

**IN THE MATTER OF LAND LOCATED AT STATION NEW ROAD  
BURNDALL IN THE COUNTY OF NORFOLK**

**AND IN THE MATTER OF AN APPEAL AGAINST THE FAILURE OF THE  
BROADLAND DISTRICT COUNCIL TO DETERMINE AN OUTLINE  
PLANNING APPLICATION FOR THE PROPOSED ERECTION OF FOUR  
RESIDENTIAL DWELLINGS THEREON TOGETHER WITH AN ACCESS  
DRIVE**

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**STATEMENT OF CASE  
ISSUED UNDER THE PLANNING APPEALS PROCEDURES**

**VOLUME I – STATEMENT OF CASE**

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**ON BEHALF OF  
MR AND MRS FRANK JERMY  
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**APPEAL REFERENCE APP/K2610/A/07/2040658/NWF  
BROADLAND DISTRICT COUNCIL PLANNING REFERENCE 2007/0015**

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1. Statement of Experience

- 1.1 My name is Michael Andrew Jones, Solicitor and Planning Consultant of Albion Planning Consultants of Selwyn Chambers, Sampson House, The Street, Woolpit, Bury St Edmunds, Suffolk IP30 9QN. I have over 25 years experience in the field of town and country planning. During that period of time I have practiced as a specialist-planning solicitor undertaking a wide range of work relating to the preparation of and submission of planning applications and also attending to any resulting appeals. I have advised and worked on a large number of planning appeals including large and complex cases that have resulted in major inquiries. For example I was recently involved in the planning inquiry into the Bathside Bay container port inquiry. I am a member of the Law Society's Planning Panel and am also a Chartered Member of the Royal Town Planning Institute. I hold the degree of Master of Science in Environmental Management and the degree of Master of Law in Environmental Law. I also hold a number of other relevant post-graduate qualifications at Masters Degree level. I also hold the degree of Master of Arts in Town and Country Planning from the University of the West of England Bristol.
- 1.2 I have been involved in negotiating a number of complex planning schemes and I have assisted in helping clients promote complex town centre redevelopment schemes. I have worked on substantial compulsory purchase projects and I have advised on the implementation of compulsory acquisition schemes. I have also advised on all aspects of environmental issues including land contamination, water pollution, waste management and environmental assessments.

- 1.3 I have also advised clients on the pursuit of applications to the High Court in relation to challenges under Section 288 and 289 of the Town and Country Planning Act 1990 and also in relation to applications for judicial review in the High Court for the purpose of quashing planning decisions. Prior to entering private practice in 1997 I devoted the first 18 years of my career in the public sector acting as a legal advisor to various local authorities. Prior to leaving the local government service I held First Tier Chief Officer posts and my duties included the management of the planning function of a local authority.
- 1.4 I have also advised on various aspects of forward planning and I have attended and submitted detailed representations at Local Inquiries into the review of statutory development plans.
- 1.5 I have provided planning advice to clients from the private sector who have been involved in seeking to gain planning permission from local planning authorities. This has involved providing advice on the tactics to be involved including the preliminary submission of applications for Lawful Development Certificates to preserve the current position so far as Lawful Use Rights are concerned and then to prepare and submit planning applications including advice on the form and type of planning application together with the supplementary information to be included including supporting statements of case and a number of drawings and types of drawings together with attendance at meetings with senior planning officers to Negotiate the terms and conditions of a suitable planning permission together also with providing advice on any relevant amendments together with negotiations with the Environment Agency in respect

of overlapping areas of jurisdiction on environmental impact assessments together with advice on other documentation including wildlife habitat surveys including advice on other professional expertise required relating to the preparation and submission of the planning application together also with negotiations with the local highway authority and where appropriate with English Heritage and English Nature and liaison with other public bodies where required together with attending meetings of planning committees and submitting verbal representations to the committees in support of the planning proposals therein. The work has also involved providing advice on the other side of the fence for local planning authorities in their capacity as clients of the practice.

- 1.6 This has included providing advice on the requirements for planning obligations and attending to the negotiation and settling of the terms of planning obligations to be required from prospective developers. This particular work has also been undertaken when acting for private clients negotiating with local planning authorities in that I have prepared and submitted detailed planning obligations many of them being unilateral planning obligations in support of a planning application where considered appropriate. Examples of cases include sites where I have negotiated applications for the approval of residential development schemes for developments of thirty five homes including the incorporation of requirements for an element of affordable housing in accordance with Circular 6/98 and in accordance with planning policy guidance note 3 on housing together with the negotiation of the appropriate planning obligation relating to contribution to educational provision arising from proposed residential redevelopment schemes. I have also been involved in other cases involving large scale residential development

schemes where similar factors were considered. The type and nature of applications negotiated also included cases of applications for large scale commercial development schemes. Such proposals included applications for large waste transfer stations and recycling facilities. The planning applications have also included other forms of proposed development including recreational and leisure facilities. During the course of the process detailed knowledge and experience has been further enhanced relating to National Planning Guidance and also relating to the statutory development plans.

1.7 A large number of planning appeals have been pursued including the usual planning appeals under Section 78 and also appeals relating to applications for Lawful Development Certificates, appeals against non-determination of planning applications and appeals against Enforcement Notices. A large number of appeals have in particular been pursued against various Enforcement Notices of various types. Some planning appeals have included major cases. For example I attended and acted as advocate at a major planning appeal relating to the proposed new container port at Bathside Bay near Harwich Essex. That particular planning hearing related to a case which was to be determined by Central Government. I dealt with planning appeals by written representations and I have also dealt with planning appeals at a large number of informal hearings. I have also attended Public Local Inquiries into planning appeals. Examples of the types of planning appeals dealt with on a routine basis include the following:-

- a. Appeals against refusals of applications for residential development.
- b. Appeals against refusals of commercial development.

- c. Appeals against Enforcement Notices requiring the removal of caravans and mobile homes from land.
- d. Appeals against refusal of applications for Lawful Development Certificate for large car sales and car breaking yards in greenbelt sites.

1.8 With reference to forward planning I have carried out work relating to the preparation for and attendance at local plan inquiries. The works included carrying out initial research after taking instructions from client and preparing a detailed statement of case and submitting the same and then attending the formal part of the hearing relating to the review in public before a planning inspector of the emerging local plan. The representations have related to for example the review of the statutory development plan for St Edmundsbury. I have also attended and made representations on behalf of client including parish Councils relating to the review of the Babergh District local plan. I have also undertaken similar work relating to other local plans. The work has been extremely complex involving the consideration of infrastructure requirements and demands for various services including a review of highway infrastructure and associated matters.

