

# Public Document Pack



COMMITTEE: **PLANNING COMMITTEE**

VENUE: **Hadleigh Town Hall, Market Place, Hadleigh**

DATE: **Wednesday, 6 December 2017  
9.30 am**

## PLEASE NOTE CHANGE OF VENUE

### Members

Sue Ayres	Kathryn Grandon
Simon Barrett	John Hinton
Peter Beer	Michael Holt
David Busby	Adrian Osborne
Luke Cresswell	Stephen Plumb
Derek Davis	Nick Ridley
Alan Ferguson	Ray Smith

The Council, members of the public and the press may record/film/photograph or broadcast this meeting when the public and the press are not lawfully excluded. Any member of the public who attends a meeting and objects to being filmed should advise the Committee Clerk.

## AGENDA

### PART 1

ITEM	BUSINESS	
		<u>Page(s)</u>
1	<u>SUBSTITUTES AND APOLOGIES</u>	
	Any Member attending as an approved substitute to report giving his/her name and the name of the Member being substituted.	
	To receive apologies for absence.	
2	<u>DECLARATION OF INTERESTS</u>	
	Members to declare any interests as appropriate in respect of items to be considered at this meeting.	
3	<u>TO RECEIVE NOTIFICATION OF PETITIONS IN ACCORDANCE WITH THE COUNCIL'S PETITION SCHEME</u>	

ITEM	BUSINESS	<u>Page(s)</u>
4	<u>QUESTIONS BY THE PUBLIC</u>  To consider questions from, and provide answers to, the public in relation to matters which are relevant to the business of the meeting and of which due notice has been given in accordance with the Committee and Sub-Committee Procedure Rules.	
5	<u>QUESTIONS BY COUNCILLORS</u>  To consider questions from, and provide answer to, Councillors on any matter in relation to which the Committee has powers or duties and of which due notice has been given in accordance with the Committee and Sub-Committee Procedure Rules.	
6	<u>SITE INSPECTIONS</u>  In addition to any site inspections which the Committee may consider to be necessary, the Corporate Manager – Growth and Sustainable Planning will report on any other applications which require site inspections.  The provisional date for any site inspections is Wednesday 13 December 2017.	
7	<u>PL/17/24 PLANNING APPLICATIONS FOR DETERMINATION BY THE COMMITTEE</u>  An Addendum to Paper PL/17/24 will be circulated to Members prior to the commencement of the meeting summarising additional correspondence received since the publication of the agenda but before 12 noon on the working day before the meeting, together with any errata.	1 - 4
a	<u>Item 1 - DC/17/04326 - Land east of Bulmer Road, Sudbury</u>	5 - 20
b	<u>Item 2 - DC/17/03982 Land to the east of Duke Street and north of Red House Cottages, Hintlesham</u>	21 - 38
8	<u>PL/17/23 - RESPONSE OF BABERGH DISTRICT COUNCIL TO THE CROSS BOUNDARY PLANNING APPLICATION IN RESPECT OF LAND AT STAFFORD PARK, CLARE ROAD, LONG MELFORD FOLLOWING DEVOLUTION OF DECISION-TAKING POWERS TO BRAINTREE DISTRICT COUNCIL</u>  Paper PL/17/23 previously circulated for the Planning Committee held on 22 November 2017 together with Addendum.	39 - 138

Notes:

1. The next meeting is scheduled for Wednesday 20 December 2017 commencing at 9.30 a.m.
2. Where it is not expedient for plans and drawings of the proposals under consideration to be shown on the power point, these will be displayed in the Council Chamber prior to the meeting.
3. The Council has adopted a Charter for Public Speaking at Planning Committees, a link is provided below:

<http://baberghmidsuffolk.moderngov.co.uk/documents/s4772/Public%20Speaking%20Arrangements.pdf>

Those persons wishing to speak on a particular application must register their interest to speak no later than **two clear working days before the Committee meeting**, as detailed in the Charter for Public Speaking (adopted 30 November 2016).

The registered speakers will be invited by the Chairman to speak when the relevant item is under consideration. This will be done in the following order:

- A representative of the Parish Council in whose area the application site is located to express the views of the Parish Council;
- An objector;
- A supporter;
- The applicant or professional agent / representative;
- County Council Division Member(s) who is (are) not a member of the Committee on matters pertaining solely to County Council issues such as highways / education;
- Local Ward Member(s) who is (are) not a member of the Committee.

Public speakers in each capacity will normally be allowed **3 minutes** to speak.

Local Ward Member(s) who is (are) not a member of the Committee are allocated a maximum of **5 minutes** to speak.

For further information on any of the Part 1 items listed above, please contact Linda Sheppard on (01473) 296372 or via e-mail at [Committees@baberghmidsuffolk.gov.uk](mailto:Committees@baberghmidsuffolk.gov.uk).

