DESIGN AND ACCESS STATEMENT
PARAGRAPH 79 HOUSE

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Proposed Earth Sheltered 'off grid' Dwelling on land adjacent to Homeland,
Eaugate Road,
Whaplode Drove, PE12 0SP

Client : Mr S. Jeffs **Date October 2019** **Project No JDA/2018/195**

1.0 Introduction :

1.1.1 This statement provides an assessment of the proposals by John Dickie Associates for the construction of an earth sheltered 'off grid' dwelling on land adjacent to Homeland, Eaugate Road, Whaplode Drove, PE12 0SP

In submitting this statement, the aim is to briefly explain the planning and design principles which have been used to formulate the Planning Application.

- **An animation of the proposed development can be viewed on YouTube - https://www.youtube.com/watch?v=sMipmd_C7xQ**

1.0 Introduction :

1.1.1 This statement accompanies a Full Planning Application prepared by JDA in support of the above planning application for the erection of the erection of a dwellinghouse with associated soft/hard landscaping

In submitting this statement, the aim is to briefly explain the planning and design principles which have been used to formulate the Planning Application.
The Town & Country Planning (Development Management Procedure) Order 2015, requires certain types of application for planning permission to be accompanied by a Design and Access Statement.
This document takes due account of :

- Manual For Streets: DfT. March 2007
- Lincolnshire Design Guide for Residential Areas
- Site Allocations and Policies DPD.
- The South Holland Local Plan
- The NPPF

1.2 The design and access statement is sub-divided into the following:

- Use
- Amount of Development
- Scale
- Layout
- Landscaping
- Appearance
- Access

1.3 The legislative requirements are set out in the Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2006 and the Planning (Applications for Planning Permission, Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2006. The Council are prohibited from entertaining an application unless it is accompanied by a Design and Access Statement, where required, and the above legislative measures indicate what should be contained in such statements.

1.4 This Design and Access Statement will help to ensure that development proposals are based on a thoughtful design process and a sustainable approach to access. The Statement is intended to improve the quality of proposals: in preparing the design and access statement, we have considered and subsequently explained the merit of the design and how it relates to the existing setting.

2.0 Planning Policy Backdrop

2.1 National Planning Policy Framework

2.1.2 The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system only to the extent that it is relevant, proportionate and necessary to do so. It provides a framework within which local people and their accountable councils can produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities.

2.1.3 The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans, and is a material consideration in planning decisions.

2.1.4 It was adopted on the 27th March 2012 (updated in 2018) and is accompanied by the Technical Guide to the NPPF which provides additional guidance to local planning authorities to ensure the effective implementation of the planning policy set out in the National Planning Policy Framework on development in areas at risk of flooding and in relation to mineral extraction.

3.0 Regional Planning Policy
Not applicable.

4.0 Local Planning Policies

2017 Update on the SHDC Adopted Policies and their Five Year Supply of Deliverable Housing Land :
On 5th July 2011 the South East Lincolnshire Joint Strategic Planning Committee Order 2011 came into force (2011 No.1455). This Order establishes a Joint Strategic Planning Committee (Joint Committee) for the areas of the districts of Boston and South Holland (known collectively as South East Lincolnshire). The constituent authorities are Lincolnshire County Council, Boston Borough Council and South Holland District Council.

The Development Plan
South Holland District Local Plan, July 2006
The South Holland Local Plan 2006 was formally adopted on 18 July 2006. Following a direction from the Government Office for the East Midlands under paragraph 1(3) of Schedule 18 to the Planning and Compulsory Purchase Act 2004, as of 18 July 2009 only certain Local Plan policies have been extended and continue to form part of the development plan. In the context of those saved policies referred to below, it is considered that the Local Plan was adopted in general accordance with the Planning and Compulsory Purchase Act 2004 (albeit under the transitional arrangements). Those policies referred to below are considered to accord with the thrust of guidance set out in the National Planning Policy Framework, and in the context of paragraph 215 of the NPPF should therefore continue to be given substantial weight in the decision making process.
Policy SG1 - General Sustainable Development
Policy SG2 - Distribution of Development
Policy SG3 - Settlement Hierarchy
Policy SG4 - Development in the Countryside
Policy SG11 - Sustainable Urban Drainage Systems (SUDS)
Policy SG14 - Design and Layout of New Development
Policy SG15 - New Development: Facilities For Road Users, Pedestrians And Cyclists Policy SG16 - Parking Standards in New Development
Policy SG17 - Protection of Residential Amenity
Policy SG18 - Landscaping of New Development
Policy HS6 - New Housing in the Group Centres (Non-Allocated Sites)
Policy HS7 - New Housing in Open Countryside including Other Rural Settlements
If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) to the Town and Country Planning Act as amended by the 2004 Act states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

National Guidance
National Planning Policy Framework (NPPF), July 2018

Section 2 - Achieving sustainable development
Section 5 - Delivery a sufficient supply of homes
Section 8 – Promoting healthy and safe communities
Section 11 – Making effective use of land
Section 12 – Achieving well-designed places
Section 15 - Conserving and enhancing the natural environment
Planning Practice Guidance (PPG), 2014

MATERIAL CONSIDERATIONS

The key material issues for considerations in this application are: - Policy;
- Flood risk and drainage;
- Highway safety;
- The appearance and character of the development and likely impact upon residential amenity of nearby residents.

Policy

The site is located outside of the defined settlement limits of Whaplode Drove as outlined in the South Holland Local Plan, 2006. In this instance, the relevant policy context is Policy HS7 - New Housing in Open Countryside including Other Rural Settlements. HS7 states that new housing development will only be permitted where:
1) it is proven to be essential to meet the needs of agricultural, forestry or other workers and complies with Policy HS12; or
2) the proposal is for small scale, rural exception affordable housing that complies with Policy HS9.

It is felt that the pattern and density of the proposal is well related to the current development along Eugate Road . The development proposal, is not considered to result in an unacceptable impact upon the landscape character of an area, either individually or cumulatively . We do not consider the site to be 'isolated' - refer to Appendix 2.

At the heart of the National Policy Framework (NPPF), is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan-making and decision-taking. Paragraph 7 of the NPPF states that *"The purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs".*

Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites". In that circumstance, the NPPF is quite clear that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies outlined in the NPPF as a whole; or specific policies in the NPPF indicate that development should be restricted.

The Council cannot currently demonstrate a 5-year supply of deliverable sites as per the provisions of NPPF. In the context of the objectively assessed need identified in the Council's Strategic Housing Market Area Assessment (SHMA), and including a 20% buffer by virtue of a persistent under delivery of housing, the Council can only currently demonstrate a 3.3 year supply of deliverable sites (as of 31/12/16). As per the provisions of the NPPF, the Council's Local Plan polices relevant to the supply of housing are considered out-of-date and the presumption in favour of sustainable development applies.