1.9 I have dealt with a large number of disputes over alleged breaches of planning control including dealing with matters such as application for planning injunctions in the County Court both on behalf of local planning authorities and against local planning authorities. I have also dealt with cases involving the conduct of enforcement appeals both on behalf of local authorities and against local authorities. For examples of Enforcement Notice Appeals I have conducted on behalf of local planning authorities include work on behalf of a large

London borough Council which involved dealing with the case from start to finish including dealing with the Public Local Inquiry into the appeal as advocate on behalf of the local planning authority. I have also dealt with resulting challenges by way of applications to the High Court against decisions of the Inspectorate on such Enforcement Notice appeals. I have also dealt with Breach of Condition Notices and on behalf of clients I have represented them in the Magistrates Court in defending prosecutions brought by Local Planning Authorities. I have dealt with a very large number of enforcement cases over a considerable period of time. I have also prepared and issued Enforcement Notices on behalf of local planning authorities.

- 1.10 In the case of actions in the High Court I have dealt with applications by way of challenge under the planning acts relating to decisions of the Planning Inspectorate including a number of challenges which have been settled under the term so Orders to which the Treasury Solicitor has consented for the purpose of arranging for fresh public local inquiry to be held after defects were found in a previous inspectors decision letter. I have also dealt with applications for Judicial Review on planning matters including all of the preparatory work and organising the submission and marshalling of documentation together with the filing of all papers in the High Court together with all legal research on the case law concerning a high profile case relating to the challenge of a decision by Harlow District Council relating to the purported grant of planning permission for a large scale extension to the town centre of Harlow by a large developer. The decision of the Councils planning permission was quashed by Mr Justice Richards in the High Court.

1.11 I have dealt with compulsory purchase orders and the associated paperwork on behalf of local planning authorities including for example dealing with compulsory purchase order work for a local authority Hampshire relating to a substantial site and dealt with the general vesting declaration and the associated legal work. I also dealt with the attendance at the Public Inquiry into the objections to the original compulsory purchase order. I also dealt with the claims for compensation arising there under and the negotiation before the same reached the Lands Tribunal. I also dealt with the provisional advice on compulsory purchase orders on behalf of private sector clients who were concerned about compulsory purchase schemes promoted by local planning authorities.

## 2. Introduction

### General Introduction

2.1 In support of the appeal now put forward by the appellants Mr and Mrs Frank Jermy it should be noted that Mr and Mrs Jermy will put forward evidence by a number of expert consultants who have advised them during the course of the preparation and submission of the planning application. The persons who will provide the evidence will be as follows:-

- a. Mr Michael Andrew Jones LLB(Hons) LLM MBA MSc MA FCI Arb LARTPI PG Dip EDM MCIPD MCMI DMS Dip Mgt Chartered Member of the Royal Town Planning Institute of Albion Planning Consultants Limited who will provide

detailed evidence relating to a complete analysis of the planning history relating to the site together with an analysis of the planning policy framework together with a consideration of all material planning considerations. The evidence of the said Michael Andrew Jones is set out in Section 2.10 and the following paragraphs within this document.

- b. A full statement of fact by Mr Frank Jermy being the first appellant in these proceedings who will provide a chronological statement of fact relating to the planning history of the site and containing a very detailed point by point examination of the various meetings and communications between Mr Frank Jermy and his professional representatives and Officers of the Broadland District Council and also Officers of the Norfolk County Council. The Statement of Fact by Frank Jermy is set out in Document No. 7.
  
- c. Evidence from Mr Paul Mew highway engineer relating to the relevant highway engineering issues and routing agreements relevant to the current appeal. Reference will also be made to his detailed engineering report which has already been prepared. The written evidence of Mr Paul Mew is set out in Document No. 9.
  
- e. The expert evidence to be provided by Barrell and Company Associates on the arboricultural issues. There is already a detailed arboricultural report prepared by Barrell and Company Associates and this will also be referred to in the evidence to be provided by Barrell and Associates. It will clearly be demonstrated that the proposed development will

note have any adverse impact upon arboricultural issues and that indeed some of the requests put forward by the Council for additional tree planting are misconceived and improper. The expert evidence of Barrell and Company Associates is set out in Document No. 8 and also in the Main Report at Document No. 17.

### Detailed Introduction

- 2.2 It should be noted that the land in question comprises an oblong area of land which is located in a position which is at the end of the current vehicular carriageway of Station Road East Brundall. The land was purchased in 1971 with the benefit of planning permission to demolish the existing house and erect four dwellings in substitution for the demolished house. In this respect reference should be made to reference BF12599 issued in September 1971. Subsequently in 1976 under planning reference number 76.2227 a detailed planning permission was provided for a house and garage on the orchard site being a site which is within the area of the north east corner of the western section of the appeal site. Construction works were carried out on the development approved by the local planning authority thereby implementing and ensuring that the said planning permission subsisted in perpetuity. Furthermore, planning permission was also granted under reference 76.1959 for the demolition of the existing house and the construction of three new houses. This was formally approved on 18<sup>th</sup> January 1977.
- 2.3 After purchasing the additional piece of land known as the eastern section of the site otherwise known as the "railway land" outline planning permission was granted by the local planning authority for

four residential dwellings which was approved on 16<sup>th</sup> February 1987. It therefore follows that as part of the planning history of the site it is clear that Broadland District Council and its predecessors have therefore in aggregate approved a total of eight residential properties having access on to Station New Road Brundall at various points in time. This consistent line of previous conduct carried out by local planning authorities is clearly indicative of the fact that the site in question which is the subject of the current appeal is eminently suitable for residential development. It also confirms the fact that there are no highway objections to providing access to the proposed residential development on the appeal site from Station New Road. Given this historical background it is perhaps surprising to find that the appellants have encountered so many difficulties in dealing with Broadland District Council over the last year concerning the most recent planning application referenced under number 2007/0015. It should be noted that prior to submitting the most recent planning application the appellants Mr and Mrs Jermy made a number of enquiries through their professional representatives and also personally with Planning Officers at Broadland District Council and with the Highway Officers at Norfolk County Council for the purpose of obtaining guidance on the way in which the planning application could best be formulated and then prepared for submission and consideration by the local planning authority. Throughout the pre-application process the appellants took on board the guidance provided by the Officers and incorporated the guidance in the work carried out relating to the preparation of the layout plan and the supporting documentation including also the detailed arboricultural report. Accordingly, by the time the planning application was submitted late in December 2006 the application had been the subject of extensive and wide spread

consultations over a period of approximately nine months. It was therefore felt that the application was in as near perfect a condition as it could be and the substantial body of documentation in support of the planning application was therefore duly lodged in the expectation that it would be processed promptly and quickly in accordance with the normal practices.

2.4 Unfortunately, the expectations of the appellants were not met by Broadland District Council. Even after submission of the planning application it was found that Broadland District Council adopted an uncooperative and obstructive attitude. In fact, Broadland District Council appeared to make very little effort in seeking to process the application in any event within the statutory eight week period. It should be noted that curiously the deadline for the consultation response issued by the Planning Officer at Broadland District Council to the Highway Officer at Norfolk County Council was 9<sup>th</sup> March 2007 being a date which is nine weeks after the date of the original submission of the planning application. This is indicative of the general attitude within Broadland District Council which was clearly designed to ensure that the processing of the planning application was slowed down and most certainly was designed to ensure that the application could not be determined within or even at the end of the statutory eight week period for making decisions on such planning applications.

