

PART B - Representation

(You can comment on any part of the plan (paragraph, table, diagram, policy or map) but please complete a separate form for each representation you wish to make).

3. To which part of the Local Plan does this representation relate?

(Paragraph, table/diagram, policy, map etc)

Policy 6: The Economy

4. Do you consider the Local Plan is:

Legally compliant	Yes	No <input checked="" type="checkbox"/>
Sound	Yes	No <input checked="" type="checkbox"/>
Complies with the Duty to co-operate	Yes	No

(Please tick as appropriate)

5. Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible.

If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments

1	Introduction
1.1	These representations have been prepared by CODE Development Planners on behalf of Ben Burgess in response to the Greater Norwich Local Plan Regulation 19 consultation. (GNLP). The representations have been compiled following a review of the GNLP (Part 1: The Strategy and Part 2: The Sites) and supporting evidence base, with consideration as to whether the GNLP as currently drafted meets the four tests of soundness.
1.2	We are concerned that there is insufficient recognition of the need for large single occupier employment sites and these representations, therefore, set out our concerns on this aspect of the plan. Further concern arises from the statement that, " <i>The site is also subject to a planning application by Ben Burgess agricultural machinery (reference 2018/2631) and would be better dealt with through the development management process. On this basis GNLP0604R is not considered a reasonable alternative for employment-related development</i> " (Site Assessment: Non-Residential Villages Booklet, 2020, Pg.53 of the PDF document).
1.3	The main focus of this representations is to demonstrate that insufficient evidence has been produced and assessed relating to the specific needs of the agricultural machinery sector and the sectors which require sites suitable for large single users. These representations also demonstrate that through the application process considerable evidence has been produced by and on behalf of Ben Burgess to demonstrate that land west of Ipswich Road, Swainsthorpe is the only site that meets the requirements for the development of the new

headquarters facility. These representations also contend that in delegating the site as an issue for development management, the GNLP is considered unsound.

1.4 These representations are supported by and should be read in conjunction with the following documents:

- Assessment of Alternative Sites Part 1, January 2019
- Assessment of Alternative Sites Part 2, November 2018
- Addendum to Assessment of Alternative Sites, July 2020
- Ben Burgess Background and Context to Need for Relocation, July 2020
- Drawing 1515 Sheet 2 revision O: existing Ordnance Survey block plan with overlay of site topographical survey
- Drawing 1515 Sheet 3b revision E: proposed development block

1.5 The site is currently the subject of planning application 2018/2631 for the development of a new headquarters to include areas for the supply, maintenance, repair and hire of agricultural, horticultural, construction and grounds care machinery and equipment, offices, education hub, trade counter, sales and display areas, associated internal and external storage, and associated infrastructure (sui generis). The planning application was submitted to South Norfolk Council and validated on 23 October 2018. Due to the lack of available sites the proposals are on a non allocated site and thus on land designated as 'countryside' for the purposes of development management planning processes. The supporting suite of technical documents concerning flood risk and drainage, highways and access, habitat and landscape, and availability of utility connections and local services demonstrate that land west of Ipswich Road, Swainsthorpe (GNLP0604R) is suitable for employment use. Specifically, those representations demonstrate the need for a site for a new Ben Burgess headquarters and the ancillary components that such a relocation requires to ensure the operational efficiency and competitiveness of the business for the next generation.

1.6 Paragraph 35 of the National Planning Policies Framework states, "Local plans and spatial development strategies are examined to assess whether they have been prepared in accordance with legal and procedural requirements and whether they are sound. Plans are 'sound' if they are:

- a) **positively prepared** – providing a strategy which, as minimum, seeks to meet the area's objectively assessed needs;
- b) **justified** – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
- c) **effective** - deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
- d) **consistent with national policy** – enabling the delivery of sustainable development in accordance with the policies in this Framework." [NPPF]

1.7 There are elements of the approach and evidence base which are not considered to be effective, justified or consistent with national policy. These representations therefore identify the specific areas of the plan and evidence base fail the tests of soundness.

2 Site assessment document

2.1 The Site Assessment: Non-Residential Villages Booklet Clusters Non-residential Site Assessment document (January 2021) provides details of a seven-step process as to how proposed sites were assessed for allocation in the draft GNLP. Within this assessment, site GNLP0604R drops out at stage 4 (both within Parts 1 and 2 of the document (Part 2 is a summary of comments from the Reg 18C consultation)). The reason provided in the document states "*This site is not considered to be suitable for allocation as evidence suggests that currently committed land is more than sufficient in quantity and quality to meet the employment growth needs in Greater Norwich. There is therefore no need to allocate any additional large-scale employment sites in the new local plan. The site is also subject to a planning application by Ben Burgess agricultural machinery (reference 2018/2631) and would be better dealt with through the development management process. On this basis GNLP0604R is not considered a reasonable alternative for employment related development*" Ben Burgess contends that there is insufficient evidence to support this

decision whereby the evidence produced has little consideration for the specific needs of the agricultural machinery sector. The updated version of the Site Assessment Non-Residential Village Booklet does not provide any additional evidence to support the decision not to consider the site as a reasonable alternative for allocation of employment related development.