The site is within relatively close proximity to Whaplode Drove and we would contend therefore that there is not considered to be a policy objection to the development in principle and on the matter of sustainability when assessed against Policy SG1 of the Local Plan 2006. Much of the site at the moment requires extensive management and maintenance. By reusing part of it for an alternative but sustainable use and preserving/conserving the remainder as a natural habitat as illustrated by the proposal, it will encourage the reuse of redundant land together with creating an opportunity to improve the quality and function of the adjacent natural asset. As such, as per the provisions of the NPPF, we strongly suggest that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies outlined in the NPPF as a whole; or specific policies in the NPPF indicate that development should be restricted. The principle of residential development in policy terms is, in our view, acceptable. The new dwelling proposed is not considered to be excessive or of a nature that would cause significant detrimental harm to the amenity of the area. We consider that residential development in this location would significantly

and demonstrably outweigh any dis-benefits of housing development, in this particular location, as per the provisions of the NPPF.

5.00 Paragraph 79 (previously Paragraph 55) Compliance

'Paragraph 79' or 'Para 79' is short hand for the special circumstance set out in section 'e' of paragraph 79 of the 2018 NPPF that allows new isolated homes to be built in the countryside, subject to certain requirements.

Contrary to the general policies of restraint for building new dwellings in the countryside, the 2018 National Planning Policy Framework allows new dwellings to be built in the countryside where they are of exceptional quality of design OR 'innovative'.

The policy is a response to the reality that, despite the drive to improve the design quality of new housing generally, new housing continues to be very ordinary, homogenous and with poorly considered environmental considerations.

The policy started in 1997 when the then Environment Secretary, John Gummer, introduced into planning policy - *Planning Policy Guidance 7: Countryside* - the opportunity to secure permission for new country houses to continue the centuries-old tradition of building stately homes in the English countryside. The roots of Para 55 (now Paragraph 79) are clearly visible from the origins of what became known as "*Gummers Law*".

In 2004, the Labour Government initially sought to remove the policy due to it seeming to unduly favour the wealthy. However, the policy was retained, albeit in a revised form, in the newly published *Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7).*

Contrary to the normal policies of restraint for new residential development in the countryside, PPS7 contained a new provision (at paragraphs 10 and 11) that enabled new dwellings to be built in the countryside where they were of outstanding quality and design. Those dwellings proposed under paragraphs 10 and 11 of PPS7 are commonly known as "PPS7 houses". The guidance stated that isolated new houses in the countryside would require special justification for planning permission to be granted, whilst at paragraph 11, it went onto state the following: -

Very occasionally, the exceptional quality and innovative nature of the design of a proposed, isolated new house may provide this special justification for granting planning permission. Such a design should be truly outstanding and ground-breaking, for example, in its use of materials, methods of construction or its contribution to protecting and enhancing the environment, so helping to raise standards of design more generally in rural areas. The value of such a building will be found in its reflection of the highest standards in contemporary architecture, the significant enhancement of its immediate setting and its sensitivity to the defining characteristics of the local area.

On 27th March 2012, the Government issued new national planning guidance entitled the *National Planning Policy Framework (NPPF)* and this effectively replaced PPS7.

- Importantly, the provision that allowed for the erection of houses of exceptional quality and innovative nature of design in the countryside was retained in the new national planning policy guidance.

At paragraph 55 of the NPPF, the guidance advised local planning authorities that they should avoid new isolated homes in the countryside unless there are 'special circumstances'. One such special circumstance (at bullet point 4) is the exceptional quality or innovative nature of the design of the dwelling: -

It is clear from the wording of the paragraph 55 that some of the more challenging terms in paragraph 11 of PPS7 were not carried forward into the NPPF. For example, terms such as '*very occasionally planning permission will be granted*…' and '*such a design should be ground-breaking*' no longer appear in the policy wording. In addition, it is significant to note that the design of dwellings can now *either* be truly outstanding *or* innovative, but they do **not** have to be both.

Whilst it is clear that the challenges presented by the requirements of paragraph 55 (bullet point 4) of the NPPF properly set a high bar for proposals, the removal from the policy wording of some of these more difficult terms was welcomed - particularly the terms '*very occasionally*', which inferred few and far between would be allowed, and '*ground-breaking*' which had always proven virtually impossible to demonstrate in practice.

On 24th July 2018, the Government published its revised National Planning Policy Framework known as the 'NPPF 2018'. The policy provision for new houses of exceptional quality of design in the countryside is now contained within paragraph 79 of the newly updated national planning policy guidance. The new guidance reads as follows:

The 2018 NPPF - Rural Housing

Paragraph 78. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.

Paragraph 79. Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;

b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;

c) the development would re-use redundant or disused buildings and enhance its immediate setting;

d) the development would involve the subdivision of an existing residential dwelling; or

e) the design is of exceptional quality, in that it:

- is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and

- would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

Whilst an isolated new house in the countryside may exceptionally be justified if it is clearly of the highest quality (or 'innovative') is truly outstanding in terms of its architecture and landscape design, and would significantly enhance its immediate setting and wider surroundings, we do not consider the siting to be 'isolated' - refer to Appendix Two Case Law.

That said, we are proposing a unique, truly outstanding AND innovative earth sheltered dwelling thus, in any event, conforming with the intent of Paragraph 79. We also contend that the design takes due and proper account of the defining characteristics of the local area, including local or regional building traditions and materials.

6.0 Conclusion on Policy ;

Whilst the development does not wholly comply with local plan policy, the lack of a 5 year housing land supply means that the guidance within the NPPF takes precedence and the development is considered to be sustainable in nature and to comply with NPPF guidance and will help deliver much needed housing. The innovative design makes - in our view - fully compliant with Paragraph 79 of the 2018 NPPF and can be supported.

6.1 Recent Consent

H20-0882-17 - Land adjacent and rear: Lift & Shift Ltd Broadgate Road Sutton St James
This Paragraph 79 house was approved (with Officer's recommendation) on the 6th December 2017. There are considerable similarities between this consented scheme and this proposal.
In the Report to Committee the following points were articulated (our commentary in **red**) ;

7.1 It is not considered that the proposed development would cause significant and demonstrable harm to the site. **We would suggest that our development proposals will cause less than substantial harm to the site and its setting - given that the proposal is for a single storey earth sheltered dwelling, it is self evident that (in visual impact terms) the development will have significantly less impact that the Sutton St James structure.**