2.5 Furthermore, it is noted that the response from Broadland District Councils Conservation Officer Mr Chesney Beals was not received by electronic mail until 14<sup>th</sup> March 2007 being a period of almost ten weeks after the date of the original lodging of the said application. It

should be noted that Mr Cesney Beals is located in the same office as the Councils Planning Case Officer being Mr Harriss.

2.6 Although a draft planning obligation was submitted as part of the materials in support of the planning application at the same time that the application was lodged nevertheless Broadland District Council did not enter into correspondence concerning the terms and conditions set out in the draft planning obligation. Furthermore, and very surprisingly the planning application which could easily have been determined under delegated powers by Planning Officers was then referred to the Councils Planning Committee for consideration. We understand that this decision to refer the matter to the Councils Planning Committee was made as the result of a call in by a local Councillor.

2.7 The appellant Mr Frank Jermy subsequently gained access to a number of papers held by the Planning Department which appeared to indicate that the Broadland District Council was some how committed to a hostile and obstructive approach to the proposals for residential development on the site. After careful consideration of the recently disclosed communications on this subject the appellant felt that he had no option other than to pursue an appeal before the Planning Inspectorate in Bristol.

2.8 After the planning appeal had been lodged then curiously the attitude within Broadland District Council appeared to change somewhat. Quite surprisingly the Planning Case Officer elected to prepare and submit a report on the appeal and the views that the Council should take relating to the planning application for consideration at the Councils Planning Committee held on

Wednesday 18<sup>th</sup> April 2007. It should be noted that at the meeting the committee considered the report of the Officers which recommended that the Council would be minded to approve the planning application if it were still within their jurisdiction. The Committee resolved by twelve votes in favour and with three abstentions to approve the officers report stating that the Council now supported the planning application. The report by the Planning Officer Mr Nigel Harriss was clearly overwhelmingly positive.

2.9 The approach adopted by Broadland District Council to the terms of the application placed before them is very surprising having regard to the fact that the application clearly puts forward a very reasonable scheme which addresses all of the relevant material planning considerations. In the following paragraphs of this section of the statement of case reference is made to various aspects of the proposed development scheme by way of introduction including an analysis of the overall terms of the proposed development scheme together with an analysis of the scale of the development proposed and its relationship with the surrounding area. There is also an analysis of the landscaping scheme and the overall appearance of the scheme. The points are therefore explained in the following paragraphs.

The evidence of Michael Andrew Jones – Chartered Member of the Royal Town Planning Institute

2.10 The Proposed Development Scheme

2.10.1 This appeal relates to proposals set out in an outline planning application. The outline application for planning permission for four

residential dwellings was put forward on behalf of the land owners Mr and Mrs Frank Jermy as a scheme which is acceptable in policy terms and also in design terms. The application is supported by an ordnance survey location map showing the extent of the application site edged red. It is also supported by indicative drawings prepared by Peter Codling Architects of 7 The Old Church Street, Matthews Road, Norwich, NR1 1SP. The indicative layout set out in the drawings annexed to the Planning Application include an extension of the existing access drive which forms a generous curve around the curtilage of the extant full Planning Permission for a single dwelling on that part of the site located closest to Station New Road, Brundall. Please refer to Documents 3 and 4.

2.10.2 Under the proposed scheme, the access road extends further into the site and serves four turning head areas which in turn serve the garages for each of the proposed four dwellings. It will be noted from the proposed layout that a substantial part of the existing vegetation will not be affected by the proposed development scheme. The scheme will incorporate a very substantial area of soft landscaping and the existing trees as shown on the application plans will be retained. The consequence is that the whole site will continue to be screened and accordingly development on the site will have no impact whatsoever on the local landscape.

2.10.3 The proposed development set out in the Planning Application relates to the proposed construction of four separate residential properties. The four residential dwellings shall each include double garages which will be set in separate blocks adjacent to the main dwellings. Each of the main dwellings shall provide ample internal accommodation for two reception rooms, a kitchen, a utility room,

study and five bedrooms including en-suite bathrooms. All dwellings shall comprise red brick walls and tiled hipped roofs. The design of all of the properties shall fully comply with the design guide criteria provided by the Local Planning Authority.

2.10.4 The proposed development shall be laid out in accordance with the plans annexed to the application and shall comprise a private drive with differential surfacing which shall afford access by vehicles including also emergency vehicles together also with access by pedestrians. The access shall be a natural progression from the existing access road which runs into Station New Road. The properties are well spaced out with a large amount of soft landscaping separating each of the properties. The layout scheme is surrounded by the existing vegetation including the retained trees. The proposed residential use of the development site is clearly acceptable having regard to the context in which the site is located. It should be noted that the size of the properties and the size of the plots upon which each property is built is clearly consistent with the size and garden areas of existing properties in the area including those properties served by Station New Road. It should be noted that the area of land located closest to the application site is mainly residential in character and accordingly the use of the site for residential purposes is clearly entirely consistent with the predominant land use in the locality. Given that the site already enjoys the benefit of an extant Planning Permission for one single large dwelling house on a large plot, it is obviously entirely appropriate that the present application for four new additional similar large properties with large gardens should also be approved

on the adjoining land which is now located within the current application site.

2.10.5 It must be emphasised that the Applicant is not seeking to secure a new vehicle access because he already has an existing approved vehicular access leading to the site. It should be noted that the current Planning Application proposes utilising the access which already has approval under the full extant Planning Permission to serve one existing dwelling. Accordingly, in essence, our client is only requesting an additional four dwellings off an existing approved vehicular access.

## 2.11 The scale of the development

2.11.1 The scale of the development is consistent with the existing scale of development in the area. It comprises 2-storey dwellinghouses. The roof scope of the properties will be hidden by the ample existing woodland screening. Each of the properties are regarded as being an average size dwelling consistent with the normal size of properties in the existing residential development in Station New Road.

2.11.2 Each of the proposed new four houses on the application site will constitute large properties and the size of each plot is, having regard to modern standards, fairly generous. Given the context in which the dwelling houses are to be constructed, it is clear that the properties will be well screened by the existing vegetation. The scale of the development is clearly constrained by the topography of the site and it is abundantly clear that the development cannot exceed two storeys in height. The development will have the appearance of a natural extension of the existing road known as Station New Road

at Brundall. It will not have any incongruous or intrusive features. Each of the residential properties will provide for double bedrooms together with ensuite bathroom facilities. Each property will also afford sufficient space for the provision of three reception rooms and a large kitchen and utility room. Each of the properties will incorporate adequate car parking spaces for motor vehicles together with the appropriate double garage one would expect for properties of this size. Each of the properties will be constructed in accordance with current guidance relating to the provision of “environment friendly” housing and will incorporate solar panels, double glazing and will incorporate traditional building materials. Each property will be served by water meters.

