

## **Application for Determination**

<b>Parish</b>	Carlton Colville		
<b>Reference</b>	BA/2012/0124/CU	<b>Target date</b>	07/06/2012
<b>Location</b>	Carlton Marshes Nature Reserve , Carlton Colville, Lowestoft, Suffolk		
<b>Proposal</b>	Proposed change from agricultural grassland to a mosaic of reed fringed wetland habitats with erection of a viewing platform		
<b>Applicant</b>	Suffolk Wildlife Trust		
<b>Recommendation</b>	Approve subject to conditions		
<b>Reason referred to Committee</b>	Third Party Objection Received		

## **1 Description of Site and Proposals**

- 1.1 The application site comprises two agricultural fields used for grazing to the north of Carlton Colville and to the south west of the large water body, Oulton Broad. One site sits immediately south east of Peto's Marsh and is 17.6 acres, the other is some 500m to the south east and is 3.6 acres. The sites which are approximately 21 acres in area, forms part of a larger site of 120 acres of grazing marsh, fens and peat pools in the area, owned and managed by the Suffolk Wildlife Trust although most of these parcels of land are to the north and east of the application site.
- 1.2 The sites, known as Guymers, sit adjacent to Carlton Marshes Site of Special Scientific Interest (SSSI) and is surrounded by privately owned agricultural land. The Suffolk Wildlife Trust promote access and use of the marshes by the public and have a visitor centre accessed off a minor road. A public foot path (Angles Way) runs from the centre past the application sites to, and continues along, the southern bank of the River Waveney.
- 1.3 The proposal is for the change in use from agricultural grassland to a mosaic of reed fringed wetland habitats and the erection of a timber viewing platform.

1.4 The proposal is to achieve the above in three phases as following:

- Phase 1- Widen an existing ditch which runs along the centre of field 1, re-profile edges and create wide open shallow scrapes at three locations along the ditch (approximately 200mm deep). Installation of sluice pipe to control water in ditch and scrapes and the re-routing of water through an existing structure.
- Phase 2 – Creation of three shallow scrapes measuring approximately: scrape 1 – 12m x 12m, scrape 2 – 24m x 20m, scrape 3 – 12m x 12m, no more than 600mm in depth.
- Phase 3 – The erection of a timber viewing platform alongside Angles Way to create a viewing point for visitors. The structure will be a 3 metre by 3 metre platform situated on the northern edge of the Phase 1 area giving views to the west of the site. The platform is proposed to be positioned on a newly proposed cross wall (BESL floodwall) or at current marsh level should the floodwall not be installed.

## **2 Site History**

None.

## **3 Consultation**

*Broads Society* – Support the application.

*Parish Council* – Response awaited.

*District Member* – Response awaited.

*Environment Agency* – Response awaited.

*Natural England* – Response awaited.

*Internal Drainage Board (Waveney Lower Yare and Lothingland)* – Response awaited.

*Highways Authority* – Response awaited.

## **4 Representation**

1 x letter of objection from adjacent landowner:

- Concerns over loss of agricultural land, contrary to National and Local Planning Policy.
- Concerns over loss of rural economy and employment, contrary to National and Local Planning Policy.
- The adjacent land at Peto's Marsh is used by a shooting syndicate, which will reduce the number of birds attracted to the site therefore defeating the introduction of an alien feature in the open landscape (the timber platform).
- Concerns over increased use of marsh and subsequent parking problems.
- Environmental Impact Assessment required for the adjacent development.
- Raising water levels would undermine the road structure and interfere with right of way.

- Impact on SSSI is not demonstrated.

This letter is attached at Appendix 2.

## **5 Policies**

### **5.1 National Planning Policy Framework 2012 (NPPF)**

### **5.2 Core Strategy 2007 (Adopted)** [Core Strategy \(Adopted Sept 2007\).pdf](#)

CS1 - Protection of Environmental and Cultural Assets  
 CS2 - National and European Nature Conservation Designations  
 CS9 - Supporting, Widening and Strengthening Tourism  
 CS18 - Development in Sustainable Locations.