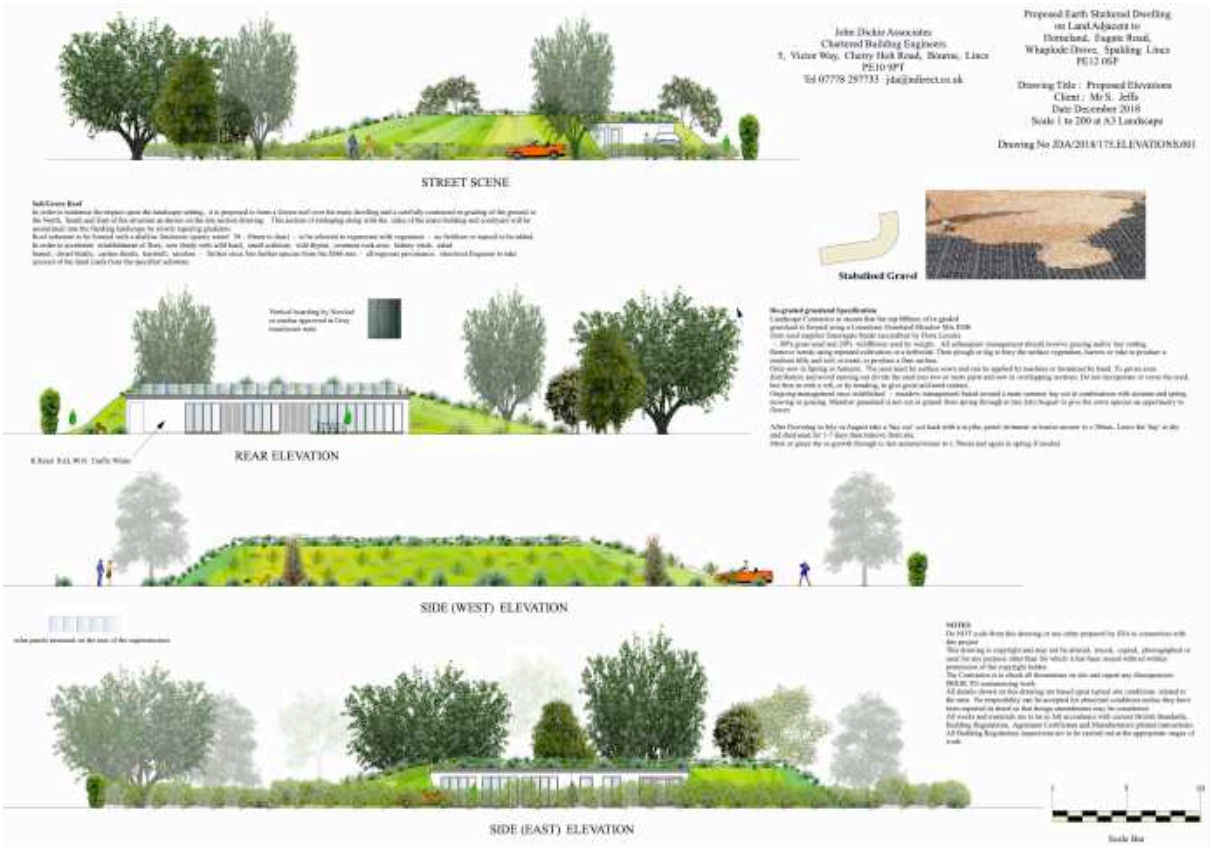
7.13 The dwelling would allow the applicant to live adjacent to their business which will provide increased security to the site. The proposed change of use of land to the rear of the site will the allow this successful local business to grow and support the local economy. The proposal will also create temporary jobs during the construction period and use locally source materials. A dwelling in this location will also help contribute to the local economy of Sutton St James by
supporting the shops, post offices, pub and butchers. The proposal is considered to be in accordance with Local Plan Policy EC3. **My client is proposing a rural 'live-work' property from where he will run his business therefore we would contend that the economic benefits arising from the Sutton St James project will also apply to my clients proposal.**

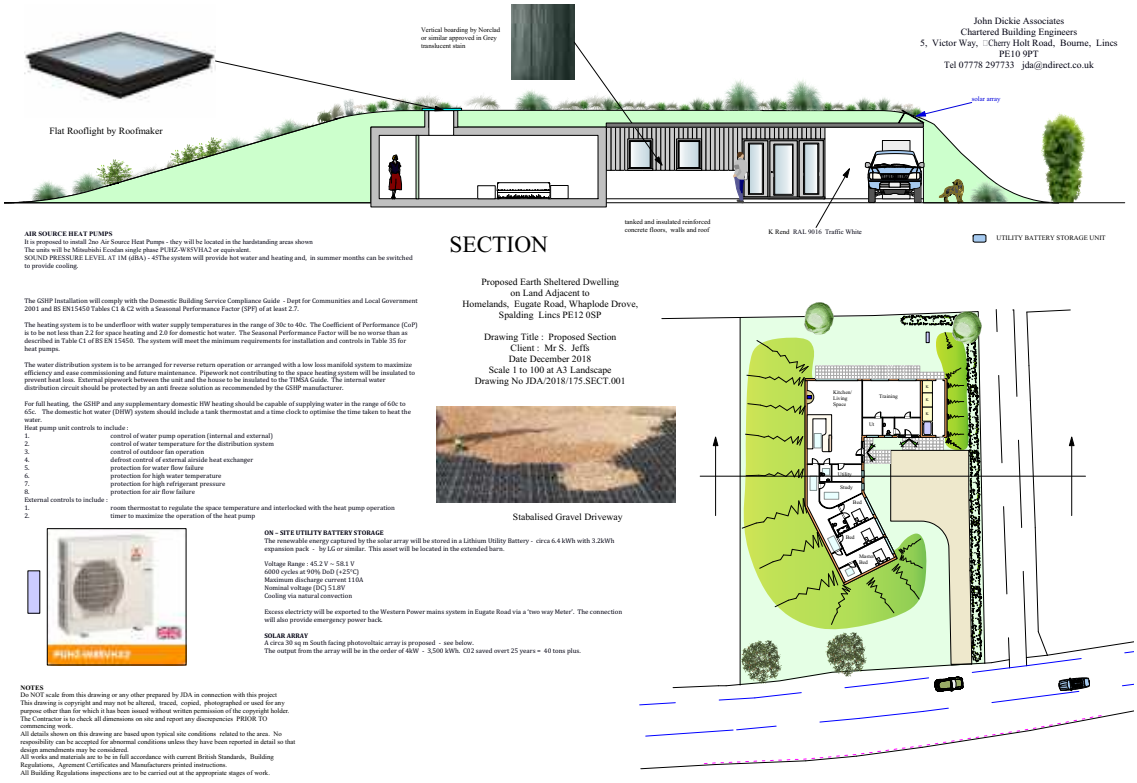
7.15 The proposal will allow the applicants to live and work on the same site, which should help their business to grow. The dwelling would be an exemplar of energy efficient living and would help to bring forward the issue of the potential of low carbon housing to the attention of the district to address current and future environmental concerns. Regarding social concerns this application accords with advice given in paragraphs 61, 63, 93, 95 and 97 of the NPPF. Again, we would strongly suggest that the 'social' benefits match that of the Sutton St James development

7.27 The proposed dwelling reuses brownfield and recycles shipping containers, whilst utilising Passivhaus design and various energy efficient elements to minimise environmental impact. It is acknowledged that the proposed design is divisive and may to some present a discordant, jarring building at odds with the fenland landscape when compared to vernacular rural dwellings in the vicinity. However, this is dictated by the design ethos to achieve high levels of energy
efficiency and sustainability, raising the general standard of design and construction within the district whilst not cause significant or demonstrable harm. **We would contend that our visually discreet single storey earth sheltered design solution will result in a modest development that could not be considered as either 'discordant' or 'jarring'.**

7.28 The development will introduce an exemplar, innovative dwelling within a rural location. Its individual and energy efficient design will provide for a unique dwelling within the District which outweighs any concerns regarding the location of the proposal. As such this proposal is considered to be acceptable and complies with the aims of Paragraph 55 of the NPPF. **Our design is both exemplar and innovative and will also create a unique dwelling in the district.**

5.0 The Design Solution as Submitted





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AIR SOURCE HEAT PUMPS
It is proposed to install 2no Air Source Heat Pumps - they will be located in the hardstanding areas shown
The units will be Mitsubishi Ecodan single phase PUHZ-W85VHA2 or equivalent.
SOUND PRESSURE LEVEL AT 1M (dBA) - 45The system will provide hot water and heating and, in summer months can be switched to provide cooling.