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## PL/17/24

### BABERGH DISTRICT COUNCIL

#### PLANNING COMMITTEE

6 DECEMBER 2017

#### SCHEDULE OF APPLICATIONS FOR DETERMINATION BY THE COMMITTEE

Item	Page No.	Application No.	Location	Officer	Decision
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#### **APPLICATION REQUIRING REFERENCE TO PLANNING COMMITTEE**

1.	5-20	<b>DC/17/04326</b>	<b>SUDBURY</b> – Land east of Bulmer Road	JD	
2.	21-38	<b>DC/17/03982</b>	<b>HINTLESHAM</b> – Land to the east of Duke Street and north of Red House Cottages	MB	

Philip Isbell  
Corporate Manager – Growth and Sustainable Planning

## BABERGH DISTRICT COUNCIL

### PLANNING COMMITTEE

#### SCHEDULE OF APPLICATIONS MADE UNDER THE TOWN AND COUNTRY PLANNING ACT 1990, AND ASSOCIATED LEGISLATION, FOR DETERMINATION OR RECOMMENDATION BY THE PLANNING COMMITTEE

This Schedule contains proposals for development which, in the opinion of the Corporate Manager – Growth and Sustainable Planning, do not come within the scope of the Scheme of Delegation to Officers adopted by the Council or which, although coming within the scope of that scheme, she/he has referred to the Committee to determine.

Background Papers in respect of all of the items contained in this Schedule of Applications are:

1. The particular planning, listed building or other application or notification (the reference number of which is shown in brackets after the description of the location).
2. Any documents containing supplementary or explanatory material submitted with the application or subsequently.
3. Any documents relating to suggestions as to modifications or amendments to the application and any documents containing such modifications or amendments.
4. Documents relating to responses to the consultations, notifications and publicity both statutory and non-statutory as contained on the case file together with any previous planning decisions referred to in the Schedule item.

#### DELEGATION TO THE CORPORATE MANAGER - GROWTH AND SUSTAINABLE PLANNING

The delegated powers under Minute No 48(a) of the Council (dated 19 October 2004) includes the power to determine the conditions to be imposed upon any grant of planning permission, listed building consent, conservation area consent or advertisement consent and the reasons for those conditions or the reasons to be imposed on any refusal in addition to any conditions and/or reasons specifically resolved by the Planning Committee.

### **PLANNING POLICIES**

The Development Plan comprises saved policies in the Babergh Local Plan adopted June 2006. The reports in this paper contain references to the relevant documents and policies which can be viewed at the following addresses:

The Babergh Local Plan: <http://www.babergh.gov.uk/planning/planning-policy/adopted-documents/babergh-district-council/babergh-local-plan/>

National Planning Policy Framework:

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf>

## **LIST OF ABBREVIATIONS USED IN THIS SCHEDULE**

<b>AWS</b>	<b>Anglian Water Services</b>
<b>CFO</b>	<b>County Fire Officer</b>
<b>LHA</b>	<b>Local Highway Authority</b>
<b>EA</b>	<b>Environment Agency</b>
<b>EH</b>	<b>English Heritage</b>
<b>NE</b>	<b>Natural England</b>
<b>HSE</b>	<b>Health and Safety Executive</b>
<b>MoD</b>	<b>Ministry of Defence</b>
<b>PC</b>	<b>Parish Council</b>
<b>PM</b>	<b>Parish Meeting</b>
<b>SPS</b>	<b>Suffolk Preservation Society</b>
<b>SWT</b>	<b>Suffolk Wildlife Trust</b>
<b>TC</b>	<b>Town Council</b>





# Agenda Item 7a

## Committee Report

**Item No:** 1

**Reference:** DC/17/04326

**Case Officer:** John Davies

**Ward:** Sudbury South.

**Ward Member/s:** Cllr Simon Barrett. Cllr Luke Cresswell.

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## Description of Development

Submission of details under Outline Planning Permission B/13/00917- Reserved Matters- Appearance, Landscaping, Layout and Scale for up to 43no dwellings. As amended by revised plans received 10/11/17 numbered 664-200/03, 201/04, 202/02, 204/02, 210/01, 211/00 together with a Construction Method Statement and External Lighting Plan.

## Location

Land East Of Bulmer Road, Sudbury, Suffolk,

**Parish:** Sudbury

**Site Area:** 1.17ha

**Conservation Area:** Sudbury

**Listed Building:** Affects Setting of Grade II

**Received:** 18/08/2017

**Expiry Date:** 29/11/2017

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**Application Type:** RES - Reserved Matters

**Development Type:** Major Small Scale - Dwellings

**Environmental Impact Assessment:** n/a

**Applicant:** Foxley Country Homes Ltd.

**Agent:** Strutt & Parker

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## DOCUMENTS SUBMITTED FOR CONSIDERATION

This decision refers to drawing number as the defined red line plan with the site shown edged red. Any other drawing showing land edged red whether as part of another document or as a separate plan/drawing has not been accepted or treated as the defined application site for the purposes of this decision.