- 2.2 Ben Burgess agrees that a large quantity of employment allocations are proposed by the GNLP but contends that these are not of the right type or in the right locations to meet the operational needs of its business. The documents listed in paragraph 1.4 above and submitted as evidence in support of these representations demonstrate that the GNLP's evidence base is flawed. Paragraph 82 of the NPPF states, "*Planning policies and decisions should recognise and address the specific locational requirements of different sectors. This includes making provision for clusters or networks of knowledge and data-driven, creative or high technology industries; and for storage and distribution operations at a variety of scales and in suitably accessible locations.*" This is further underpinned by the National Planning Practice Guidance which states, "*When assessing what land and policy support may be needed for different employment uses, it will be important to understand whether there are specific requirements in the local market which affect the types of land or premises needed.*" It goes on to state, "*Strategic policy-making authorities will need to develop a clear understanding of such needs and how they might be addressed taking account of relevant evidence*" (paragraph 032 reference ID: 2a-032-2190722, revision date 22 07 2019).
- 2.3 As part of the ongoing application process a number of supporting and informative documents have been produced on behalf of Ben Burgess. As part of the assessment for alternative sites (part 2) document produced by Harvey & Co (November 2018) section 3 provides details of the specific site requirements. In addition to providing the headquarters function of the Ben Burgess business (central business services, the export and hire divisions) the existing site serves south and south east Norfolk and the proposed site needs to be located to serve the same area. The new site therefore has to be located within this area to provide easy accessibility to the customer base. However, ready access is also required to the A47, which provides access to the main trunk road network. This is significant for two reasons, firstly to provide key connectivity to other branches, enabling all parts of the business to operate in a coordinated and efficient manner and secondly whilst not being so close as to undermine the existence of each depot, and to provide accessibility principally to the ports of Hull and Liverpool for deliveries from USA and Germany and exports to other parts of the world. The preferred site at Swainsthorpe has been selected as it meets these location criteria.
- 2.4 The document titled "Ben Burgess Background and Context to Need for Relocation, July 2020" provides detailed evidence to support the site selection criteria for the new headquarters site.
- 2.5 Whilst some documents produced as part of the GNLP evidence base acknowledge the importance of the agriculture sector to the area, "*The agriculture, food and drink sector are also important, with 111,136 jobs and major brands based in the area*" (Pg 9, Norfolk and Suffolk Economic Strategy, 2017). The Norfolk and Suffolk Local Industrial Strategy provides further detail to the contribution of agriculture, not just to the region but the UK as a whole producing 12% of the UK's cereals, 16.6% of the UK's fruit and veg and home to 8,885 businesses generating exports to the value of £569 million (Pg 18).
- 2.6 A joint Employment, Retail and Town Centre Study (December 2017), prepared on behalf of Norfolk County Council, Norwich City Council, Broadland District Council and South Norfolk Council has been undertaken by GVA, with the purpose of identifying the future needs and opportunities for retail, office, industrial and warehousing floorspace across the three local authority areas. It is noted that this has been updated by the Greater Norwich Town Centres & Retail Study Update (December 2020) As part of this study, GVA produced the Greater Norwich Employment Land Assessment (GNELA) to provide the technical assessment of the future demand for and supply of employment land within the Greater Norwich area. It considers the scale and nature of future employment growth, the resultant requirements for new floorspace, how suitable the existing/identified sites are for meeting this need and any quantitative or qualitative need for additional land to be identified. Despite this evidence in

the Norfolk and Suffolk Economic Strategy (NSES) and Norfolk and Suffolk Local Industrial Strategy (LIS) pointing to the contribution to the region's economy, there is little assessment specific of the requirements specific to the agriculture sector and supporting industries.

2.7 Within the GNELA agriculture is assessed within the food tech processing sector of the economy; it states:

"5.27 In addition, Food, drink and agriculture are one of major employment sectors in the Greater Norwich, with most of the employment in the broad sector concentrated in the rural Broadland and South Norfolk.

5.29 The sector comprises of two distinct groups: large scale processing companies with a number of national brands having manufacturing activities in the area, and niche, local food and drink producers, who are experiencing fast growth in their businesses.