The GSHP Installation will comply with the Domestic Building Service Compliance Guide - Dept for Communities and Local Government 2001 and BS EN15450 Tables C1 & C2 with a Seasonal Performance Factor (SPF) of at least 2.7.

The heating system is to be underfloor with water supply temperatures in the range of 30c to 40c. The Coefficient of Performance (CoP) is to be not less than 2.2 for space heating and 2.0 for domestic hot water. The Seasonal Performance Factor will be no worse than as described in Table C1 of BS EN 15450. The system will meet the minimum requirements for installation and controls in Table 35 for heat pumps.

The water distribution system is to be arranged for reverse return operation or arranged with a low loss manifold system to maximize efficiency and ease commissioning and future maintenance. Pipework not contributing to the space heating system will be insulated to prevent heat loss. External pipework between the unit and the house to be insulated to the TIMSA Guide. The internal water distribution circuit should be protected by an anti freeze solution as recommended by the GSHP manufacturer.

For full heating, the GSHP and any supplementary domestic HW heating should be capable of supplying water in the range of 60c to 65c. The domestic hot water (DHW) system should include a tank thermostat and a time clock to optimise the time taken to heat the water.
Heat pump unit controls to include :
1. control of water pump operation (internal and external)
2. control of water temperature for the distribution system
3. control of outdoor fan operation
4. defrost control of external airside heat exchanger
5. protection for water flow failure
6. protection for high water temperature
7. protection for high refrigerant pressure
8. protection for air flow failure

External controls to include :
1. room thermostat to regulate the space temperature and interlocked with the heat pump operation
2. timer to maximize the operation of the heat pump

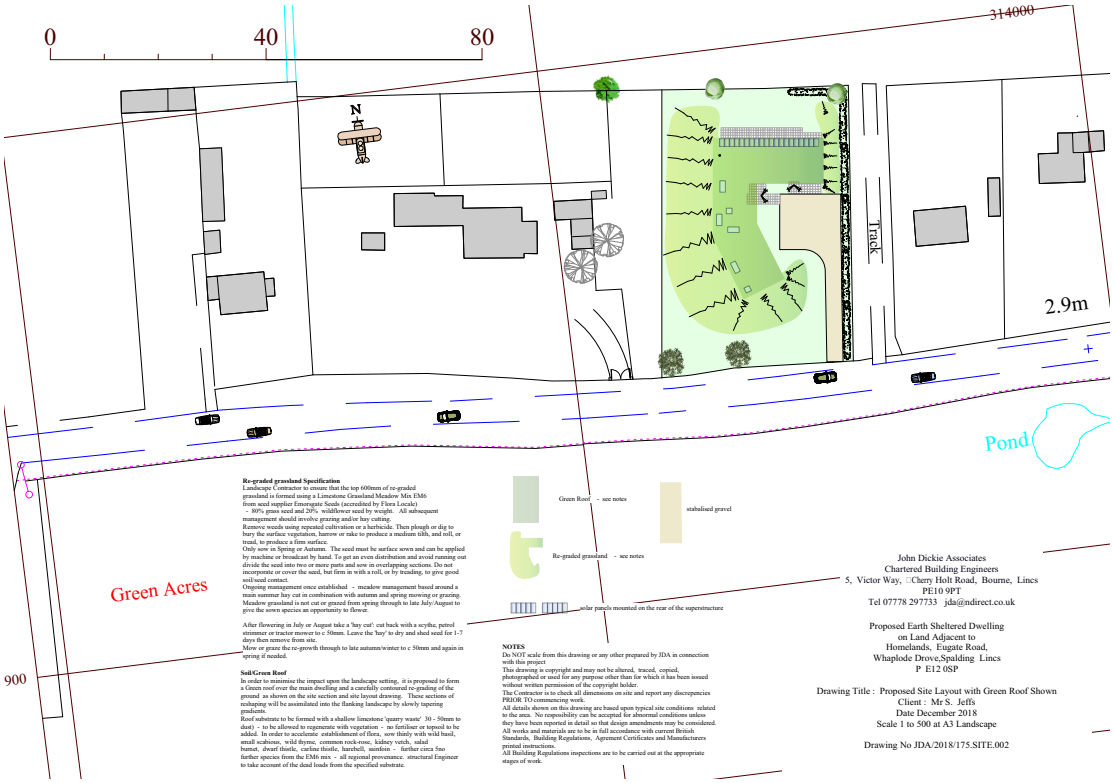
ON – SITE UTILITY BATTERY STORAGE
The renewable energy captured by the solar array will be stored in a Lithium Utility Battery - circa 6.4 kWh with 3.2kWh expansion pack - by LG or similar. This asset will be located in the extended barn.

Voltage Range 45.2 V ~ 58.1 V
6000 cycles at 90% DoD (+25°C)
Maximum discharge current 110A
Nominal voltage (DC) 51.8V
Cooling via natural convection

Excess electricity will be exported to the Western Power mains system in Eugate Road via a 'two way Meter'. The connection will also provide emergency power back.

SOLAR ARRAY
A circa 30 sq m South facing photovoltaic array is proposed - see below.
The output from the array will be in the order of 4kW - 3,500 kWh. C02 saved over 25 years = 40 tons plus.

NOTES
Do NOT scale from this drawing or any other prepared by JDA in connection with this project
This drawing is copyright and may not be altered, traced, copied, photographed or used for any purpose other than for which it has been issued without written permission of the copyright holder.
The Contractor is to check all dimensions on site and report any discrepencies PRIOR TO commencing work.
All details shown on this drawing are based upon typical site conditions related to the area. No responsibility can be accepted for abnormal conditions unless they have been reported in detail so that design amendments may be considered.
All works and materials are to be in full accordance with current British Standards, Building Regulations, Agrement Certificates and Manufacturers printed instructions.
All Building Regulations inspections are to be carried out at the appropriate stages of work.