The plans and documents recorded below are those upon which this decision has been reached:

Proposed Site Plan Proposed Site Layout Plan 664.200.03 - Received 10/11/2017

Parking Layout 664 201 04 - Received 10/11/2017

Street Scene - Proposed Street scenes 664.202.02 - Received 10/11/2017

Sectional Drawing Proposed Site Sections 664.203.01 - Received 18/08/2017

House Type 1 664.204.02 - Received 10/11/2017

House Type 2 664.205.01 - Received 18/08/2017

House Type 3 664.206.01 - Received 18/08/2017

House Type 4 664.207.01 - Received 18/08/2017  
House Type 5 664.208.01 - Received 18/08/2017  
House Type 6 664.209.01 - Received 18/08/2017  
Materials Plan 664.210.01 - Received 10/11/2017  
664.211.00 - Received 10/11/2017  
664.212.01 - Received 10/11/2017  
Landscaping Plan Outline Landscape Proposals PR096-01 - Received 18/08/2017  
Landscaping Plan Detailed Landscape Proposals PR096-02 - Received 18/08/2017  
Accommodation Schedule 664-500-04 - Received 18/08/2017  
Existing Site Plan Existing Site Location Plan 664-001-00 - Received 18/08/2017

The application, plans and documents submitted by the Applicant can be viewed online at [www.babergh.gov.uk](http://www.babergh.gov.uk). Alternatively, a copy is available to view at the Mid Suffolk and Babergh District Council Offices.

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## **PART ONE – REASON FOR REFERENCE TO COMMITTEE**

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The application is referred to committee for the following reason/s:

It is a “Major” application for:

a residential development for 15 or more dwellings

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## **PART TWO – APPLICATION BACKGROUND**

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### **History**

The planning history relevant to the application site is listed below. A detailed assessment of the planning history including any material Planning Appeals will be carried out as needed in Part Three:

B/13/00917	Outline Consent-development of up to 43 dwellings.	Granted 08/04/2016
B/11/00421	Outline - Erection of 43 no. dwellings and 4 no. commercial units (existing industrial buildings to be demolished).	Refused 14/06/2012
B/08/01276	Outline - Erection of 48 dwellings comprising five 3-bed town houses, twelve 3-bed houses, thirteen 2-bed homes and eighteen 2-bed apartments and provision of associated parking/garaging and construction of new vehicular accesses (Existing industrial buildings to be demolished), as amended by Flood Risk Assessment Addendum 1 received on 6th January 2009.	Refused 04/02/2009
B//02/02033	Outline - Erection of detached 1no. two-storey dwelling with alteration to existing vehicular access	Refused 18/03/2003

## **All Policies Identified as Relevant**

The proposal has been assessed with regard to adopted development plan policies, the National Planning Policy Framework and all other material considerations. Highlighted local and national policies are listed below. Detailed assessment of policies in relation to the recommendation and issues highlighted in this case will be carried out within the assessment:

### **Summary of Policies**

The Development Plan comprises the Babergh Core Strategy 2014 and saved policies in the Babergh Local Plan (Alteration No.2) adopted 2006. The following policies are applicable to the proposal:

#### **BABERGH CORE STRATEGY 2014**

CS01 - Applying the presumption in Favour of Sustainable Development in Babergh  
CS02 - Settlement Pattern Policy  
CS03 - Strategy for Growth and Development  
CS13 - Renewable / Low Carbon Energy  
CS14 - Green Infrastructure  
CS15 - Implementing Sustainable Development  
CS19 - Affordable Homes  
CS21 - Infrastructure Provision

#### **BABERGH LOCAL PLAN (ALTERATION NO.2) 2006**

EM02 - General Employment Areas - Existing and New Allocations  
EM24 - Retention of Existing Employment Sites  
CR04 - Special Landscape Areas  
HS31 - Public Open Space (1.5 ha and above)  
HS32 - Public Open Space (New dwellings and Amended HS16 Sites up to 1.5ha)  
CN01 - Design Standards  
CN04 - Design & Crime Prevention  
TP15 - Parking Standards - New Development  
CS18 - Mix and Types of Dwellings

#### **SUPPLEMENTARY PLANNING DOCUMENTS**

Employment Land SPD  
Affordable Housing SPD  
Suffolk Guidance for Parking 2014

#### **List of other relevant legislation**

- Human Rights Act 1998
- Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990
- Natural Environment and Rural Communities (NERC) Act 2006 (any rural site)
- The Conservation of Habitats and Species Regulations 2010
- Localism Act
- Consideration has been given to the provisions of Section 17 of the Crime and Disorder Act, 1998, in the assessment of this application but the proposal does not raise any significant issues.

#### **Details of Previous Committee / Resolutions and any member site visit**

Not applicable in this case.

### **Details of any Pre-Application Advice**

Officers gave pre-application advice on matters of housing layout and parking.

### **Consultations and Representations**

During the course of the application Consultation and Representations from third parties have been received. These are summarised below.

#### **A: Summary of Consultations**

##### **Sudbury Town Council**

Note and support the comments made by the Environmental team at Babergh District Council. Recommend Approve.