### **5.3 Development Management Policies DPD 2011 (Adopted)** [DMP DPD - Adoption version.pdf](#)

DP1 - Natural Environment  
 DP2 - Landscape and Trees  
 DP4 - Design  
 DP14 - General Location of Sustainable Tourism and Recreation  
 Development  
 DP27 - Visitor and Community Facilities and Services  
 DP29 - Development on Sites with a High Probability of Flooding.

## **6 Assessment**

- 6.1 The main issues to consider in the determination of this application are the impact on landscape, impact on ecology including the SSSI, impact on flood risk and impact on highways.
- 6.2 The application proposes a change of use of agricultural grassland, currently used for grazing, to a mosaic of Broadland habitats. It is therefore first appropriate to consider the acceptability of the change of use as a matter of principle. It is acknowledged that both National and Local Planning Policy highlight the importance of the rural economy and specifically outline the importance of retaining features which help support agriculture as a key component of the rural economy. The retention of an agricultural field used for grazing is therefore something which would usually be supported by policy. However this support will depend on what alternative use is being proposed
- 6.3 In this case, it is proposed to convert the agricultural fields to a wetland habitat to improve its bio-diversity value and increase the amount of wetland habitat locally. There is strong support for the approach and Development Management Policies Development Plan Document Policy DP1 states specifically:

“Development proposals where the principle objective is to restore or create habitat, particularly where these contribute to the Broads Biodiversity Action Plan or enhance geodiversity, will be supported.”

It is noted that the application sites are currently of low biodiversity value and the proposal is in full accordance with DP1.

- 6.4 In terms of landscape, the proposal would result in the creation of a traditional Broadland landscape on what is currently agricultural land. There is strong support for such an approach in Core Strategy Policy CS4 which states:

“... There will continue to be opportunities to create new environmental and cultural assets on any scale of development and these will be sought where they: (i) Create new high quality land and water-based landscapes which reflect the essential Broads characteristics, offering biodiversity gains through habitat creation...”

The proposal is in full accordance with this policy.

- 6.5 In addition to the above it is considered that the proposals represent an improvement of an existing visitor and local facility through the provision of a viewing platform, accessed from Angles Way. It is considered that proposals which promote the education of Broads' landscapes and habitats should be encouraged and the proposal is therefore welcomed.
- 6.6 It is therefore considered that, although the proposal represents a loss of 21 acres of agricultural land, the significant biodiversity, landscape and community improvements proposed outweigh such a loss. The development is therefore considered in accordance with the development plan as a whole.
- 6.7 In terms of the impact on the landscape, the current site sits within open agricultural land. The grassland therefore contributes to the predominately rural landscape. The proposals, which include the widening of a dyke and the provision of scrapes would introduce a mosaic of broadland habitats, which have been diminishing due to development and agricultural pressures. The increased water content is likely to encourage the growth of large grasses and reeds which is characteristic of the Broads. Given the site sits on the edge of such habitats managed by the Suffolk Wildlife Trust the introduction is considered appropriate and would positively contribute to the landscape integrity of the area and the Broads as a whole. It is considered that the erection of a small viewing platform is appropriate. The use of timber would help assimilate the structure within its immediate reeded surroundings.
- 6.8 In terms of the impact on ecology, it is considered that the creation of scrapes on the currently dry marsh will benefit a wide range of BAP species including Lapwing, Norfolk Hawker Dragonfly, Grass Snake and Water Vole therefore improving biodiversity significantly.