Re-graded grassland Specification
Landscape Contractor to ensure that the top 600mm of re-graded grassland is formed using a Limestone Grassland Meadow Mix EM6 from seed supplier Emorsgate Seeds (accredited by Flora Locale)
- 80% grass seed and 20% wildflower seed by weight. All subsequent management should involve grazing and/or hay cutting.
Remove weeds using repeated cultivation or a herbicide. Then plough or dig to bury the surface vegetation, harrow or rake to produce a medium tilth, and roll, or tread, to produce a firm surface.
Only sow in Spring or Autumn. The seed must be surface sown and can be applied by machine or broadcast by hand. To get an even distribution and avoid running out divide the seed into two or more parts and sow in overlapping sections. Do not incorporate or cover the seed, but firm in with a roll, or by treading, to give good soil/seed contact.
Ongoing management once established - meadow management based around a main summer hay cut in combination with autumn and spring mowing or grazing. Meadow grassland is not cut or grazed from spring through to late July/August to give the sown species an opportunity to flower.

After flowering in July or August take a 'hay cut': cut back with a scythe, petrol strimmer or tractor mower to c 50mm. Leave the 'hay' to dry and shed seed for 1-7 days then remove from site.
Mow or graze the re-growth through to late autumn/winter to c 50mm and again in spring if needed.

Soil/Green Roof
In order to minimise the impact upon the landscape setting, it is proposed to form a Green roof over the main dwelling and a carefully contoured re-grading of the ground as shown on the site section and site layout drawing. These sections of reshaping will be assimilated into the flanking landscape by slowly tapering gradients.
Roof substrate to be formed with a shallow limestone 'quarry waste' 30 - 50mm to dust) - to be allowed to regenerate with vegetation - no fertiliser or topsoil to be added. In order to accelerate establishment of flora, sow thinly with wild basil, small scabious, wild thyme, common rock-rose, kidney vetch, salad burnet, dwarf thistle, carline thistle, harebell, sainfoin - further circa 5no further species from the EM6 mix - all regional provenance. structural Engineer to take account of the dead loads from the specified substrate.

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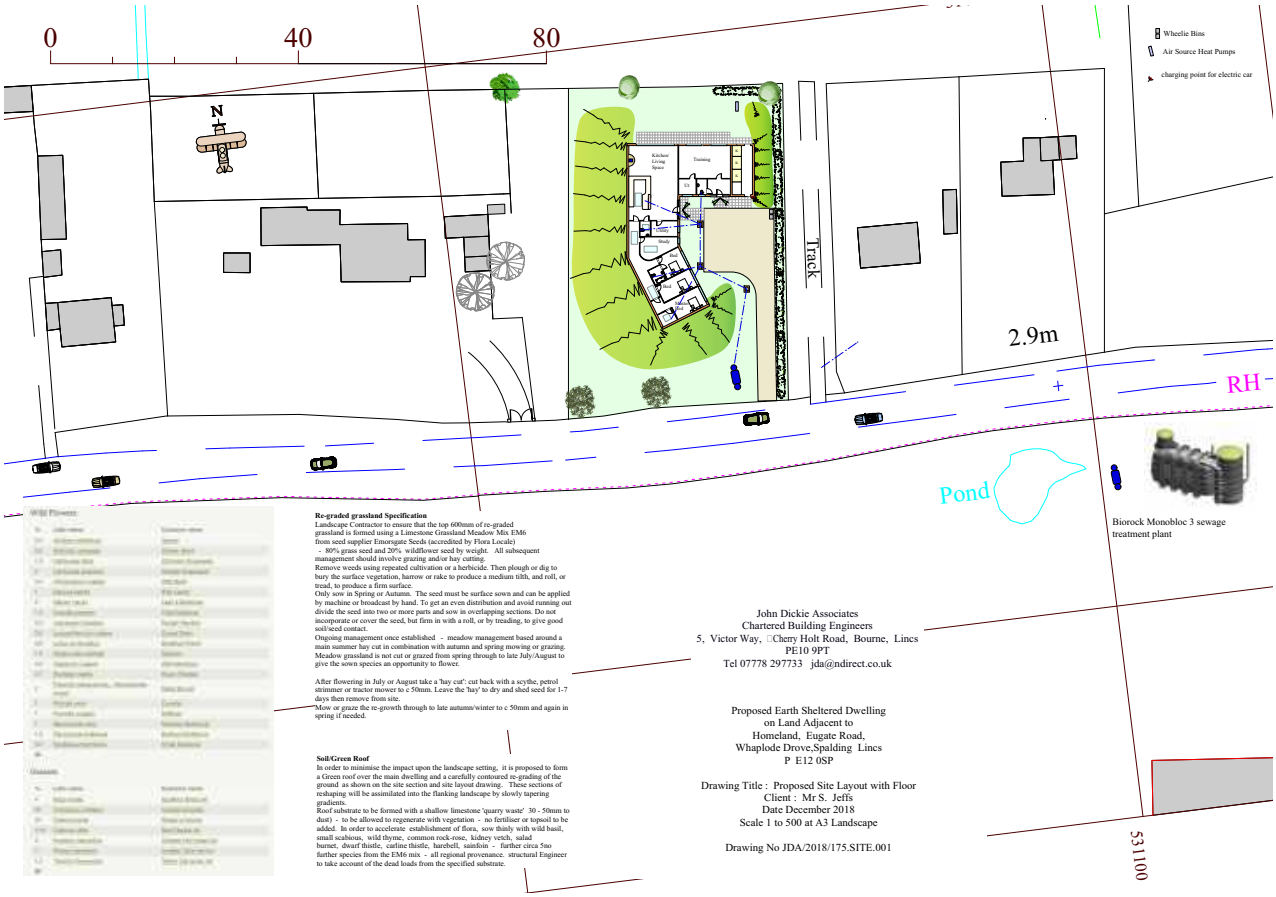
Proposed Earth Sheltered Dwelling
on Land Adjacent to
Homelands, Eugate Road,
Whaplode Drove,Spalding Lincs
P E12 0SP

Drawing Title : Proposed Site Layout with Green Roof Shown
Client : Mr S. Jeffs
Date December 2018
Scale 1 to 500 at A3 Landscape

Drawing No JDA/2018/175.SITE.002



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Proposed Earth Sheltered Dwelling
on Land Adjacent to
Homeland, Eugate Road,
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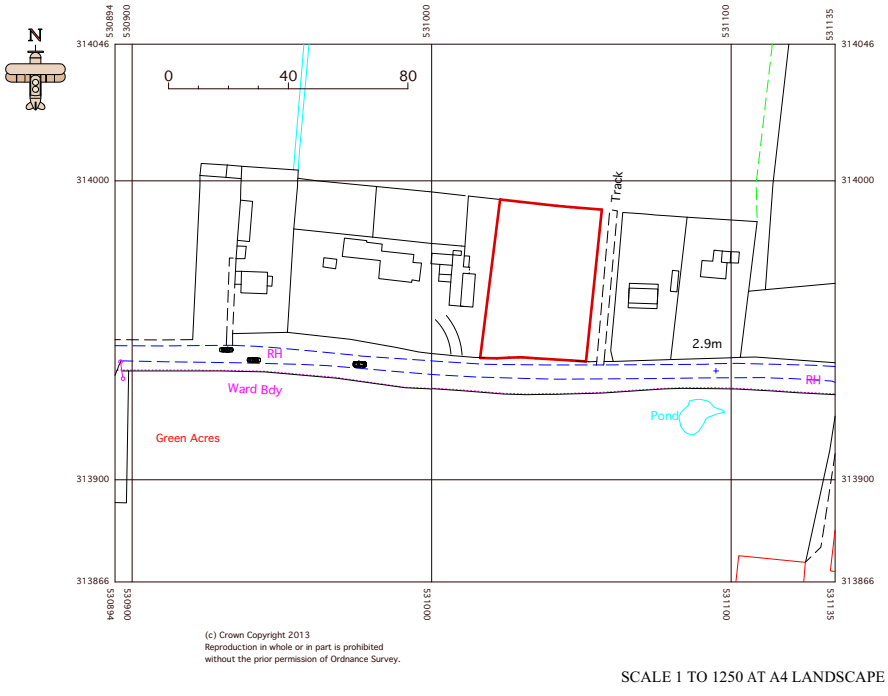
P E12 0SP