## 2.12 Relationship with the surrounding area

2.12.1 The proposed development will blend in with the existing residential development in the area which incorporates large substantial properties on large plots. It is considered that the proposed development will not have any impact upon the existing residential development in the area and it will blend in entirely with the existing land uses. It should be noted that the height of the proposed development will be consistent with the height of existing development in the area. At the same time, it will be screened by substantial landscaping around the site. It should be noted that there is already existing tree cover around the site and it therefore follows that the development will not be observable from any quarter. It is considered that the proposed development will have no adverse visual impact upon the area.

2.12.2 The site incorporates a layout which constitutes a logical extension of the existing road pattern and it is therefore felt that in terms of layout the site is entirely consistent with the existing character of the area. The character of the area can be ascertained from the photographs comprised within Document No. 2.

## 2.13 The landscaping scheme

2.13.1 The landscaping scheme comprises a generous area of soft landscaping blending in with the new development proposed.

2.13.2 It should be noted that the proposed new landscaping scheme will reinforce and contribute to the existing substantial well-established vegetation on the application site. The landscaping scheme will screen the development from the surrounding area. It should be noted that there is strictly no need for any further landscaping around the site given the fact that it is already encompassed by substantial well-established vegetation. However, the additional soft landscaping is designed to enhance the appearance of the site in any event.

## 2.14 Appearance

2.14.1 The appearance of the development comprises traditional dwellinghouses with red brick walls. The form of the development is very similar to the appearance of existing properties in Station New Road.

2.14.2 It is clear from the plans submitted with the Planning Application that the appearance will be acceptable having regard to the form of

the existing development in the area. The proposed development would not form an incongruous feature and would not be noticeable when viewed from various view points in the area. In fact, it is considered that the proposed development will constitute an enhancement of the site and will form a natural conclusion to the existing development authorised under the extant Planning Permission for the single large dwelling house which is immediately adjacent to the application site.

## 2.15 Access

2.15.1 Access to the development is afforded by an existing road known as Station Road East. The access to the development incorporates a cul-de-sac and accordingly there will be no difficulties so far as highway considerations are concerned.

2.15.2 It is therefore considered that the proposed access is clearly adequate having regard to the good visibility afforded for vehicular traffic using the said access. It is considered that the access can provide ingress and egress for emergency vehicles without any difficulty. It is also considered that the proposed development would not in any way lead to any congestion in the local highway network and that the access is adequate for all of the purposes required under the terms of the proposed development scheme.

## 2.16 The impact of the development proposed

2.16.1 The site is located in a sustainable location given that it is on land immediately adjacent to a large car park which is used by those travelling by train and who utilise the railway station at Brundall.

The public transport links are therefore excellent. Furthermore, there are a number of services in close proximity to the application site including public houses and restaurants. There are also leisure facilities for those with a maritime interest.

2.16.2 The impact of the proposed development is demonstrated on the enclosed plans accompanying the Planning Application. Attention is drawn to the large block plans enclosed herewith which indicate the impact of the proposed new development within the site. It is clear from the plans that the development will not have an adverse impact and will not adversely affect any amenities in the area. It will clearly blend in with the existing development. Attention is also drawn to the large number of photographs accompanying the Planning Application and which also are attached as an appendix to this Statement. It is clear that the proposal will only constitute a modest form of development.

2.16.3 The site is bounded on the one side by the said car park relating to the railway station and on another side by Station Road Brundall being the main road leading down to Brundall railway station. The frontage to the property adjoins Station New Road Brundall which on its junction with Station Road Brundall merely constitutes a small pedestrian track until it reaches the point of the existing approved vehicular access which the local planning authority will recall was previously granted planning permission relating to the residential property approved on that part of the application site located closest to Station New Road Brundall.

2.16.4 Given that the proposed extension to the access road feeds from an existing approved access it is quite clear that there are no adverse

highway implications arising from the proposed development scheme. Furthermore, it is noted that under the terms of the planning application it is clearly recognised that all traffic ingressing or egressing the application site must pass along the existing road known as Station New Road which can cater for vehicular traffic and which allows access to the frontages of the said road directing them to Strumpshaw Road.

2.16.5 It is therefore clear from the proposed layout that for practical purposes it is inevitable that all traffic ingressing or egressing the site must use the relevant part of Station New Road which is passable with vehicles and which links in to Strumpshaw Road. Accordingly, vehicles will not in any way be able to use any alternative route and most certainly will not be able to use a small track way which is not fit for vehicular traffic and which comprises the remaining part of Station New Road leading to the old junction with Station Road Brundall. This point is reemphasised by the fact that there are existing bollards currently blocking part of the retained footpath which forms part of Station New Road. Furthermore, it is proposed under the scheme that new bollards be inserted in the position identified on the plan on that part of the site adjacent to the authorised existing access to the application site. The bollards will be sited in such a way as to deter any motorist from even contemplating carrying out a “left turn” down towards the junction with Station Road.

2.16.6 It is considered that in order to reinforce the clear indication on the layout that all traffic movements from the site must pass along that part of Station New Road which is made up to a standard to accommodate vehicular traffic and which leads towards

Strumpshaw Road. It is proposed that the indication on the layout plan be supported by a covenant offered to the local planning authority under the terms of the Unilateral Planning Obligation under section 106 of the Town and Country Planning Act 1990 whereby all vehicular traffic will be required to follow the route along the vehicular part of Station New Road towards the link with Strumpshaw Road. See Document No. 5. It is considered that the proposals which constitute a "routing agreement" are appropriate in the circumstances and are clearly in line with the professional views of officers advising the highway authority being Norfolk County Council. It should be noted that meetings have been held with representatives from the Highway Department who acknowledged that a routing agreement could indeed be an appropriate way forward for dealing with the highway issues. Indeed, it is noted from views expressed in writing by highway officers in the past that the County Council considers a routing agreement secured by a planning obligation under Section 106 of the Town and Country Planning Act 1990 as both "acceptable and appropriate". Please also refer to Document No. 9 comprising the Highway Engineer's Report by Mr Paul Mew.

2.16.7 During the course of discussions with highway officers it was also agreed that the further stage in the process which could involve the funding of a formal traffic regulation order could also be incorporated in to the proposed planning obligation under Section 106 of the Town and Country Planning Act 1990 provided that there was no direct link between the implementation and completion of the proposed residential development scheme and the confirmation of a traffic regulation order. Whilst the applicant is quite happy to support a traffic regulation order it is recognised that the need for

such a traffic regulation order does not arise from the development as such and that accordingly it would be unreasonable to link the proposed development scheme into the process relating to the confirmation of a traffic regulation order. It is noted that the process relating to the preparation and submission of traffic regulation orders can be both time consuming and contentious. Such orders invariably attract local objections and it can take up to two years for such contentious cases to be processed which may indeed include legal challenges. It would be wholly inappropriate to subject the modest residential development scheme comprising four residential properties to such a process and accordingly it has been agreed with the highway authority that the applicant should only be required to contribute funding to the processing of the traffic regulation order. The funding for the said order would arise from part of the finance generated by the redevelopment scheme on the site.