5.30 The Institute of Food Research (IFR) is based at Norwich Research Park. The IFR is the only publicly funded UK research institute that focuses on the underlying science of food and health to address the global challenges of food security, diet and health, healthy and ageing and food waste.

5.31 Further, the Unilever brand Colman's, a producer of mustards and sauces, and the Britvic brand Robinson's soft drinks are based at the Carrow Works site in Norwich.

5.32 It should be noted that the sector is defined quite narrowly and excludes those staff employed in bars and restaurants. Looking at the production end official statistics highlight about 1,200 employees over half (55%) of which are involved in food production."

2.8 Paragraph 5.32 highlights that over half of those employed in the sector are involved in the production of food. However, the GNELA does not identify the requirements of businesses such as Ben Burgess that support the agriculture industry; businesses which are pushing the UK industry to embrace world advances in technology that will make the sector and the regional economy stronger and highly skilled.

2.9 It is noted that an addendum to the Employment Land Assessment has been prepared by Avison Young (November 2020). This addendum is not a stand-alone piece of work and should be read in conjunction of the Greater Norwich Employment and Retail Baseline (December 2016) and the Greater Norwich: Employment Land Assessment (August 2017). Therefore, the conclusions in paragraphs 2.6 to 2.8 of this representation remain applicable. The conclusions above regarding the lack of any identification of requirements for businesses such as Ben Burgess that support the agriculture industry are not amended by the addendum assessment.

2.10 The report notes that over the past 5-10 years there have been significant changes happening within the planning context and the economic context. The objective of the addendum report is noted to be to seek out the meaning of those impacts and suggest the implications these may have for Greater Norwich.

2.11 Ben Burgess contends that the method used in the GNELA in assessing employment growth needs leading to the conclusion that GNLP0604 is not considered to be suitable for allocation as evidence suggests that currently committed land is more than sufficient in quantity and quality to meet the employment growth needs in Greater Norwich is insufficient to draw such a conclusion. Whilst it may be the case there is a surplus of employment land for typical warehouse, office and industrial uses the assessment does not take into account the specific requirements relating to the agricultural machinery sector. In doing so the plan as currently drafted is considered to fail the test of soundness as the plan lacks sufficient evidence for such a decision, nor does it reasonably take into account the reasonable alternatives.

2.12 Ben Burgess has undertaken considerable research into potential alternative sites, for a location of the new headquarters to satisfy operational requirements. In order to assist Ben Burgess, South Norfolk Council has proposed seven sites for consideration for the location

of the proposed headquarters. The assessment of alternative sites (part 2) document submitted in support of planning application (2018/2631) reviews each of these proposed alternative sites against the requirements and concludes:

“6.1 In seeking to satisfy its requirement to relocate its head office and principal branch, Ben Burgess has undertaken a long term search for suitable alternative sites. It has also objectively and positively reviewed a range of sites proposed by South Norfolk Council. In various respects, a number of the sites do accord with certain key aspects of the requirement. However, no site would deliver every component of the requirement of Ben Burgess.

6.2 This has not been a rushed or imprecise search for a suitable site. Ben Burgess has been very careful to appraise various opportunities where they have arisen and have exercised considerable patience in waiting for the optimum site to become available. Crucially, the land at Swainsthorpe would deliver the business with a freehold site:

- (i) Of appropriate size, prominence and accessibility.*
- (ii) At an affordable price that reflects the low density nature of the proposed development.*
- (iii) That is deliverable within an acceptable timescale.*
- (iv) Allowing further investment in skills, training and employment to be undertaken.*
- (v) All within a geographical location that meets the joint requirement of access to the established customer base and connectivity to the rest of the business.*
- (vi) And with the ability to develop a low density, highly landscaped head office complex of the quality and flexibility needed by a growing and successful Norfolk company.”*

3 Primacy of development plan

3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act sets the statutory basis through which planning decisions should be taken and requires applications to be *“determined in accordance with the development plan unless material considerations indicate otherwise”*. Therefore, it is for local plans to allocate sites in accordance with the test of soundness and legal requirements rather than leave such strategic decisions to the planning application process, By the very precept of legislation the planning application process has to be in accordance with the development plan. In other words, without a local plan allocation the burden to identify material considerations is on the applicant when legislation requires, that burden should be on the local planning authority under its responsibilities in preparing a legally compliant and sound plan.

3.2 In the context of legislation, Ben Burgess finds it a serious flaw in the legality and soundness of the plan in relation to the reasons given for the site’s categorisation as an unreasonable site is stated as, *“The site is also subject to a planning application by Ben Burgess agricultural machinery (reference 2018/2631) and would be better dealt with through the development management process.”* Paragraph 15 of the NPPF states that *“the planning system should be genuinely plan led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.”* In choosing to delegate the decision to development management, the plans drafted would fail to be consistent with national policy and therefore fail against the tests of soundness.