Drawing Title : Proposed Site Layout with Floor
Client : Mr S. Jeffs
Date December 2018
Scale 1 to 500 at A3 Landscape

Drawing No JDA/2018/175.SITE.001

Site Location Plan



SCALE 1 TO 1250 AT A4 LANDSCAPE

5.1.1 Use :
The proposal is for a property intended for residential occupation in connection with a business operation.

5.1.2 Amount of Development :
The application site area is 1813 sq m The gross footprint of the new buildings is 350 sq m.

5.1.3 Scale:

The proportion of 'developed site' reflects the form and scale of development in the locale in terms of the 'footprint to plot' ratio - the garden/amenity area to the proposed dwelling is commensurate with the scale of the property. Similarly, the height and massing of the built form is subservient in relation to the prevailing neighbouring properties on the otherwise built up frontage.

5.1.4 Layout :
The floor layout of the proposed dwelling and workspace has been carefully considered in order to avoid any harmful overlooking or impact of the adjacent properties. The positioning of the building within the confines of the plot has also been the subject of careful deliberation in order to minimise the visual impact and effects of 'massing' upon the adjacent properties and the surrounding landscape. The building is mostly 'earth sheltered' - refer to drawings - and, as a result, has a negible effect on the landscape setting.

5.1.5 Landscaping :
None of the trees on the site are protected. The remodeling of the terrain and the creation of a Green roof will result in a significant bio diversity enhancement.
The application site does not form part of what could be correctly described as a valued landscape given the lack of any statutory, national, or local landscape designations on and in the vicinity of the application site.

5.1.6 Appearance :
The adjacent two storey dwelling is a late 20th century property that has been extensively altered and extended over time. The design of the new earth sheltered dwelling has been carefully considered to sit comfortably alongside the existing property and of a scale commensurate with the plot size. The impact on the rural and landscape character of the area is of 'low significance'.

In terms of settlement character, villages in the Fen are characterised by their strong linear form, often having developed outwards from cross roads along approach roads. The historic linear form are often retained despite the modern estate developments which have occurred in many villages. The key aspects of settlement character are:
· The historic cores of villages being located on fen islands
· Settlements sit low in the landscape, often screened by thick hedgerows to paddocks, copses, groups of mature trees, and orchards
· Strong linear form and street pattern
· Narrow lanes with continuous street frontages create an intimate character
· More loose knit arrangements of buildings facing roads on some village approaches with open areas, and mature hedges interspersed
· Clusters of glasshouses, farms, and some modern detached houses are located along lines

The proposal would cause no material harm or adverse effect to the landscape setting or character of the application site.

5.1.7 Access :
Both vehicular and pedestrian access is via Eugate Road and the dwelling will be designed and built to accord fully with the requirements of Part M of the Building Regulations. There are no steep gradients either within the site area or at the road frontage. The block paved driveway/turning area (permeable) will enable vehicles to leave the site in forward gear.

5.1.8 Transport :
The Homeland location is well served by a regular bus service that enable rapid access to nearby Spalding (the largest nearest Town - nine miles). This **is** a sustainable location, is **not** located within a Flood Zone, accords with all the recent changes to the planning system announced by Government and will enable a well established rural business to endure and indeed expand.

6.0 Planning Balance

The site is not designated as a Site of Special Scientific Interest; Green Belt; Local Green Space; an Area of Outstanding Natural Beauty; within a National Park (or the Broads Authority); designated heritage assets; and locations at risk of flooding), it is therefore submitted that the "presumption in favour of sustainable development" can be applied in full – subject to any adverse impacts not significantly and demonstrably outweighing the benefits.

The planning system should recognise the intrinsic character of the countryside and support the transition to a low carbon future whilst encouraging the effective use of land by reusing land that has been previously developed provided it is not of high environmental value.
This is the balancing exercise that needs to be undertaken in the consideration of this application.

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7.0 Conformity Checklist Erection of an Earth Sheltered Dwelling and Workspace at Eugate Road, Whaplode Drove.

The proposed development has been assessed against the CABE checklist for the preparation of Design & Access Statements

- Process

Does the statement show that the applicant has assessed the site's full context, including physical social and economic characteristics and relevant planning policies?

The application documentation sets out an appraisal that has been use to evaluate and formulate the proposals. From the appraisal conclusions are drawn to inform and guide the design response. Criteria satisfied.

Has the applicant demonstrated how they have taken account of the results of any community involvement?

Not applicable in this case

Does the statement show that the scheme has emerged from a rigorous assessment- involvement-evaluation-design process rather than trying to justify retrospectively a predetermined solution?

The relevant planning context of the site has been carefully considered. Criteria satisfied.

- Design

Use

Would the application help to create an appropriate mix of uses in the area?

The proposed use would be compatible with the overall character of this locality. Criteria satisfied.

Would different uses work together well, or would they cause unacceptable annoyance?

The proposed use is compatible with surrounding development. As such no compatibility issues are raised.

Criteria satisfied.

- Amount

Is the density appropriate?

The scale of development proposed is compatible with the scale and density of surrounding development. It is proportionate to the site area. Criteria satisfied.

Could the neighbourhood's services support the amount of development planned?

Not relevant or applicable in this case.

- Layout

Do all spaces have a purpose?

Yes. The proposed use of space, and the arrangements of the proposed building and car parking/turning area illustrate an appropriate use of space. Criteria satisfied.

Will public spaces be practical, safe, overlooked and inclusive?

There is no public space as part of this scheme.

Will private spaces be adaptable, secure and inviting?

Yes. The development will be adaptable, secure and inviting

- Scale

Will the buildings sit comfortably with their surroundings?

Yes. The design solution will ensure a development that is compatible with its surroundings. Particular attention has been paid to the siting of the proposed building. Criteria satisfied.

Will they, and parts like doors and windows be of a comfortable scale for people?

The scale and form of development will complement adjoining developments. Criteria satisfied.

- Landscaping

Has landscaping been properly considered from the start?

Yes. A Landscaping scheme has been included in the proposal. Criteria satisfied.

Will it help to make the place look good and work well, and will it meet any specific aims for the site?

The earth sheltering and green roof will enhance the street scene. Criteria satisfied.

Appearance

How will the development visually relate to its surroundings?