2.16.8 It should be noted that pending the confirmation of the traffic regulation order the routing agreement will be a perfectly reasonable and legally effective way of controlling both ingress to and egress from the application site. Accordingly, no highway interests will be adversely affected by this particular proposal.

2.16.9 Under the terms of the proposed planning obligation to be issued under section 106 of the Town and Country Planning Act 1990 it is also proposed that the area of woodland currently on the site will be retained in perpetuity. The proposed planning obligation will incorporate a maintenance and management plan for the area of the woodland and will therefore preserve an important local ecological feature. Please refer to Document No. 5.

2.16.10 It is clear from the proposed layout that the woodland would not be adversely affected in any way by the proposed development scheme.

2.16.11 The application site has a long planning history which focuses on various residential schemes relating to the site. For the most part the residential schemes have been approved and the history of approvals includes the following:-

- a. Planning application reference BF12599 – this related to the demolition of an existing house on the site and the erection of up to four residential dwellings. This planning application was approved in September 1971.
- b. Under reference 76.1959 – there was a planning permission granted on 18<sup>th</sup> January 1977 for the demolition of the existing house and the erection of up to three houses and garages. The site at that stage was known as “The Fairmount Site”.
- c. Under reference 76.2227 – there was a further grant of planning permission on 4<sup>th</sup> January 1977 for a new house and garage on the site which was then known as “The Orchard site”.
- d. Under reference 78.1868 – there was an application for the conversion of a coach house into a dwelling which was refused on 21<sup>st</sup> August 1978.
- e. Under reference 81.2263 – there was an application for four residential dwellings under an outline planning application which was subsequently withdrawn on 29<sup>th</sup> January 1982.
- f. Under reference 86.1118 – there was an application for outline planning permission for four dwellings which was approved on 16<sup>th</sup> February 1987 an area located on the plot adjacent to the application site known as “The Railway Land”.

- g. Under reference 95.0713 – there was an application in outline for two dwellings which was refused in November 1998.
- h. In 1996 the Broadland District Local Plan Inspectors report was issued. In chapter 16 on “Brundall” the Inspector responded to objections by the District Council who contended that the whole site should be designated under policy ENV8 as green space for visual recreation or nature conservation value. However, the Inspector acknowledged that some low density residential development could be accommodated on the site without detriment to the woodland or visual amenities provided by it. Eventually the Council accepted the Inspectors recommendation.
- i. In 1999 an outline planning application for residential development was submitted on the site. In that case dwelling numbers and the siting issues were not an integral part of the application. An illustrative plan accompanying the application showed 5 plots across the entire site served by a single point of access from Station New Road with woodland retained on the site periphery. An appeal was lodged against non determination of the application in April 2000 and the appeal was dismissed in June 2000 based on the Inspectors views concerning the need to protect the woodland on that particular proposal in that application.
- j. A further planning application was submitted under planning reference number 20031228 by Hopkins and Moore Limited. The Council resolved to grant the planning application subject to the completion of a planning obligation under section 106 of the Town and Country Planning Act 1990. The application related to the proposal for five dwelling houses on the site which in principle was accepted by the Council. However,

the Council imposed a requirement for the production of a confirmed traffic regulation order as a specific requirement directly linked to the implementation of the proposed development at the site. However, it was discovered the long and protracted negotiations and discussions that the scheme was not viable owing to the condition relating to the imposition of a traffic regulation order as a precondition to implementation of the development scheme. It therefore follows that this fresh application is now advanced at this stage with an alternative proposal which allows for a routing agreement to be implemented based on a specific layout which clearly encourages the desired route to be taken from the site and coupled with a requirement that the applicant shall impose specific restrictive covenants on those persons to whom he eventually sells properties built on the land requiring them only to use one specified route when ingressing or egressing the site. Furthermore, the applicant also has agreed to contribute to the costs of an eventual traffic regulation order should one eventually be confirmed in a few years time in order to reinforce the extant routing agreement. The Highway Authority is happy to approve this particular compromise in order to ensure that the land does not remain sterilised in perpetuity.

2.16.12 It is noted that the proposed residential scheme is entirely consistent with decisions made previously by the local planning authority. Furthermore, it is entirely consistent with all of the policies set out in the statutory development plan. In particular, it is consistent with local plan policy ENV4 and also with local plan policy HOU3. It does not contravene local plan policy TRA4 and fully accords with

the views expressed by the inspector Mr Peter F Jamieson at the previous planning appeal held on 23<sup>rd</sup> May 2000.

2.16.13 The form of layout proposed in this application is consistent with guidelines relating to design set out in supplementary planning guidance and also in the planning policy guidance notes. The proposed development clearly constitutes the reasonable efficient use of land within an existing settlement boundary and is therefore entirely consistent with the recommendations of Central Government set out in planning policy Statement number 3.

### 3. Appeal Site

3.1 The appeal site is easily accessible from Station New Road Brundall which can easily accommodate vehicular traffic which may wish to gain ingress or egress to and from the site. The area within the application site is shown by the bold uninterrupted black line on the plan marked plan A annexed to this statement of case. The application site is located on high ground which overlooks the adjacent station known as Brundall Station and the railway line. The site is well drained and currently supports mixed vegetation including a number of trees and a large number of bushes. Most of the site supports long grass and nettles.

3.2 Previously, the site had supported an old house and the site of the former house can be located on the site. The site is not overlooked by adjacent existing development and it is abundantly clear that the site can be developed for residential purposes without causing any impact upon the residential amenities of adjacent properties. In particular, it should be noted that given the substantial amount of

existing landscaping on the site it would be possible to arrange for the construction of the proposed four dwelling houses without any of the said four dwelling houses having any adverse impact in terms of overlooking or intrusion upon privacy in respect of any existing built development in the area.

#### 4. Planning Policies

4.1 With reference to the National Planning Policy Guidance it should be noted that the relevant planning policy statements are planning policy statement number 1 see Document No. 15, planning policy statement number 3 see Document No. 16 and planning policy statement number 13. There are also further planning policy statements which contain advice which is of some assistance and these include planning policy statement number 25. It should be noted that under the terms of Planning Policy Statement number 1 development must of course be sustainable in the meaning of the advice contained therein. It is clear from the evidence to be presented in this case that the site is sustainable having regard to its close proximity to existing services including not only shops and public houses but also its proximity to public transport routes including bus routes and railway routes. It therefore fully complies with the policy set out in planning policy statement number 1.