- 6.9 The location of the proposed habitat enhancement, adjacent to Carlton Marshes Site of Special Scientific Interest should increase its rate of colonisation, and provide additional wetland habitat to link with the wider landscape.
- 6.10 As the proposal includes disruption to an existing waterways with semi-natural banks standard water vole and reptile mitigation will be required as outlined within the submitted Protected Species Survey. Subject to the mitigation measures outlined above, it is not considered that Protected Species will be the proposal represents a significant improvement in biodiversity potential of the site and is therefore considered acceptable.
- 6.11 The proposal includes the re-distribution of soil within Flood Risk Zone 3. The proposal therefore has the possibility of impacting the flood plain. Phase 1 sees the redistribution of approximately 4,000m<sup>3</sup> of soil and Phase 2 sees the redistribution of 300m<sup>3</sup> of soil. The total area of flood compartment that the IDB pump covers is 4,249,199m<sup>2</sup>, so the calculations for the flood risk are as follows:  $4,300 / 4,249,199 = 0.00101\text{m} = 1\text{mm}$ . A 1mm increase in the flood level is considered to be insignificant in this area and it is therefore considered that there will be no adverse impact on flood risk.
- 6.12 Although the introduction of a viewing platform would help improve an existing visitor facility, it is not considered that the proposal will increase visitor levels on a significant scale. It is therefore not considered that highway safety or parking would be adversely affected by the proposals.
- 6.13 An objection has been received to the application, as set out at Section 4 of this report. The letter is attached at Appendix 2. The letter refers extensively to the National Planning Policy Framework (NPPF) and, particularly, the support in the NPPF for the protection of agricultural land. Whilst this support is noted, it is also noted that the NPPF is explicit in that the basis for decision making is the Development Plan and states at paragraph 214 that:
- “For 12 months from the date of publication [ie March 2012] decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with the Framework.”
- The material consideration of support in the NPPF for the protection of agricultural land from development does not outweigh the Development Plan support for the proposal which seeks to enhance and restore Broad’s habitat.
- 6.14 Turning to the other objections set out in the letter, the impact of noise of shooting on the birds is not a consideration here and the concerns raised regarding parking have been addressed at point 6.12 above. The access is a private road and the issue of maintenance and access is a matter for the landowners and users to agree, it is not considered that the level of use is likely to increase to such a point where there is a question of conflict between users and safety. The concerns over the potential for water levels in the dykes adjacent to the track to undermine the track is noted, however this is not

considered sufficient as to justify a refusal and is, in any case, a private matter between the landowners and users.

- 6.15 Finally, the letter of objection refers to the potential for the proposal to have an adverse impact on the SSSI. The applicant advises that the existing SSSI marshes are fed largely by spring water and rainwater, with water levels controlled by a sluice. They advise that there is a regular flow of water over the sluice and out of the site, indicating that there is ample water within the SSSI, and excess water is taken through a culvert and off-site via the IDB drain. The proposal involves diverting this excess water through the new site and there will therefore be no impact on the water levels in the SSSI. The applicant, further, advises that the SWT have been managing the SSSI for 30 over years and that water availability has never been an issue. On the basis of the above information, it is not considered that is likely to be an adverse impact on the SSSI.

## **7 Conclusion**

- 7.1 It is considered that the landscape, biodiversity and community improvements proposed outweigh the loss of a small area of agricultural land. It is considered that the proposal would enhance the landscape character of the immediate area and create significant biodiversity improvements by linking appropriate habitats to the existing Site of Special Scientific Interest. It is not considered that there would be a significant adverse impact on the Site of Special Scientific Interest, flood risk or highway safety.

## **8 Recommendation**

- 8.1 Approve subject to the following conditions:

- Time Limit.
- In accordance with plans and documents submitted.
- Protected Species Mitigation shall be carried out in accordance with document submitted.