##### **Environmental Health - Land Contamination**

Submitted details of ground contamination assessment and remediation under review and subject to approval under Conditions 6 and 7 of the outline consent.

##### **Suffolk Wildlife Trust**

No response.

##### **SCC - Highways**

No objections to proposed new layout shown on Drawing Number 664.200.02.

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- Comment that based on current car parking guidelines those spaces positioned between boundary walls should be made wider to allow ease of access to each side of a vehicle otherwise some car parking spaces will be very tight in terms of being able to open car doors. However, accept that similar arrangements existed with the previous scheme which utilised now superseded car parking guidance. If there is space available to improve this then it would be beneficial to future residents.
  - landscaping located along the frontage of Bulmer Road for Plots 1, 4 to 7 and Plot 18. Any landscaping here should be restricted in height to a maximum mature growth of 600mm above adjacent footway level. These areas are required for visibility splays for each new access so will need to be carefully designed in order to retain the conditioned visibility splay dimensions.

##### **Strategic Housing**

Comments raised as follows:

- prefer to see affordable housing units more dispersed around the site in order to make it easier for them to be made 'tenure blind'
- dwelling mix acceptable but 2 bed units should be for 4 persons and 3 bed units for 5 persons
- all 6 units should be for affordable rent
- is there sufficient car parking spaces for the affordable units?
- bin store/bin store areas to be secured by means of condition.

##### **Natural England**

Comment that development appears not to affect any statutorily protected sites or landscapes.

The development includes an area of priority habitat and under the NPPF the LPA is required to conserve and enhance biodiversity. Not assessed proposal for impacts on protected species and proposals should be assessed against Standing Advice.

##### **SCC - Flood & Water Management**

Submitted details pursuant to Conditions 22,23 and 24 of outline consent are under separate consideration.

## **Environmental Health - Noise/Odour/Light/Smoke**

Comments summarised as follows: -

- Condition recommended to the effect that all works and ancillary operations, which are audible at the site boundary, or at such other place as may be agreed with the Council, shall be carried out only between the hours of 8am and 6pm on Mondays to Fridays and between the hours of 9am and 1pm on Saturdays and at no time on Sundays and Bank Holidays. Deliveries shall only be made during these hours.
- Construction management plan - covering details as listed in comments.
- No burning on the site during works.
- Play area is acceptable as proposed and addition of any additional equipment or lighting should be subject to approval in interests of amenity of neighbours.
- External lighting scheme to be agreed.

## **Heritage Team**

No objection and comments as follows:

- The proposed layout at the above is acceptable, as is much of the architecture.
- Proposed use of applied timber cladding to the first-floor gable and flank wall of particular dwellings is odd. It harks back to the 1980's and 1990's, when poorly detailed, applied 'timber framing' was arbitrarily applied to houses on estates on the edge of towns. It is appreciated that in this instance the architecture generally appears to be considered and appropriate, and might even appear as a combination of small scale Arts and Crafts, Victorian suburban terracing and early new towns architecture - but nevertheless, the use of this motif is unjustified and should therefore be avoided.
- The only other concern relates to the rather squat chimney on the half-timbered house type. Either it should be increased in height or removed altogether.

## **B: Representations**

Responses received from 6 neighbours summarised as follows:

6 Bulmer Road- concern about development of 43 houses on floodplain where there have been recent flood incidents and increased traffic generation.

2 Bush Grove- Concerns raised regarding:

- storm water drainage from Bush Grove and Sandy Lane
- crossing from Bush Grove is issue with only one path
- is there enough on-site parking for 43 dwellings?
- concerns about use of Bush Grove as car park
- dust needs to be screened
- need for double yellow lines on both sides of Bulmer Road at junction with Bush Grove to see to pull out

22 Bush Grove- objects

- too many houses proposed on the site
- parking issues likely to arise as not enough parking provided and public transport not good enough
- needs proper access as Bulmer Road takes a lot of traffic.
- pavement is narrow and if parking takes place on street it will cause access problems for pedestrians

#### 14 Bulmer Road-objects

- number of approved dwellings should be limited to 29
- has the developer the financial resources to complete the development?
- extended on street parking controls may not be implementable and therefore this should be taken into account in layout
- only two visitor parking spaces is inadequate - visitors /tradesmen will park in Bush Grove or Brundon Lane and conflict with neighbours as now
- shared open space could be designated as extra visitor car parking as would not flood most of year
- north facing gardens are not ideal and suggest houses facing Philips Engineering have gardens to south
- overall consider development is an over-development of site
- Bush Grove is bungalows and has density of 20 dwellings per hectare whereas proposed development is terraced housing at 50 dwellings per ha and is considered out of scale and character with surroundings.

#### 64 Ballingdon Street Comments:

- what is form of boundary on Ballingdon Street side?
- what will happen to the access track leading to the water meadows?
- must make effort to prevent people wandering to our property.