4.2 With reference to planning policy statement number 3 it is clear that the proposed residential development complies with the advice contained in planning policy statement number 3 on housing development. It is clearly a site located well within the defined settlement boundary of Brundall. It is clearly adjacent to existing well established built development and residential development can

take place on the site providing much needed housing in the area. Furthermore, it should be noted that the site constitutes previously developed land as defined in the planning policy statement. Prior to its demolition there was a substantial redundant farmhouse on the site. The land formed part of the curtilage of the said redundant farmhouse and accordingly the residential development of the site constitutes the development of existing “brown land”. It constitutes the recycling of existing urban land which has previously been developed. Accordingly, the proposal for residential development on the site is fully consistent with the policies of Central Government as set out in planning policy statement number 3.

4.3 The proposed development of the site is also compliant with planning policy advice set out in Guidance Note Number 13 on planning and transport. It is clearly located in a sustainable location in close proximity to existing well established public transport routes. Furthermore, development on the site will utilise an existing well established access road known as Station New Road.

4.4 The site is on elevated land and there is no danger whatsoever of any part of the land being subject to flooding. It therefore follows that the land clearly complies with advice set out in planning policy statement number 25 on planning and flood measures.

4.5 With reference to the statutory development plan it should be noted that the proposed development at the site is clearly consistent with all of the policies set out in the statutory development plan. This includes the Regional Spatial Plan at Document 14 and the Local Plan at Document 13. The proposed development is not inconsistent with any of the policies set out in the housing chapter. In effect the

development is fully compliant with all the other relevant terms in the statutory development plan. Reference should be made to the report issued by the Councils Planning Case Officer who in his report to the committee clearly recommended in professional terms that the proposed development on the site was not in conflict with the relevant planning policies so far as they are material to the site. Please refer to the copy of the Report to and Minutes of the Planning Committee dated 18<sup>th</sup> April 2007 at Document No. 6.

## 5. Main and Principal Issues

- 5.1 The main issues relating to the appeal focus upon the fact that the land is of course recognised as being land allocated for housing purposes. See document No. 13 being the Broadland District Local Plan. There is a long history of planning permissions having been granted for residential use of the site over a long period of time. It is also recognised that the area of land can easily support at least five dwelling houses and this has been recognised in the grant of previous planning permissions on the site. Accordingly, there can be no objection in principle to residential development thereon. The second issue relates to the layout of proposed residential development on the site. Again, there should be no dispute on this point given that the form of the layout which has been prepared clearly follows the advice and guidance provided by the Planning Department at Broadland District Council. The layout plan prepared by Peter Codling Architects clearly reveals a layout for four large residential dwellings on the site which will be well spaced out and served by an extended access road which is extended from the existing authorised point of access immediately adjacent to the existing extant residential planning permission granted for the first

house on the site. It will also be noted that the layout is prepared in such a way that it minimises any disruption to the existing land form and the existing vegetation on the site. It clearly respects the existing trees located on the site which will not be adversely affected by the proposed development. Cross sectional plans have been provided clearly demonstrating how the tree roots will not be adversely affected anyway by the proposed residential development.

5.2 It is also noted that the layout clearly indicated that the access to the site will take place from and to the road known as Station New Road Brundall. It is clear from the geometry of the access that the only route to and from the site will be along the existing Station New Road. It will therefore not be possible for people seeking to gain access to the development site to use the redundant and closed former road known as Station Road. For obvious reasons it is clearly accepted by all parties that the old redundant Station Road which leads directly from the site down to the main road to Brundall Station is not a reasonable form of access given its gradient and the poor visibility at its former junction with the main road. It should be noted that historically the said old road has been closed by the insertion of a number of bollards which have prevented access along that particular road. It should be noted that the highway solution which involves incorporating a routing agreement within the terms of the proposed planning obligation under Section 106 of the Town and Country Planning Act 1990 has been fully accepted by the Highway Officers of Norfolk County Council. At a site meeting with Officers of Norfolk County Council the Officers fully agreed that the provisions in the proposed planning obligation were more than adequate to deal with the highway issues and that there was therefore no highway objection to the proposed development given

the proposed access arrangements along Station New Road. Accordingly, it is abundantly clear that the question over the highway access is no longer an issue and therefore not a ground for concern.

5.3 Another issue of course relates to the question of the trees. It should be noted that the issue relating to the trees has been the subject of a substantial amount of correspondence and discussion. Furthermore, it has been the subject of reports by specialist arboricultural advisors. The arboricultural advisor retained by the appellants Messers Barrell and Company Associates have clearly put forward a report on the subject which clearly shows that development can proceed and at the same time respect arboricultural interests. In fact it would appear that there are substantial gains in arboricultural terms to arise from the implementation of the development proposal. With reference to the question of the arboricultural interests one should go back in time to 1994 when the original Woodland Tree Preservation Order was served on the site. It should be noted that it was not only served on the site but also on an area of land to the rear of gardens numbered 9 and 11 Station New Road and by a Dr Taylor. The Woodland Order site plan included the whole of the open garden area of the original "Fairmount House" as well as the essentially open orchard site which already had detailed planning permission and for which the construction works had commenced. However, it should be noted that historically although a number of trees have become established on the site and there was some undergrowth the railway land was previously owned by British Rail before being sold to the appellants and was previously let to a third party for the cultivation of roses. It therefore follows that historically the land did not actually support a woodland area in any event. However, it is

noted that there are established tree on the site and the expert advice of the arboricultural advisors to the appellants have clearly put forward a scheme which will ensure that the appropriate trees are retained and indeed that further planting will take place in order to enhance the appearance of the site even further. Attention is drawn to the reports issued by the arboricultural advisors Messers Barrell and Company. Clearly, it has eventually be recognised by the Councils arboricultural advisor being Mr Chesney-Beals that the proposed development will not have any adverse impact upon arboricultural interests. It should be noted that Mr Chesney-Beals did recognise at a meeting held with this firm on 2<sup>nd</sup> August 2006 at the Council offices that he did not consider the area of land within the application site to constitute a woodland area. Further, he stated that he would seek to de-classify the area as a woodland area and would simply apply ordinary tree preservation orders to individual trees within the gardens to the properties. Mr Chesney-Beals was supplied with a pre-development tree survey in addition to the arboricultural method statement by Barrell and Company Associates. It is clear from the latest report to the Councils Planning Committee that the Council has no remaining concerns whatsoever concerning arboricultural issues. Accordingly, there are no arboricultural interests now outstanding. Please refer to the arboricultural evidence provided by Barrell and Company Associates at Document 8 and also Document No. 17.

5.4 With reference to sustainability it should be noted that the site is clearly a sustainable site within a sustainable location. It is located in close proximity to a number of public transport modes. For example within a short walking distance one finds Brundall railway station which enjoys the benefit of an excellent railway service. In addition

there is a bus route again within walking distance of the site together also with access to a large number of shops within the village of Brundall all of which are within level walking distance. The village also supports a school and it also supports a post office. Please refer to Planning Policy Statement No. 1 at Document 15.

