concluded that the effects of the development on the settings of listed buildings and the setting of East Malling Conservation Area would not be harmful (paragraphs 6.25 to 6.30). He also found the proposed arrangements for access to the site and for car parking acceptable (paragraphs 6.31 to 6.36). He advised that "… the existing barn could be partially converted and the existing access retained for use by those units which arguably could have a greater impact on amenity in terms of activity, noise and disturbance than the proposed development simply by virtue of the greater degree of proximity to the existing residential properties" (paragraph 6.33). He told the committee that in his view it "would be counterproductive to seek affordable housing contributions as this would merely limit the ability of the Trust to recycle funds to provide wider support for the Trust" (paragraph 6.37). And the loss of Grade 2 agricultural land was "not … a justifiable reason to refuse planning permission …" (paragraph 6.39).

48. The final paragraph of the officer's report is paragraph 6.42, where he said this:

> "6.42 In conclusion, it is important to understand that the starting point for the determination of this planning application rests with the adopted Development Plan. Against that starting point there are other material planning considerations that must be given appropriate regard, not least the requirements set out within the NPPF which is an important material consideration and the planning and design of the proposal for the site in the context of the permitted development fallback position. The weight to attribute to each of those other material planning considerations, on an individual and cumulative basis, and the overall balance is ultimately a matter of judgement for the Planning Committee. My view is that the balance can lie in favour of granting planning permission."

49. In recording the argument on this issue in the court below, Garnham J. noted Ms Graham Paul's submission that "the presumption in favour of sustainable development set out in paragraph 14 of [the NPPF] was not operative" in this case – because the development plan was in place and up-to-date and the council was able to demonstrate a five-year supply of deliverable housing sites (paragraph 43 of the judgment). Ms Graham Paul had conceded that "sustainability may be capable of being a material consideration in considering a conflict with a development plan". What the officer had done in paragraph 6.10 of his report, said the judge, had been "to invite the committee to note the effect of paragraphs 49, 50 and 55 [of the NPPF]". It was not suggested that those paragraphs of the

NPPF had been misrepresented. Nor was it suggested that the officer had failed to point out that the proposed development "fell outside the local plan"; he had done that in paragraph 6.6 of his report. In those circumstances, said the judge, "it cannot sensibly be argued that the officer misled the committee in any material respect" (paragraph 47). The judge also rejected the submission that paragraphs 49, 50 and 55 of the NPPF were irrelevant. He observed that the NPPF "provides for a presumption in favour of sustainable development which it says should be seen "as a golden thread" running through decision-taking". He added that "[the] weight to be given to those considerations in any given case is a matter for the planning authority but it cannot, at least on facts such as the present, be said that the underlying principle is irrelevant" (paragraph 48). He rejected the submission that the officer had not justified the departure from the development plan. The officer's report, he said, "accurately and fairly sets out the competing considerations and it was a matter for the judgment of the planning authority how those considerations were resolved" (paragraph 49).

50. In the submissions they made to us at the hearing, though not in their respective skeleton arguments, both Ms Graham Paul and Mr Lopez recast their arguments in the light of what this court has now said about the "presumption in favour of sustainable development" in *Barwood v East Staffordshire Borough Council*, including the basic point that the presumption is contained solely in paragraph 14 of the NPPF (see paragraph 35 of my judgment in that appeal). They were right to do so.

51. It was common ground before us, as it was in the court below, that the "presumption in favour of sustainable development" did not apply to the proposal. And the council's officer did not advise the committee that it did. As Ms Graham Paul acknowledged, the only reference to the "presumption in favour of sustainable development" in the officer's report is in the first sentence of paragraph 6.10. But, she submitted, in view of what the officer said in that paragraph of the report, and also in paragraph 6.42, we should conclude that the committee took the presumption into account as a material consideration, which it ought it not to have done. Ms Graham Paul did not submit that the proposal was given the benefit of the so called "tilted balance". But she argued that the effect of the officer's advice was that the "presumption in favour of sustainable development" was one of the "requirements set out within the NPPF …", which the officer treated as "an important material consideration" and a significant factor weighing in favour of the proposal in the planning balance.

52. I disagree. In my view the argument fails on a straightforward reading of the officer's report, in the light of the judgments in this court in *Barwood v East Staffordshire Borough Council*. I do not accept that the officer counted the "presumption in favour of sustainable development" as a material consideration weighing in favour of planning permission being granted.