#### Mill House, Bulmer Road-objects:

- developer is at risk of going bust as development is on waterlogged brownfield contaminated land
- cramming will increase weight on the water table
- planners should consider allowing fewer larger more profitable properties (or bungalows) and waive affordable housing to de-risk likelihood of scheme going bust.
- planners should seek assurances that developer has resources to deliver the scheme
- houses are too close to Bulmer Road and should be where parking is, and parking should be adjacent to Philips Engineering
- avoid north-facing gardens
- not enough parking
- construction vehicle parking should all be on site to prevent conflicts with other road users in Bulmer Road/Brundon Lane.

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## **PART THREE – ASSESSMENT OF APPLICATION**

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From an assessment of relevant planning policy and guidance, representations received, the planning designations and other material issues the main planning considerations considered relevant to this case are set out including the reason/s for the decision, any alternative options considered and rejected. Where a decision is taken under a specific express authorisation, the names of any Member of the Council or local government body who has declared a conflict of interest are recorded.

### **1. The Site and Surroundings**

- 1.1 The site is located on the east side of Bulmer Road and Brundon Lane and is around 100 metres from the Ballingdon Street/ Ballingdon Hill/ Middleton Road traffic junction to the south.

- 1.2 The site has an area of 1.17 hectares with a frontage of approximately 185 metres and a maximum depth of approximately 88 metres. The site has been cleared of former vacant industrial buildings to the western edge formerly occupied by/known as Sudbury Autofactors and Lury House, and an area of open land to the north of these that previously hosted the now demolished Samsons Furniture building. No commercial activities have taken place on the site since 2007. To the east, and forming part of the site, are water meadows that are bordered by drains.
- 1.3 Surrounding uses comprise a mix of residential and industrial uses. To the west of the site are residential dwellings fronting Bulmer Road, Bush Grove and Sandy Lane. To the north-west of the site is the Stour Valley Business Centre and Bulmer Road Industrial Estate, which contain a range of Class B1, B2 and B8 employment uses. Immediately to the north of the site is an engineering workshop (Phillips site) and beyond that a taxi depot/garage.
- 1.4 The western half of the application site (that part formerly containing the buildings) is within the Built-Up Area Boundary of Sudbury. It is designated as an existing employment allocation within the Babergh Local Plan Alteration No.2 (2006). The eastern half of the site, the water meadow, is within Flood Zone 2 and 3 and the site and surrounding area fall within the designated Special Landscape Area. There is a change in level from the water meadow land to the industrial part of the site, and a line of trees separates the two parts of the site.
- 1.5 The southern edge of the site is adjacent to the Conservation Area. The closest listed buildings are those which front Ballingdon Street.

## **2. The Proposal**

- 2.1 The application is a reserved matters submission seeking approval of appearance, scale, layout and landscaping pursuant to Outline Planning Permission B/13/00917 granted on 8 April 2016. Access details were previously agreed at outline stage.
- 2.2 There is a s106 Agreement covering the following matters:
- affordable housing provision
  - provision of a play area
  - provision of open space/amenity land
  - contribution to extension of on street parking controls
- 2.3 At outline stage the proposed dwelling mix comprised:
- 4 no.2-bedroom units
  - 34 no. 3- bedroom units
  - 5 no.4-bedroom units
- 2.4 The proposed overall dwelling mix is as follows:

House Type	Private	Affordable	Total
Two bedrooms	8	4	12
Three bedrooms	29	2	31
Total	37	6	43

Comparison of the above mix with that proposed at outline stage indicates that the scheme now proposes many more smaller units with the deletion of all the 4-bedroom houses and an increase in the number of 2-bedroom houses from 4 to 12.

- 2.5 With regard to parking provision the adopted parking standards require a minimum of 1 space per 1 bed dwelling; 1.5 spaces per 2 bed dwelling and 2 spaces per 3 bed dwelling. The submitted details meet parking standards with a total provision of 82 spaces. Each of the affordable units would have two parking spaces. Visitor parking in the amended plans is 5 spaces located within the housing areas served by both access points.
- 2.6 With regard to affordable housing provision the outline scheme included provision of the following dwellings:

Type	Social Rented	Shared Ownership
1 bedroom (2 person)	2	
2 bedroom (4 person)	1	2
3 bedroom (5 person)	1	

The proposed revised affordable dwelling mix is as follows:

Type	Social Rented
2 bedroom (3 person)	4
3 bedroom (4 person)	2

- 2.7 At outline stage the submitted indicative layout plan showed:-
- a development of 43 dwellings all of which were two storey
  - two access points were shown from Bulmer Road
  - a large public amenity space was included in the scheme to the rear of the development
  - development was set close to the Bulmer Road providing built terraced frontages onto Bulmer Road and the open space to the rear.
  - parking was arranged in parking courts behind the main frontages
- 2.8 The proposed layout comprises a total of 43 dwellings of which all the units are two storey terraced houses laid out in clusters predominately fronting either Bulmer Road/Brundon Lane or the area of open space to the rear of the development. The development would be served by two access points one of which is opposite Sandy Lane and the other opposite Bush Grove.
- 2.9 Proposed parking is provided in parking courts and accessed off shared surface mews within the site.
- 2.10 Proposed facing materials comprise a varied palette of brick, render and weatherboarding to walls and clay and slate roofs. Details of these are to be agreed under Condition 3 of the outline consent.
- 2.11 The proposed dwellings adopt a number of architectural features characteristic Suffolk design features including steeply pitched roofs, roof level and free-standing chimneys stacks, front door porches, decorative half-timbering, and exposed rafter feet.
- 2.12 To the rear of the proposed development an area is to landscaped as an open space which would also be open to the public. The central feature of this would be a small play area reached from the houses along a timber foot bridge link. This area is at a lower level than the land on the frontage where the houses would be built and being within Flood Zones 2/3 may be liable at times to flooding or waterlogging.