- 5.5 With further reference to the sustainability issues it should also be noted that the site is located in close proximity to a marina and there are a large number of boats which can provide not only transport services but also leisure pursuits.

## 6. Grounds of Appeal

- 6.1 This is an appeal against non-determination of an outstanding planning application for outline planning permission for the erection of four residential properties. It should be noted that the application is supported by a substantial amount of detail set out on a series of plans deposited with the Local Planning Authority including plans prepared by local architects Peter Codling of 7 The Old Church St Mathews Road Norwich NR1 1SP which include a plan showing the form of the proposed layout for the access road leading from Station New Road on to the site for providing access to the four new residential properties together also with an indication of the siting of the proposed four residential properties. The plan has been prepared on a scale of 1:200 and shows the full extent of the application site shown edged red thereon. The area of ownership is shown edged blue on the said plan. The plan is also supported by a further plan which comprises a cross-sectional drawing provided by Peter Codling Architects relating to the position of the beech tree within the application site. It will be noted that the plan illustrates

the inter relationship between the said tree and part of the proposed development. The application is further supported by plan number 1 which is the application site plan showing the full extent of the application site boundary shown edged red and illustrates how the proposed four residential dwellings could be set out within the said application site and at the same time retaining the existing trees within the site. The application is further supported by a second plan prepared by Peter Codling Architects which again shows a proposed layout within the site and also shows the area of the protected woodland shown encompassed by a bold continuous green line on the said plan.

- 6.2 The planning application is also supported by a substantial report prepared by the “Barrell Tree Consultancy” which set out a full arboricultural impact appraisal and method statement. See Document No. 17
- 6.3 The application is also further supported by a unilateral undertaking issued pursuant to Section 106 of Town and Country Planning Act 1990 (as amended) duly executed by the owners of the application site being Mr Frank Norman Jermy and Mrs Pamela Jane Jermy both of 25 Grove Avenue Norwich Norfolk NR1 2QB. See Document No. 5.
- 6.4 It should be noted that the above papers were all submitted in support of the said planning application and furthermore the applicant also provided further information to the Anglian Water Company relating to the provision of drainage details relating to the proposed development scheme. A plan relating to the Anglian Water drainage details is also enclosed and this plan was duly

approved and accepted by Anglian Water. Furthermore, a cross sectional landscape drawing was also prepared and submitted to the Broads Authority and the said landscaping cross sectional scheme was accepted by the said Broads Authority. It should also be noted that negotiations took place with the Highway Authority being Norfolk County Council and an agreement was reached on site in front of witnesses concerning the most appropriate way to deal with the highway issues and the terms of the agreement on the site were incorporated into the terms of the draft planning obligation which was then circulated as part of the planning application. Curiously, no comments were received from either the Highway Authority or from Broadland District Council concerning the terms of the originally proposed bilateral planning obligation. Given the absence of any responses concerning the terms of the proposed draft planning obligation from either the Highway Authority (Norfolk County Council) or the local planning authority (Broadland District Council) it was considered necessary to recast the terms of the proposed planning obligation in the form of a unilateral planning obligation under Section 106 of the Town and Country Planning Act 1990.

- 6.5 This document was then executed by Mr and Mrs F Jermy putting forward the obligations in the said Planning Obligation in favour of Norfolk County Council and Broadland District Council for the purpose of addressing all relevant highway issues. It should be noted that the terms of the planning obligation as set out in the document enclosed herewith make it perfectly clear that the planning obligation set out in the said unilateral undertaking enclosed herewith are conditional in the sense that the covenants and obligations will not become enforceable until the planning

permission requested pursuant to planning application reference number 2007/0015 is granted and also then implemented by the owners being Mr and Mrs F Jermy. It is also stated that the unilateral undertaking shall cease to have effect if the planning permission is quashed, revoked or otherwise withdrawn. The provisions set out in the unilateral undertaking are detailed and comprehensive and incorporate four schedules setting out the specific obligations therein.

6.6 The unilateral undertaking contains a number of generous benefits in favour of the local planning authority and the highway authority. It addresses all of the highway issues providing a clear routing agreement and also an appropriate funding mechanism. It also provides for the comfort of additional restrictions on the site including the restriction on additional buildings except as set out in clause 2 of schedule 1 to the unilateral undertaking. It provides a scheme for protecting the trees on the site and incorporates the obligation to engage the services of an arboricultural consultant to ensure the protection of the woodland area.

6.7 The application was also supported by a design and access statement which was comprehensive and incorporated all of the requirements as set out in Circular 1/06. The said detailed Design and Access Statement is enclosed herewith in support of the appeal together with all of the documents mentioned in the proceedings paragraphs within the grounds of appeal. See Document No. 11.

6.8 You will therefore note that the applicant has not only invested substantial resources in the preparation and submission of the planning application but has also gone a long way to show their

commitment to a reasonable proposal for residential development which fully blends in with the context within which the development will be set. It clearly shows the way in which all of the highway issues and the arboricultural issues can easily be respected and addressed. It also puts forward a scheme which in design terms is fully acceptable and consistent with the terms of the policies set out in the statutory development plan. It should be noted that the planning application was only submitted after long and laborious preparatory work involving a number of professional consultants and after discussing the matter at length with the local planning authority and also even attending a full round table meeting with the Planning Case Officer at the offices of Broadland District Council. It should also be noted that site visits have been held and the local Highway Authority Officers attended the site visit and provided guidance at that meeting which was faithfully followed.

6.9 It should also be noted that this planning application which is the subject of this appeal follows on from a previous application for planning permission for similar proposed development on the site which was submitted a long time ago. It should be noted that the previous planning application which received a favourable recommendation from Officers when it was reported to the Councils Planning Committee still remains outstanding.

6.10 Given that the applicants in this case who are now the appellants in these appeal proceedings have devoted a considerable period of time in seeking to negotiate an appropriate form of proposed development with the local Planning Authority and taking into account that the planning application was submitted in essentially the form required by the Local Planning Authority and after taking

guidance from both Highway Officers and Planning Officers the applicants believe that they have done all they can to try and seek to persuade the Local Planning Authority to grant a reasonable planning permission subject to the terms of the planning obligation which is referred to in these papers. The eight week period for determining the planning application has expired and given the apparent uncooperative attitude of the local planning authority that appears to have developed more recently the applicant feels that they have no option other than to launch this appeal on the grounds of non-determination. It appears to the applicants that the local planning authority may be under some pressure from local residents who may have a number of views concerning the proposals set out in the planning application. However, it is considered that such issues are not material planning considerations and that the local planning authority is not justified in seeking to delay, postpone or avoid making a decision on a reasonable planning application owing to such considerations. The point is that there is no reasonable ground for the local planning authority to further delay making a decision on a planning application which has been thoroughly researched, negotiated and discussed with the local planning authority over a long period of time. It should also be noted that the Planning Case Officer dealing with this case is very familiar with the site having previously discussed and negotiated the previous planning application again over a very long period of time. Accordingly, the applicant feels that the inability of the Broadland District Council to make a determination on the application can only now be addressed by removing the application from the jurisdiction of the local planning authority and bringing it before the Planning Inspectorate in the hope that a Planning Inspector will be able to make a decision on the planning application based on the material

set out in the enclosed plans, Design and Access Statement, Arboricultural Reports, supporting information and Unilateral Undertaking.