53. The reference to the "presumption in favour of sustainable development" in paragraph 6.10 of the officer's report is a quotation of the first sentence of paragraph 49 of the NPPF, not of paragraph 14. The quotation is correct. In the same paragraph of the report the officer also referred to two other passages of policy in the NPPF, namely paragraphs 50 and 55. The policies are correctly summarized. The common factor in those three passages of NPPF policy is not the "presumption in favour of sustainable development". It is the promotion, in national planning policy, of sustainable housing development. That this is

what the officer had in mind in this part of the report is very clear from what he went on to say in paragraphs 6.11, 6.12 and 6.13, and then in paragraph 6.24.

54. In those paragraphs the officer was not purporting to apply the "presumption in favour of sustainable development" to the proposal. Nor did he advise the committee that the presumption was engaged, or that it was, in itself, a material consideration weighing in favour of the proposal. He referred, in paragraph 6.11, to "[these] criteria" – meaning the matters to which he had referred in paragraph 6.10 – as demonstrating "a clear government momentum in favour of sustainable development to create new homes and drive economic development"; in paragraphs 6.12 and 6.13 respectively, to "such emphasis" and "[such] continued emphasis from government"; and in paragraph 6.24 to "the emphasis contained within the NPPF concerning sustainable development generally …" (my underlining). The language in those paragraphs is very distinctly not the language one would have expected the officer to have used if he thought he was applying the "presumption in favour of sustainable development". The intervening and subsequent assessment, culminating in his final conclusion on the planning merits of the proposal in paragraph 6.42, is concerned with its credentials and benefits – and advantages when compared with the fallback – as sustainable development.

55. Paragraph 6.42 of the officer's report does not, in my view, betray a misunderstanding of NPPF policy for the "presumption in favour of sustainable development". The advice given to the committee in that paragraph was not inaccurate or misleading. The officer did not undertake the planning balance in terms of the policy for "decision-taking" in paragraph 14 of the NPPF. There can be no suggestion that, contrary to his earlier conclusion and advice in paragraphs 6.6 and 6.7 of his report, he was treating this as a case in which the proposal accorded with the development plan, so that it was to be approved "without delay" under the first limb of the policy for "decision-taking" in paragraph 14. Nor can it be suggested that, contrary to the whole tenor of his assessment of the proposal in paragraphs 6.1 to 6.41, this was a case in which the development plan was "absent" or "silent" or any "relevant policies" of it were "out-of-date", so that the second limb of the policy for "decision-taking" in paragraph 14 applied.

56. This case is clearly and materially different from *Barwood v East Staffordshire Borough Council* – a case that shows what can go wrong when a decision-maker is misled as to the meaning and effect of government policy for the "presumption in favour of sustainable development". Here the officer did not commit an error of the kind made by the inspector –and conceded by the Secretary of State – in that case: the mistake of discerning a "presumption in favour of sustainable development" outside paragraph 14 of the NPPF and treating that wider presumption as a material consideration weighing in favour of the proposal (see paragraphs 43 to 48 of my judgment in *Barwood v East Staffordshire Borough Council*). The officer did not say, as the inspector did in *Barwood v East Staffordshire Borough Council*, that "where a proposal is contrary to the development plan [the "presumption in favour of sustainable development"] is a material consideration that should be taken into account" (paragraph 12 of the decision letter in that case). Unlike the inspector in that case (in paragraphs 37 to 41 of his decision letter), he did not bring the "presumption in favour of sustainable development" into the balancing exercise as a material consideration (see paragraphs 26 and 29 of my judgment). And, in my opinion, it cannot realistically be suggested that the members would have thought they were being invited to apply that presumption in government policy, or to give it weight as a material consideration, in their assessment of the proposal.

57. The "presumption in favour of sustainable development" did not, in fact, feature as a material consideration to which the officer gave any positive weight when undertaking the planning balance. The exercise he conducted in paragraph 6.42 of his report was an entirely conventional and lawful balance of other material considerations against the identified conflict with the development plan, as section 38(6) of the Planning and Compulsory Purchase Act 2004 requires. It was, in fact, a classic example of that provision in practice. This is not to say that in his assessment of the proposal he had to refrain from considering the extent to which it complied with relevant NPPF policies – in particular, in the specific respects to which he referred, the sustainability of the proposed development in the light of NPPF policy, as well as its compliance with relevant policies of the development plan. That was a perfectly legitimate, and necessary, part of the planning assessment in this case. Had the officer left it out, he would have been in error, because he would then have been failing to have regard to material considerations. But he did not make that mistake. He assessed the proposal comprehensively on its planning merits, exercising his planning judgment on the relevant planning issues. He took into account the sustainability of the proposed development in the light of NPPF policy, but without giving it the added impetus of the "presumption in favour of sustainable development". I cannot fault the advice he gave.