- 2.13 The reserved matters submission, the subject of this report, was accompanied by an application to discharge some of the associated conditions on the outline consent namely Conditions 4 and 5 (archaeology), 6 and 7 (ground contamination), 14 (surface water disposal - highways), 15,18 and 19 (roads and footpaths), 22 ( Flood risk), 23 (surface water drainage strategy) and 24 (flood risk register template).
- 2.14 The reserved matters proposals were amended by the submission of revised layout and parking plans in November 2017 which sought to address issues raised by consultees:
- the provision of additional visitor parking on site
  - comments on the parking layout raised by Highways
  - submission of external lighting scheme
  - submission of construction management plan
  - amendment to affordable housing provision with respect to proposed tenure type- all to be social rented.
- 2.15 Re-consultations were carried out on the amended plans and any consultee or neighbour responses will be reported on the Addendum Sheet.

### **3. National Planning Policy Framework**

- 3.1 The National Planning Policy Framework (NPPF) contains the Government's planning policies for England and sets out how these are expected to be applied. Planning law continues to require that applications for planning permission are determined in accordance with the Development Plan unless material considerations indicate otherwise. The policies contained within the NPPF are a material consideration and should be taken into account for decision-making purposes.

### **4. Core Strategy**

- 4.1 Policy CS01 states that the Council will support sustainable development unless material considerations indicate otherwise.
- 4.2 Policy CS02 sets out the settlement policy for the district and states that development will be guided sequentially to the towns, core and hinterland villages.
- 4.3 Policy CS03 states that employment and housing growth over the plan period will be accommodated within Babergh's existing settlement pattern and within new urban extensions. The most new housing during the plan period would be provided within the Sudbury and Great Cornard areas.
- 4.4 Policy CS15 sets out a list of criteria that need to be considered to demonstrate that proposals are sustainable.
- 4.5 Policy CS18 states that residential development will be supported where it provides for the needs of the District's population especially the elderly and at a scale appropriate to the size of development.
- 4.6 Policy CS19 requires all residential development to provide 35% of units as affordable housing.

### **5. Neighbourhood Plan/Supplementary Planning Documents/Area Action Plan**

- 5.1 The following SPD are relevant to this application:
- Employment Land SPD
  - Affordable Housing SPD
  - Suffolk Guidance for Parking 2014 Page 13

## **6. Saved Policies in the Local Plans**

- 6.1 Saved Policy EM24 seeks to protect employment land and buildings and requires developers to demonstrate that proposals for non-employment uses such as residential are justified based on either:
1. by an agreed and sustained marketing campaign, undertaken at a realistic asking price; or
  2. where agreed in advance, the applicant can demonstrate that the land, site or premises are inherently unsuitable or not viable for all forms of employment related use.
- 6.2 Saved Policy CN01 requires all development to be of appropriate scale, form, detailed design and construction materials for the location.
- 6.3 Saved policy TP15 states that new development will be required to provide parking in accordance with adopted parking standards.

## **7. The Principle of Development**

- 7.1 The principle of the loss of an employment site and the regeneration of the site by redevelopment for housing has already been established by the grant of outline consent. That consent was for up to 43 dwellings.
- 7.2 The proposed dwelling mix at outline stage was predominantly 3-bedroom units with some 4-bedroom units. In the reserved matters submission the mix has been varied to significantly increase the number of two-bedroom units and all the four bed units have been deleted. The overall mix therefore is more geared to smaller units for which there is greater demand in the area.
- 7.3 The proposals agreed at outline stage included only 6 affordable dwellings (14%) which was much less than the usual requirement for 35% provision. This was as a consequence of an assessment of the viability of the development. The affordable mix agreed at outline stage was for a mix of 1,2 and 3-bedroom units of which four were for social rent and two for shared ownership.
- 7.4 The Applicants wish to vary the mix of the affordable units to 6 no. two and three, bedroom houses based on the preferences of registered housing providers and are agreeable to them all being social rented.
- 7.5 The variation in the dwelling mix is agreeable to Strategic Housing although they have raised a concern about the size of the dwellings stating that the 2-bedroom units should be 4-person size and the 3-bedroom units should be 5-person size.
- 7.6 The variation in the affordable dwelling mix from that agreed at outline stage would not make a significant difference to the provision however measured. The number of affordable units would still be 6 no. and the number of bedrooms proposed would actually be increased from 11 to 14. With regard to total bedspaces or persons able to be accommodated, the total number would be reduced by only one from 21 bedspaces to 20. Given these comparisons it is not considered justifiable to require larger affordable units.
- 7.7 Concerns raised regarding the location of affordable units in one part of the site are noted as it is normally desirable to disperse such units in the interests of social integration. However, in this case there are only 6 affordable dwellings and given registered providers' usual preference for them to be in one location in the interests of management, their location is considered reasonable in this case. The units would not be visually distinguishable from market dwellings as their designs would incorporate the same features and the same materials palette as the market housing.