- 6.11 In further support of this planning appeal the expert Highway Engineering advice is set out in Document No. 9. The expert highway advice clearly supports the proposals set out in the planning application and the unilateral undertaking. It also clearly sets out the advantages of the routing agreement set out in the planning obligation. It sets out the clear arguments in support of the development in highway terms generally.
- 6.12 It should also be noted that the appellants case is also supported by the expert views of the Arboricultural Adviser who has already issued a detailed report on the trees on the site. It is clear that the proposals set out in the planning application are clearly consistent with the arboricultural interests and it is clear that the proposed development will clearly be acceptable and consistent with the protection of arboricultural interests. See Document 8 and 17.
- 6.13 The planning evidence indicates that the proposed development set out in the planning application is fully consistent with all of the policies set out in the statutory development plan. Reference is also made to design and layout issues and the terms of the Design and Access Statement.
- 6.14 Reference is also made to other decisions made by Broadland District Council within the locality in which other forms of residential developments of this nature have been permitted promptly. Reference is also made to previous correspondence issued by the

Local Planning Authority and to the views previously expressed by local residents from time to time both relating to the current application and the previous application. Please refer to the factual evidence of Mr Frank Jermy (Document No. 7).

6.15 Reference is also made to the recent meeting of the Parish Council and to the fact that the Local Parish Council does not have any objections to the proposed development.

## 7. Highway Issues

7.1 It should be noted that the highway issues relating to the proposed development have been considered over a long period of time by Officers from Norfolk County Council and also by an independent expert highway engineer Mr Paul Mew who has been retained by the appellant. Attention is drawn to the engineering report prepared by Paul Mew and a copy of which accompanies this statement of case and is lodged at your offices. A duplicate copy of the report is also attached herewith in order that a duplicate copy may be forwarded on to Broadland District Council.

7.2 It is abundantly clear from the highway engineers report that there are no outstanding highway issues. Furthermore, it is noted from the terms of the planning obligation exhibited in section 9 of this statement of case that the issues over the routing of vehicles to and from the site is easily dealt with under the terms of the Planning Obligation. Issues relating to the proposed traffic regulation order are also dealt with in section 9 of the statement of case.

## 8. Arboricultural Issues

8.1 All of the relevant arboricultural issues are clearly dealt with in the reports issued by Barrell and Company Associates. Attention is also drawn to the Arboricultural Method Statement and also to the pre-development tree survey. It is clear from the arboricultural reports that there are no outstanding arboricultural issues.

8.2 Two duplicate copies of the report issued by Barrell and Company Arboricultural Advisors are enclosed with the statement of case. A duplicate copy of the report is also attached herewith in order that a duplicate copy may be forwarded on to Broadland District Council.

## 9 Planning Obligation

9.1 It should be noted that the appellants have clearly acknowledged the need to provide planning gain pursuant to the terms of Circular 05/05 on the provision of planning gain for local planning authorities pursuant to the powers set out in Section 106 of the Town and Country Planning Act 1990. It should be noted that the terms of a draft unilateral planning obligation were prepared and forwarded to the local planning authority for comment. However, the Broadland District Council adopted a negative attitude to the approach and it was therefore found that it was impossible to obtain any constructive points from the local planning authority. Accordingly, the appellants decided that it was incumbent upon them to now authorise execution of an engrossment of the unilateral planning obligation. Accordingly, the engrossed final version of the unilateral planning obligation which is conditional upon the grant of planning permission has been executed by the appellants and deposited as

part of the appeal papers in support of the current appeal. It is noted that it is now virtually impossible to secure any form of bilateral agreement with the local planning authority and the Inspector is urged to consider the planning obligation on the basis that it remains solely a unilateral planning obligation.

9.2 The terms of the proposed unilateral planning obligation are set out in Document No. 5 to this statement of case. It will be noted that the unilateral planning obligation is in the standard form of planning obligation required for the purposes of providing the necessary planning gain in this case. It should be noted that the planning obligation *inter alia*, provides for a routing agreement in order to deal with the highway observations and also provides a mechanism for providing some available funding to assist in the final version of the traffic regulation order should such an Order eventually be issued.

9.3 It is recommended that the form of planning obligation annexed hereto should be duly approved and that the Planning Inspectorate be invited to accept the executed engrossed planning obligation already deposited at the offices of the Planning Inspectorate in Bristol with the original appeal papers.

9.4 So far as title to the property is concerned it should be noted that the sole owners of the property are the appellants Mr and Mrs Jermy and they have full power to execute a binding unilateral planning obligation. It should be noted that the land in question is not owned by any other party and no other party has any interest in the land. Furthermore, the property is not in mortgage to any other banks or building societies.

10. List of Exhibits and Documents to be Referred To

List of Documents to be Referred to in the Planning Appeal and Copies of which are Attached Hereto

1. A set of photographs relating to the appeal site.
2. A copy of the proposed residential layout plan as prepared by Peter Codling Architects
3. A copy of the cross sectional landscape drawing
4. A copy of the draft unilateral planning obligation.
5. A copy of the report issued by the Planning Officer at Broadland District Council recommending that the Council support the proposal set out in the planning application which is now the subject of the appeal.
6. The statement of fact issued by Frank Jermy
7. The short statement issued by Barrell and Company Associates on arboricultural issues
8. The short summary highway engineers report issued by Mr Paul Mew

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**IN THE MATTER OF LAND LOCATED AT STATION NEW ROAD  
BURNDALL IN THE COUNTY OF NORFOLK**

**AND IN THE MATTER OF AN APPEAL AGAINST THE FAILURE OF  
THE BROADLAND DISTRICT COUNCIL TO DETERMINE AN  
OUTLINE PLANNING APPLICATION FOR THE PROPOSED  
ERECTION OF FOUR RESIDENTIAL DWELLINGS THEREON  
TOGETHER WITH AN ACCESS DRIVE**

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**STATEMENT OF CASE  
ISSUED UNDER THE PLANNING APPEALS PROCEDURES  
VOLUME II – APPENDICES AND EXHIBITS REFERRED TO  
IN THE STATEMENT OF CASE**

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**ON BEHALF OF  
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**APPEAL REFERENCE APP/K2610/A/07/2040658/NWF  
BROADLAND DISTRICT COUNCIL PLANNING REFERENCE  
2007/0015**

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