## **9 Reasons for Recommendation**

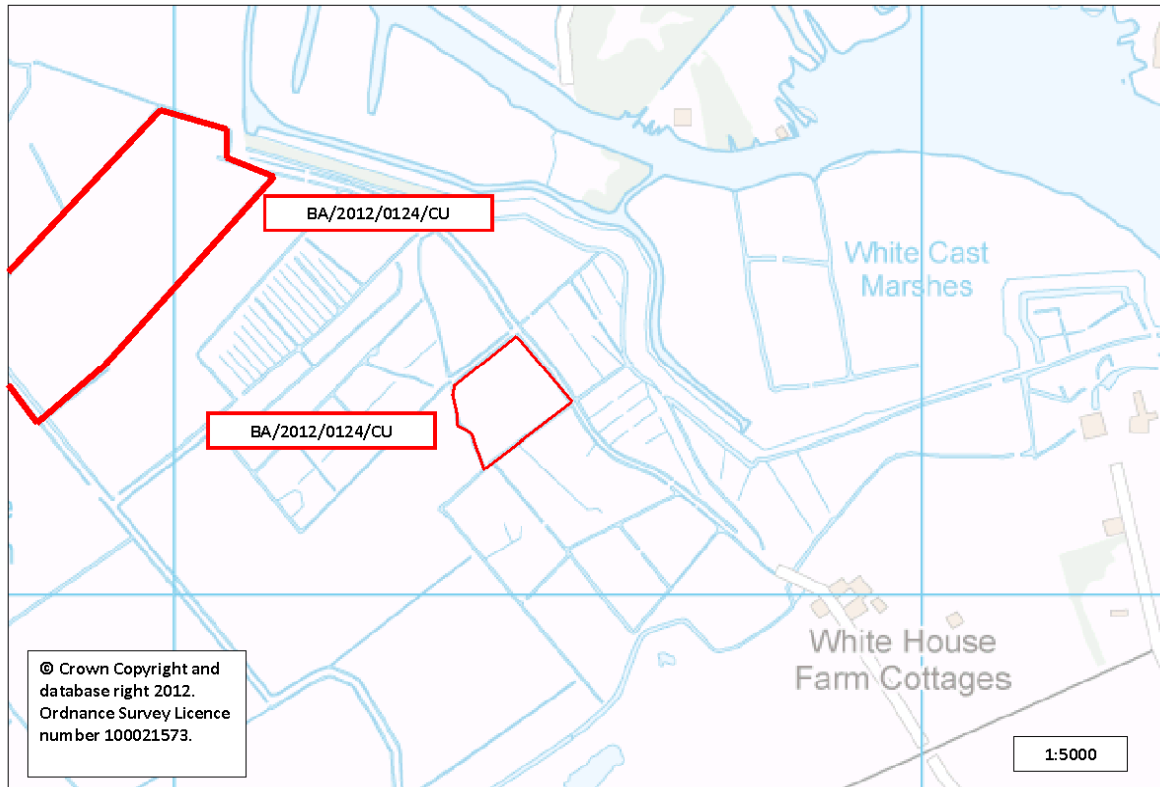
- 9.1 The development is considered in accordance with the National Planning Policy Framework and specifically Local policies CS1, CS2, CS9 and CS18 of the Core Strategy (2007) and policies DP1, DP2, DP4, DP14, DP27 and DP29 of the Development Management Policies DPD (2012).

Background papers: Application File BA/2012/0124/CU  
Author: Kayleigh Wood  
Date of Report: 8 May 2012

List of Appendices: APPENDIX 1: Site Location Plan  
APPENDIX 2: Letter of representation

## APPENDIX 1

BA/2012/0124/CU – Carlton Marshes Nature Reserve, Carlton Colville, Lowestoft  
Proposed change from agricultural grassland to a mosaic of reed fringed wetland habitats with erection of a viewing platform



Ms Kayleigh Wood  
 Planning Assistant  
 The Broads Authority  
 Dragonfly House  
 2 Gilders Way  
 Norwich  
 Norfolk NR3 1UB

2 May 2012

Dear Ms Wood

**Proposed change of use from agricultural grassland to a mosaic of reed fringed wetland habitats with erection of a viewing platform  
 Carlton Marshes Nature Reserve, Carlton Coleville, Lowestoft, Suffolk  
 Reference BA/2012/0124/CU**

1. I refer to your letter of 12<sup>th</sup> April 2012 notifying the Company of the above application and inviting comments in respect thereof which I now set out below.

#### **Planning considerations**

2. You will of course be aware of the Authority's obligations when considering and determining applications for planning permission namely that *"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise"*.
3. There is now also to be taken into account the provisions of the National Planning Policy Framework (NPPF) which came into effect on 27th March 2012.
4. The new NPPF largely carries forward the planning policies and protections contained within Planning Policy Guidance Notes (PPGs) and Planning Policy Statements (PPSs) albeit in a more streamlined form with an emphasis on a presumption in favour of sustainable development.
5. A presumption in favour of Sustainable Development is seen by Ministers as *"a golden thread running through both plan making and decision-taking"* but it makes clear that the starting point for decision making is the development plan and applications for development proposals that do not accord with an up-to-date Local Plan should not be approved.
6. The Government has set a 12 month transitional period whereby decision takers can continue to give full weight to relevant development plan policies adopted since 2004, even if there is a limited degree of conflict with the new NPPF.
7. Paragraph 14 states: *"At the heart of the NPPF is a presumption in favour of sustainable development,"*.
8. The NPPF relies upon two well-known definitions for 'sustainable development':