3.3 If the GNLP team does not consider the Swainsthorpe site to be appropriate and evidence to justify such a conclusion can be produced there still remains the issue that the GNLP has currently drafted does not allocate a site suitable for Ben Burgess’ and similar businesses requirements.

4 Conclusion

4.1 Ben Burgess contends that as currently drafted the GNLP would fail when considered against the legal requirements and the tests of soundness in accordance with paragraph 35

of the NPPF. Previous representations have been submitted demonstrating that the proposal for a new Ben Burgess headquarters on land west of Ipswich Road, Swainsthorpe is deliverable and would constitute sustainable economic development. In the absence of an allocation in respect of land west of Ipswich Road, Swainsthorpe the GNLP does not explain how, in accordance with paragraph 82 of the NPPF, how the locational requirements of the particular sector within which Ben Burgess operates has been address. Ben Burgess wishes to engage with officers of the GNLP team ahead of the regulation 19 stage of the GNLP to identify reasonable alternatives.

4.2 These representations contend that an examination of the GNLP (Part 1: The Strategy and Part 2: The Sites) and supporting evidence base demonstrate that the GNLP does not fulfil the necessary requirements. The evidence base fails to consider the specific requirements associated with the industry in order to justify the claim “*evidence suggests that currently committed land is more than sufficient in quantity and quality to meet the employment growth needs in Greater Norwich*”. The decision to designate to development management contradicts the very foundation of a policy led planning system.

4.3 On the basis of the above Ben Burgess contend that land west of Ipswich Road, Swainsthorpe should be allocated within the GNLP as an employment site failure to do so would render the plan unsound.

(Please continue on a separate sheet if necessary)

6. Please set out the modification(s) you consider necessary to make the Local Plan legally compliant and sound, in respect of any legal compliance or soundness matter you have identified at 5 above. (Please note that non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why each modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

Modifications required to the GNLP

Ben Burgess contends that in order for the GNLP team to remedy the failure of the Regulation 19 GNLP to satisfy the tests of soundness the following modification is required to the table within Policy 6: The Economy. The amendment would provide a site of sufficient scale and in the right locations to accommodate the expansion requirements of Ben Burgess enabling the business to relocate its headquarters and retain the associated business functions in the Greater Norwich area.

Strategic Employment area and their primary uses	Existing undeveloped land available (hectares, April 2018)	New allocations (hectares)	Total employment allocations (hectares)
Norwich city centre with a focus on expansion of office, digital and creative industries, retail and leisure provision	30.8 (all part of mixed-use sites)	0	30.8
The Norwich Airport area and in particular:	35	46.5	81.5
<ul style="list-style-type: none"> a new site on the northern edge of the airport accessed directly from the Broadland Northway of 46.5ha and focussed on aviation related activities; and a site of around 35ha at the A140/Broadland Northway junction and focussed on uses benefiting from an airport location 			
Browick Interchange, Wymondham (for general employment uses)	22	0	22
Longwater - consolidation of activity through intensification of employment uses and completion of the existing allocation	12	0	12
Rackheath (for general employment uses)	25.6	0	25.6
The complex of general business parks at Thorpe St Andrew (Broadland Business Park,	33.1	0	33.1

St Andrews Business Park and Broadland Gate);			
Norwich Research Park including the Norfolk and Norwich University Hospital and the University of East Anglia; providing for significant expansion of health, higher education and science park activity	32.7	6.9	39.6
Hethel including a technology park of around 20ha managed to focus on advanced engineering and the growth of technology capabilities	20	0.8	20.8
The Food Enterprise Park at Easton/Honingham supporting the agri-food sector	18.7	0	18.7
Ben Burgess, Swainsthorpe		11.5	11.5
Total	229.9	65.7	295.6

(Please continue on a separate sheet if necessary)

Please note: In your representation you should provide succinctly all the evidence and supporting information necessary to support your representation and your suggested modification(s). You should not assume that you will have a further opportunity to make submissions.

At this stage further submissions may only be made if invited by the Inspector, based on matters and issues he or she identifies for examination.

7. **If your representation is seeking a modification to the plan, do you consider it necessary to participate in examination hearing session(s)? (Tick box as appropriate)**

No , I do not wish to participate in hearing session(s)	<input checked="" type="checkbox"/>
Yes , I wish to participate in hearing session(s)	<input type="checkbox"/>

Please note that while this will provide an initial indication of your wish to participate in hearing session(s), you may be asked at a later point to confirm your request to participate.