In design terms, the development will complement adjoining development. This will ensure the building integrates satisfactorily with its surroundings. Criteria satisfied.

Will it look attractive?

Yes. This application represents an opportunity to provide a high quality of design. Design, scale and building form are the most critical elements. Criteria satisfied.

- Access

Will the space be safe and easy for everyone to move around?

Yes. It provides as safe an easy environment for users. Criteria satisfied.

Will it make the most of the surrounding movement network?

The site relates well to existing movement networks. Criteria satisfied.

Has the applicant clearly described their policy approach and consultation, whether carried out or planned?

The development conforms to relevant National, Regional and Local policies. Criteria satisfied.

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Appendix One
Environment Agency Flood Mapping

Appendix Two - Case Law

Latest position on the term 'isolated' :
We make reference to recent Case Law as follows ;
Braintree District Council v Secretary of State for Communities and Local Government [2017].
in the recent case of Braintree District Council v Secretary of State for Communities and Local Government and others 2018, the Court of Appeal has decided that the application of the word

"isolated" within the meaning of paragraph 55 (now Paragraph 79) of the National Planning Policy Framework (NPPF) should be given its usual plain English meaning

- **i.e a site for residential development in a rural area should not be considered to be isolated, if there are other houses close by.**

The aim of Paragraph 55 (now Paragraph 79) of the NPPF is to seek to promote sustainable housing development in rural areas, and states that local planning authorities should *"avoid new isolated homes in the countryside unless there are very special circumstances..."* In this case, Braintree District council's view was that development outside a defined rural settlement should be treated as isolated, and consequently refused to grant a planning permission.

In the court of appeal judgement Lord Justice Lindblom stated:
"In my view, in its particular context in paragraph 55 of the NPPF, the word 'isolated' in the phrase 'isolated homes in the countryside' simply connotes a dwelling that is physically separate or remote from a settlement. Whether a proposed new dwelling is, or is not, 'isolated' in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand".

What constitutes a settlement for these purposes is also left undefined in the NPPF. The NPPF contains no definitions of a 'community', a 'settlement', or a 'village'. There is no specified minimum number of dwellings, or population. It is not said that a settlement or development boundary must have been fixed in an adopted or emerging local plan, or that only the land and buildings within that settlement or development boundary will constitute the settlement. In my view a settlement would not necessarily exclude a hamlet or a cluster of dwellings, without, for example, a shop or post office of its own, or a school or community hall or a public house nearby, or public transport within easy reach. Whether, in a particular case, a group of dwellings constitutes a settlement, or a 'village', for the purposes of the policy will again be a matter of fact and planning judgment for the decision-maker. In the second sentence of paragraph 55 the policy acknowledged that development in one village may 'support services' in another. It does not stipulate that, to be a 'village', a settlement must have any 'services' of its own, let alone 'services' of any specified kind."

As a result it was held that the Inspector did not misinterpret or misapply the policy in paragraph 55 (now Paragraph 79) of the NPPF and the High Court was correct to uphold the decision of the Inspector.

In his original Appeal decision, the Inspector had also justifiably focused on the economic benefits of the scheme in providing work for local builders and the likelihood that two new households would give their custom to local businesses.

Conclusions and comparisons :
Lindblom LJ made three important points. First, paragraph 55 (and now Paragraph 79) was and is expressed in general and unprescriptive terms. It does not dictate a particular outcome for an application for planning permission. It identifies broad principles and indicates a broad approach. LPAs are advised what "should" be done. The policy is not expressed as containing a "presumption", and the paragraph should not be read as creating one. Rather, it indicates to authorities, in very broad terms, how they ought to go about achieving the aim stated at the beginning of paragraph 55: "[to] promote sustainable development in rural areas". It does not set specific tests or criteria by which to judge the acceptability of particular proposals. Furthermore, it does not identify particular questions for a local planning authority to ask itself when determining an application for planning permission.

Second, the policy explicitly concerns the location of new housing development. The first sentence of paragraph 55 tells authorities where housing should be "located". The location is "where it will enhance or maintain the vitality of rural communities". The concept of the "vitality" of such a community is wide, and undefined. The example given in the second sentence of paragraph 55 – "development in one

village" that "may support services in a village nearby" – does not limit the notion of "vitality" to a consideration of "services" alone. But it does show that the policy sees a possible benefit of developing housing in a rural settlement with no, or relatively few, services of its own. The third sentence of the paragraph enjoins authorities to avoid "new isolated homes in the countryside". This is a distinction between places.

The third point is that the adjective "isolated", which was the focus of argument before the Court, is itself generally used to describe a location. It is not an unfamiliar word. It is commonly used in everyday English. It carries the ordinary sense of something that is "… [placed] or standing apart or alone; detached or separate from other things or persons; unconnected with anything else; solitary" (see Oxford English Dictionary, second edition). In Lindblom LJ's view, in its particular context in paragraph 55 of the NPPF, the word "isolated" in the phrase "isolated homes in the countryside" simply connotes a dwelling that is physically separate or remote from a settlement. Whether a proposed new dwelling is, or is not, "isolated" in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand.