- 8.1. The United Nations General Assembly definition: "meeting the needs of the present without compromising the ability of future generations to meet their own needs"; and
  - 8.2. The five 'guiding principles' of sustainable development set out in the UK Sustainable Development Strategy: "living within the planet's environmental limits; ensuring a strong, healthy and just society; achieving a sustainable economy; promoting good governance; and using sound science responsibly."
9. In that context, the NPPF identifies three dimensions to 'sustainable development' namely:
- 9.1. An economic role;
  - 9.2. A social role; and
  - 9.3. An environmental role.
10. Paragraph 14 of the NPPF continues:
- 10.1. *Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:*
    - 10.1.1. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework as taken as a whole; or*
    - 10.1.2. *specific policies in this Framework indicate development should be restricted".*
11. Paragraph 14 further continues that for decision taking this means: *Approving development proposals that accord with the development plan without delay.* It follows that the converse also applies namely that development proposals that do not accord with the development plan should be refused unless there are special circumstances which justify otherwise.

### The Development plan

12. The Broads Authority Local Development Framework Core Strategy (which I understand was adopted in 2007) recognises the close linkage to and importance of agriculture. Indeed the strategy recognises that in discharging its functions the Broads Authority must have regard to the "*needs of agriculture*" (see for example paragraph 2.23).
13. The Local Development Framework Development Management Policies 2011 - 2021 Development Plan Document (Adopted November 2011) also recognises that in discharging its functions the Broads Authority must have regard to the "*needs of agriculture*" (see for example paragraphs 5.1 and 7.1).
14. Yet both of these documents are silent in Policy terms when it comes to dealing with the protection of agricultural land in the face of change of use applications.
15. Although not directly applicable it is noted that in Policy DP19 in the case of farm diversification, "*development should be complementary in scale and kind to the main farm operation and site area and **must not prejudice the agricultural operations***" (my emphasis). This is rightly accepted by the Authority because "*Rural businesses and farming are integral to the long-term sustainability of the*

*Broads. They are not only of economic value but, in a number of instances, also contribute to managing the special landscape character of the Broads and help maintain biodiversity” (see paragraph 5.12).*

16. The NPPF provides that *“Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should: ... promote the development and diversification of agricultural and other land-based rural businesses”* (see paragraph 28).
17. Furthermore, the NPPF states that *“Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.”* (see paragraph 112).

### **The application**

18. The Suffolk Wildlife Trust (SWT) application leads to the loss of agricultural land the need for which was clearly demonstrated when the land was acquired by the SWT in 2011.
19. At that time the land comprising of 25 acres of grassland was put up for sale by postal tender by the retiring Mr Guymer. BAM-Nuttall, the contractor in charge of the proposed cross-wall bought all 25 acres (apparently for almost £5,000 pounds /acre) to secure the 1 acre needed to be able to construct the proposed access arrangement into Peto’s Marsh. The Company put in a reasonable offer in order to acquire the land for use for agricultural purposes but were not successful. The land was within weeks sold on to the SWT notwithstanding the clear local interest in retaining for an agricultural purpose.
20. Furthermore, the farmer (Brian Collen) who hired the marshes in question up until last year for grazing and silage has decided to stop dairy farming with the loss of two jobs. In the farmer’s own words “the loss of the marshes are a contributing factor”.
21. As you will no doubt be aware, the Company owns land bordering three sides to the proposed development which land is let to a shooting syndicate and is used as such on a daily basis. While I accept that the anticipated large numbers of people visiting an observation platform next door and the consequential reduction in the value of the shooting rights is not strictly speaking a planning consideration, the impact of the legitimate noise of the shooting on the availability of birds to observe is. Clearly the reduced availability of observable birds defeats the introduction of the artificial and alien feature of the observation platform in an otherwise rural and agricultural setting especially as the proposal is clearly said to be independent of the introduction of the proposed crosswall.
22. It is my understanding that the shooting syndicate has not been notified of the SWT application.
23. It is also noted that the potential for more visitors will create parking problems at the SWT centre which has a limited amount of parking spaces. At present large coaches use our yard next to the SWT centre, without our consent or