58. Finally on this issue, I do not accept the suggestion made by Ms Graham Paul in reply that the council's response to Mr Mansell's solicitors' pre-application protocol letter, in its solicitors' letter dated 22 February 2016, can be read as conceding the error for which Ms Graham Paul contended. In fact, it squarely denied that error. Having referred to the quotation of the first sentence of paragraph 49 of the NPPF in paragraph 6.10 of the officer's report, it acknowledged that the proposal was a "departure from the development plan" and that the development plan was not "absent" or "silent" nor were relevant policies "out-of-date". It then said that neither the officer nor the committee had treated the "presumption in favour of sustainable development" under paragraph 14 of the NPPF as "operative" in this case. It acknowledged, therefore, that neither of the limbs of the policy for "decision-taking" in paragraph 14 of the NPPF could have applied here. And it said that the officer's report "does not begin to suggest otherwise". I agree.

59. It follows that this ground of appeal must also fail.

Conclusion

60. For the reasons I have give, I would dismiss this appeal.

Lord Justice Hickinbottom

61. I agree with both judgments. Without diminishing my concurrence with anything my Lords have said, I would wish expressly to endorse the observations of Lindblom L.J. in paragraphs 39-40 to the effect that, in future, reference to pre-*Barwood v East Staffordshire Borough Council* authorities on the meaning and operation of the presumption in paragraph 14 of the NPPF should be avoided; and in paragraph 41, supported by the further comments of the Chancellor, on the respective roles of planning decision-makers and the courts in planning cases.

The Chancellor of the High Court

62. I too agree with Lord Justice Lindblom's judgment, but would add a few words from a more general perspective. In the course of the argument, one could have been forgiven for thinking that the contention that the presumption in favour of sustainable development in the NPPF had been misapplied in the planning officer's report turned on a minute legalistic dissection of that report. It cannot be over-emphasised that such an approach is wrong and inappropriate. As has so often been said, planning decisions are to be made by the members of the Planning Committee advised by planning officers. In making their decisions, they must exercise their own planning judgment and the courts must give them space to undertake that process.

63. Appeals should not, in future, be mounted on the basis of a legalistic analysis of the different formulations adopted in a planning officer's report. An appeal will only succeed, as Lindblom L.J. has said, if there is some distinct and material defect in the report. Such reports are not, and should not be, written for lawyers, but for councillors who are well-versed in local affairs and local factors. Planning committees approach such reports utilising that local knowledge and much common-sense. They should be allowed to make their judgments freely and fairly without undue interference by courts or judges who have picked apart the planning officer's advice on which they relied.

64. It is also appropriate to reiterate what Lindblom L.J. said at paragraph 35 of the *East Staffordshire* case to the effect that planning decision-makers have to exercise planning judgment as much when the presumption in favour of sustainable development is applicable as they do they do when it is not. The presumption may be rebutted when it is applicable, and planning permission may be granted where it is not. In each case, the decision-makers must use their judgment to decide where the planning balance lies based on material considerations. It is not for the court to second guess that planning judgment once it is exercised, unless as I have said it is based on a distinct and material defect in the report.

65. I agree that this appeal should be dismissed.

Appendix 13

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Mr Peter [redacted]
Director
Honeyview Investments Ltd
68 Pageant Rd
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Hertfordshire
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10 November 2025

Dear Mr [redacted]

Re: Existing leisure unit (Namco Funscape), Barnard Road, Bowthorpe, Norwich – **Private and Confidential**

[redacted]

[redacted]

[redacted]

PARTNERS
SML Kingston MRICS Ltd
AMA Fennell FRICS Ltd
D Hall MRICS Ltd
G Jones MRICS Ltd

CONSULTANT
AJ Allen FRICS
Regulated by RICS

Option 1

[redacted]

Option 2

[redacted]

Option 3

[redacted]

Current Supply

[redacted]

Yours sincerely

[redacted]

[redacted]
Partner
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