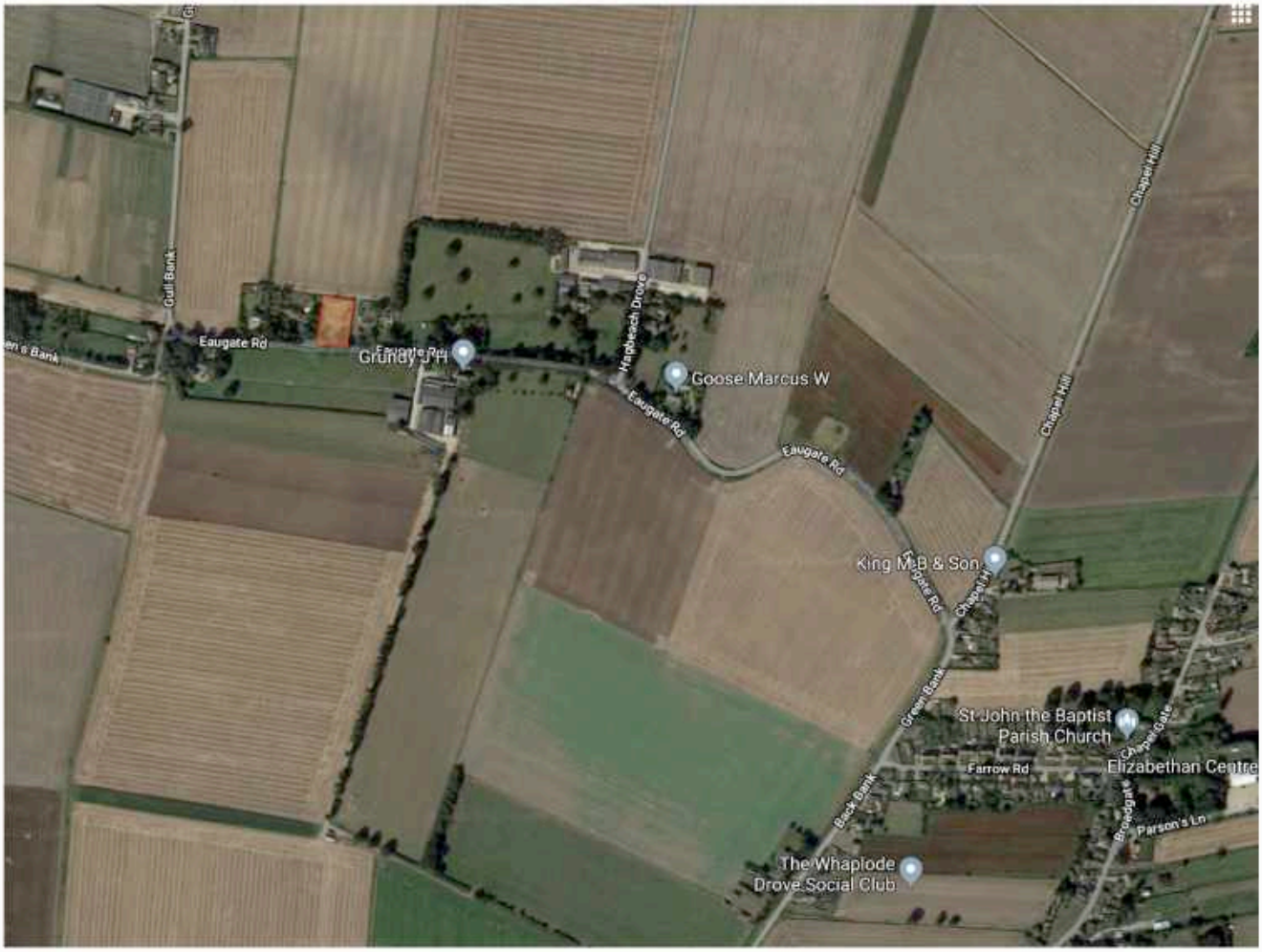
- **Planning policies, whether in the development plan or in the NPPF, ought never to be over-interpreted. As this case showed, over-interpretation of a policy can distort its true meaning – which is misinterpretation.**

It is clear from this judgment that the prescriptive and restrictive interpretation that some LPAs have sought to put on paragraph 55 of the NPPF is inappropriate, and that a more 'broad brush' approach is required when considering the application of this policy. Lindblom LJ's observations on the boundaries of a settlement are particularly interesting, and clearly envisage a more flexible approach in this regard than the rigid adherence to designated settlement boundaries that LPAs commonly seem to adopt.

This guidance from the Court of Appeal on the approach to be taken to the interpretation of paragraph 55 is extremely helpful, and it is to be hoped that it will put an end to sterile disputes about the acceptability of developments that are outside a designated development boundary.

As can be seen from the Google Map images below, there are self evident and significant similarities between the Eugate Road and Braintee sites. Both are 'infill plots' between existing dwellings in a housing 'cluster' located beyond the Council's Settlement Boundary. Also shown below are the Block and Location plans consented for the Land East Of Lower Green Road Blackmore End Wethersfield Essex.

COMPARISION BETWEEN THE EUGATE ROAD SITE AND THE 'BRAINTREE SITE' UPHELD ON APPEAL AND THE HIGH COURT



COMPARISION BETWEEN THE EUGATE ROAD SITE AND THE 'BRAINTREE SITE' UPHELD ON APPEAL AND THE HIGH COURT

Braintree Decision Notice

1 The site lies within an area of countryside beyond any defined settlement boundaries. Policy RLP2 of the Braintree District Local Plan Review states that new development will be confined to areas within Town Development Boundaries and Village Envelopes and outside of these areas countryside policies will apply. Policy CS5 of the Council's Core Strategy states that development outside town development boundaries, village envelopes and industrial development limits will be strictly controlled to uses appropriate to the countryside, in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside. Policy CS7 of the Core Strategy states that future development will be provided in accessible locations to reduce the need to travel.

Eugate Road Decision Notice - H23-0047-18

1 The proposal would contribute towards the local rural economy and would make a small contribution to the supply of housing required to meet the needs of present and future generations within the district. However, these benefits are outweighed by the harm that the proposal would cause in terms of other social and environmental factors such as the distance from local services and facilities and the development's effect upon the character and appearance of the countryside. The site is not considered to be a suitable site for housing with particular regards to the principles of sustainable development and the protection of the rural character of the countryside. It is therefore contrary to Policies SG1, SG2, SG4 and HS7 of the South Holland Local Plan and Paragraphs 7, 8, 14, 17, 49, 55 and 58 of the National Planning Policy Framework, 2012. Paragraphs 14, 17 and 49 indicate that new housing should be in a sustainable location and contribute towards protecting and enhancing the environment. Paragraph 58 indicates that new development should respond to local character. Paragraph 55 stresses that local planning authorities should avoid new homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside, or if the design of the property is truly outstanding or innovative. It has not been satisfactorily demonstrated that this is the case.

The village that the Braintree case related to had very limited facilities and amenities, comprising a village hall, public house and playing field. There was a village 2 miles away which had a post office, village store, public house, a nursery and pre-school. It was agreed that those occupying the proposed dwellings would rely heavily on the private car to access everyday services, community facilities and employment BUT this was consistent with national policy as sustainable transport opportunities are likely to be more limited in rural areas.

Whilst the Lindblom LJ (the Braintree Case) concluded that ultimately whether a dwelling is "isolated" is a matter for planning judgement, it confirmed that it is incorrect to read into paragraph 55 a meaning which it does not have, i.e. that in order not to be isolated, the site needed to be within a settlement or close to services and facilities. Given that paragraph 55 did not actually not apply, it follows that the proposed development did not need to be justified by "exceptional circumstances," such as the need for a rural worker's dwelling (the example given in the Council's reason for refusal), a rural worker's dwelling being one of the exceptions set out in paragraph 55 where an isolated dwelling in the countryside may be permitted.

The Decision Notice also infers that the previous proposal would have an "effect upon the character and appearance of the countryside". The revised proposal for a carefully considered earth sheltered property ensures that the development has a negligible effect upon the character and appearance of the countryside.

Appendix 3 - Precedent

It is a widely accepted principle that each application must be assessed on its own merits. The mere theoretical prospect of further development is not a justifiable basis for the refusal of planning permission either on its own or as part of the general planning balance. There is no evidence to suggest that allowing a single dwelling in an established cluster of houses in the countryside, where development is already controlled, would create a basis for other development to be granted planning permission.

Appendix 4 - Previously Developed Land

The application site formed part of the residential garden and curtilage of Homeland. It is related intimately to the host dwelling in both a physical and functional sense. It therefore constitutes land within the curtilage of a permanent structure, thus meeting the definition of previously developed land in the NPPF. Whilst the definition expressly excludes gardens in built-up areas, the appeal site is not within a settlement or development boundary even though there is some built development nearby to which the site is well-related. Consequently, the application site is not located within a built-up area so there is no reason why the site should be excluded from the definition of previously developed land.

Document End