agreement, to turn around on an occasional basis when the car park is full. Given the anticipated increase in numbers this unauthorised use is likely to increase and the SWT cannot continue to rely on this facility. Furthermore, the single track bridle way from the SWT centre to Peto's Marsh and the proposed site is used by us as our right of way with large agricultural vehicles with obvious risks to pedestrians. This is exacerbated by the continuous bad state of repair of the track, which is presumably owned by the SWT who has not done any repairs in the last 25 years (The EA repaired the track once in preparation of work on Phase 1). Indeed, the SWT has resisted on many occasions maintenance work done by rights of way users to secure safe passage with agricultural vehicles.

24. The SWT proposal involves the introduction of a culvert underneath the roadway from Longs Marsh to the proposed site (see map2 accompanying the application) which demonstrates that the proposal is dependant on water from the marshes along Sluttons Dyke to flood the proposed site. The river wall along Sluttons Dyke has a 400 m stretch of unimproved section in it, as it was left when the Environment Agency (EA) finished Phase 1 of its current works in the area. The successful High Court judgement relating to the judicial review of the Authority's grant of planning permission to the EA for Phase II thereof clearly states that the EA must produce a Environmental Impact Assessment for Phase 1. No EIA for phase 1 has as yet been carried out and the SWT proposal therefore relies on an arrangement which has an EIA requirement hanging over it. The SWT proposal which is said to be independent of the Phase II works does not address the EIA deficiency.
25. Any attempt to raise the water level in the ditches alongside the access road must be strongly resisted as it severely undermines the road structure and thus interferes with our right of way.
26. The SWT claim to be creating "scrapes of open water to maximise diversity of micro habitats not found anywhere else on the reserve". The practicality is, unless there is rigorous clearing maintenance these scrapes will be reed beds within 2-3 year defeating the object of open water. On Sprattswater there are already 2 fens of sallow open water (this is also SWT land) not to mention plenty of sallow ditches which serve arguably the same purpose. If the cross wall goes ahead, similar wide sallow ditches will be created for material extraction on the proposed site and next door on West's land (400 m in length).
27. The SWT also rely on sufficient water from Longs Marsh piped underneath the bridle way. Longs Marsh is within a SSSI. There are no assessments of the impact of the proposal taking water from the SSSI on the SSSI. In addition the SSSI itself partly relies on water leaking from a unimproved river wall which is subject to a EIA as ordered by the High Court. At the very least this should be done first before granting permission for the next development.
28. Paragraph 118 of the NPPF makes clear that *"proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest"*.

29. That being the case, if the Authority is not provided with an assessment of the likely impact then it is not on a position to grant planning permission and it should therefore be refused.
30. It is of course also to be noted that the presumption in favour of sustainable development (see paragraph 14 of the NPPF) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined (see paragraph 119 of the NPPF).

#### **Administrative issues**

31. It is noted that the application documentation (see Design & Access Statement) confirms that no consultation has been undertaken with the Company although consultation is said to have been undertaken with the "Neighbouring landowner to the north of the proposed area". The Company owns land on three sides of the application site but was not consulted.
32. The application documentation (see Flood Risk Assessment) suggests that Richard Wright (IDB surveyor) and Brian Collen (IDB chairman) have been consulted as part of this process. From my personal discussions with both of them this does not appear to be the case given that neither was aware of the application submitted to the Authority. I have now passed them copies of the application documentation and understand that they will be making separate representations to the Authority.

#### **Conclusions**

33. This proposal does not have regard to the needs of agriculture; prejudices agricultural operations; and fails to promote the development of agricultural land based rural businesses. Furthermore, it does not provide the necessary assessment to demonstrate whether there is any impact of the adjoining SSSI. It is therefore in conflict with both the Local Development Framework Development Management Policies and the NPPF; is a departure from the Development Plan and should be refused unless there are special circumstances for doing so.
34. The Applicant does not advance any such special circumstances sufficient to warrant such a departure and in any event the Authority does not have the information necessary to make an informed decision regarding the impact on the SSSI.
35. The Authority is therefore invited to refuse the application.

Yours sincerely

Mr A J Kerkhof