- 7.8 The variations to the affordable housing provision, if agreed, would require a Deed of Variation to the s.106 Agreement and reference to this is made in the recommendation.

## **8. Sustainability Assessment of Proposal**

- 8.1 The site is located within the limits of the urban area of Sudbury /Great Cornard. The site is on the edge of the town centre and highly accessible to all town centre shops and services.

## **9. Site Access, Parking and Highway Safety Considerations**

- 9.1 At outline stage vehicular access details were agreed and comprised the provision of two access points into the site, which are broadly opposite the junctions of Bulmer Road with Sandy Lane and Bush Grove respectively. These access points are therefore fixed and only their precise details are for determination at this stage.
- 9.2 With regard to parking provision the adopted parking standards in Suffolk Guidance for Parking 2014 require a minimum of 1 space per 1 bed dwelling; 1.5 spaces per 2 bed dwelling and 2 spaces per 3 or more bed dwelling. The submitted parking details meet the minimum parking standards for each dwelling size with a total provision of 82 spaces. In addition, as amended, the plans show a further 3 spaces provided on site as visitor parking making 5 no. in total. Parking is provided within the site within parking courts, which are located behind the frontage buildings and are largely screened from view from the street. The scheme satisfies parking standards with respect to parking for each dwelling although provision of visitor spaces falls short of the standard based on guidance that one visitor space should be provided for every four dwellings therefore requiring around 10 spaces in total. However, this is considered quite an onerous requirement which would in Officers' opinion make the scheme overly parking dominated and therefore, on balance, the provision of 5 visitors spaces is considered reasonable.
- 9.3 At outline stage the Highway Authority indicated a desire to extend on-street parking controls further along Bulmer Road/Brundon Lane in order to restrict on-street parking. As part of the s.106 a contribution was payable towards the cost of this.

## **10. Design and Layout**

- 10.1 The general layout of the development is similar to that shown on submitted plans at outline stage particularly with regard to the scale of development restricted to two storeys, apart from a terrace of units at the northern end of the site where accommodation at third storey attic levels (House type 6) is included. Terraces of houses front onto both the main roads and the open space to the rear, the latter also providing passive surveillance of the open space. In addition houses front onto the main access points into the site most notably the main centrally sited access which leads through the open space behind the housing.
- 10.2 The proposed layout provides building forms which face onto or address the road frontage in a manner which is a continuation of existing 19th Century terraced development along Ballingdon Street and the southern end of Bulmer Road. It is, however, in contrast with lower density 20th Century housing on the west side of Bulmer Road. The scheme is considered to be in accordance with best practice urban design principles as espoused in national design guidance which encourages development to front onto roads as in traditional urban areas.
- 10.3 Facing materials comprise a varied palette of brick, render and weatherboarding to walls and clay and slate roofs. Details of these are to be agreed under Condition 3 of the outline consent.

- 10.4 The proposed dwellings adopt several architectural elements characteristic Suffolk design features including steeply pitched roofs, roof level and free-standing chimneys stacks, front door porches, decorative half-timbering, and exposed rafter feet. Many of the end of terrace dwellings have been designed as corner feature buildings with decorative half-timber gables and chamfered ground floor corner facing front doors. Each dwelling would also be provided with rotary dryer, bike store, refuse store within each garden.
- 10.5 All the dwellings would have private rear gardens, which tend to vary in size from a depth of 6 to 8 metres by the width of the house. Although garden sizes are small the residents would also benefit from access to the communal public amenity area behind the development which extends to 0.38 ha and accounts for 33% of the whole of the site. The open space area to the rear of the site would be made available to the general public and maintenance of this area would be controlled by a management company funded by a covenant on each property requiring a management charge. It would not be adopted by the Council. The open space would be landscaped with wild flower grassland and new tree planting and new tree planting as per the submitted landscape plan. The open space also incorporates a wetland feature located immediately behind the housing over which the proposed timber bridge would link the houses with the open space and play area. The submitted plans also show a proposed small childrens' play area within the public open space area providing play boulders, 'dragonfly' feature seat, picnic benches within a landscaped setting.

## **11. Environmental Impacts - Trees, Ecology And Land Contamination**

### Trees

- 11.1 The outline application submission was supported by an Arboricultural Report which assessed existing trees on the development site. None are subject of a TPO or protected in any other way. These comprise around twenty-two trees predominantly crack willow located along the eastern and southern boundaries, which were assessed in the report as mostly in poor condition and unsuitable for retention in a development. Only four trees were identified as potentially suitable for retention as part of a new hard and soft landscape scheme. In the reserved matters submission, however, it has not been possible to retain these trees as they compromised the proposed layout new replacement tree planting is proposed.

### Ecology

- 11.2 At outline consent stage an ecological survey report was submitted which made recommendations for ecological enhancements of the site and management of the open space. Condition 8 of the consent required that the development be carried out in accordance with the recommendations of the report.

### Land Contamination

- 11.3 The site is known to be contaminated following former industrial uses and there were conditions imposed on the outline consent requiring a full survey assessment of ground contamination and the provision of a site remediation strategy.

## **12. Heritage Issues**

- 12.1 The site is not within but is close to the Sudbury Conservation Area which includes development along Ballingdon Street within which there is also several listed buildings.
- 12.2 The character of the proposed development comprising terraced housing closely fronting the road in traditional design and materials are considered to be sympathetic to the type of development along Ballingdon Street and therefore it would not detract from the Conservation Area. The Heritage Team concur with this view.

12.3 The Heritage Team raise some concerns about use of applied timber decoration on some of the houses and the design of chimneys, which they consider too squat. In response to these comments the Applicant states that the elevational designs have been carefully considered and are influenced by local architectural features characteristic of the area. The use of applied timber would be on only a few feature units in the scheme. It is acknowledged that these treatments are merely decorative, and they lend character to the development and therefore no objection is raised to them notwithstanding the Heritage Team's advice. With regard to the chimneys these add visual interest to the elevations and their height is considered reasonable.

### **13. Impact on Residential Amenity**

13.1 The development would not raise any demonstrable adverse impacts on the amenity of neighbours by reason of overlooking, loss of light, outlook, etc. given the separation of the site from neighbours across Bulmer Road and Brundon Lane and the distance to the backs of properties in Ballingdon Road.

13.2 Concerns raised regarding the number of units proposed and that the proposal is an over-development are not substantiated in respect of any significant deficiencies in the scheme with respect to the layout and provision of amenity space and parking in particular. It is not a greenfield site and it formerly supported substantial commercial activities that would have generated significant on-site activity, visitors and traffic movements including by heavy goods vehicles.

### **14. Planning Obligations / CIL**

14.1 The development is not CIL liable as outline consent was granted before the CIL charging regime was introduced.

### **15. Details of Financial Benefits / Implications (S155 Housing and Planning Act 2016)**

15.1 Granting this development would result in the following financial benefits:

- New Homes Bonus
- Council Tax

These are not material to the planning decision.

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## **PART FOUR – CONCLUSION**

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### **16. Statement Required by Article 35 Of the Town and Country Planning (Development Management Procedure) Order 2015.**

16.1 When determining planning applications The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires Local Planning Authorities to explain how, in dealing with the application they have worked with the applicant to resolve any problems or issues arising.

16.2 In this case Officers have worked with the applicant to try to overcome concerns raised about the proposals particularly with regard to parking and affordable housing provision. Following amendments to the proposals Officers consider they can make a positive recommendation on the proposals.

## **17. Identification of any Legal Implications and/or Equality Implications (The Equalities Act 2012)**

17.1 The application has been considered in respect of the current development plan policies and relevant planning legislation. Other legislation including the following have been considered in respect of the proposed development:

- Human Rights Act 1998
- The Equalities Act 2010
- Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990
- Natural Environment and Rural Communities (NERC) Act 2006 (any rural site)
- The Conservation of Habitats and Species Regulations 2010
- Localism Act
- Consideration has been given to the provisions of Section 17 of the Crime and Disorder Act, 1998, in the assessment of this application but the proposal does not raise any significant issues.

## **18. Planning Balance**

18.1 In this case the principle of the loss of an employment site and its development for housing has already been established by the grant of outline consent. This is a typical brownfield site which has been un-used and vacant for many years and is long over-due for re-use and regeneration.

18.2 The scheme proposes 43 units, which was the maximum approved at outline stage, but the dwelling mix has been amended to provide more smaller units which will help to meet the most pressing housing needs. Affordable housing is included at the same level as agreed at outline stage, but all will be for social rental.

18.3 The scheme includes satisfactory parking on site for each dwelling and visitor parking has been increased to a level officers consider is reasonable.

18.4 The scheme would provide attractive, well designed new houses complemented by a large landscaped area of open space that would benefit not only the residents of the estate but would also be accessible to the wider area.

## **RECOMMENDATION**

Grant reserved matters subject to conditions including those as set out below:

- Approved plans/documents standard condition

**Note** to be added to the decision notice to advise the application that they are required to complete a Deed of Variation amending the affordable housing provision to the following:

- 4 no. 2 bedroom (3 person) social rented dwellings
- 2 no. 3 bedroom (4 person) social rented dwellings






**Application No: DC/17/04326**




**Parish: Sudbury**



**Location: Land East Of Bulmer Road**

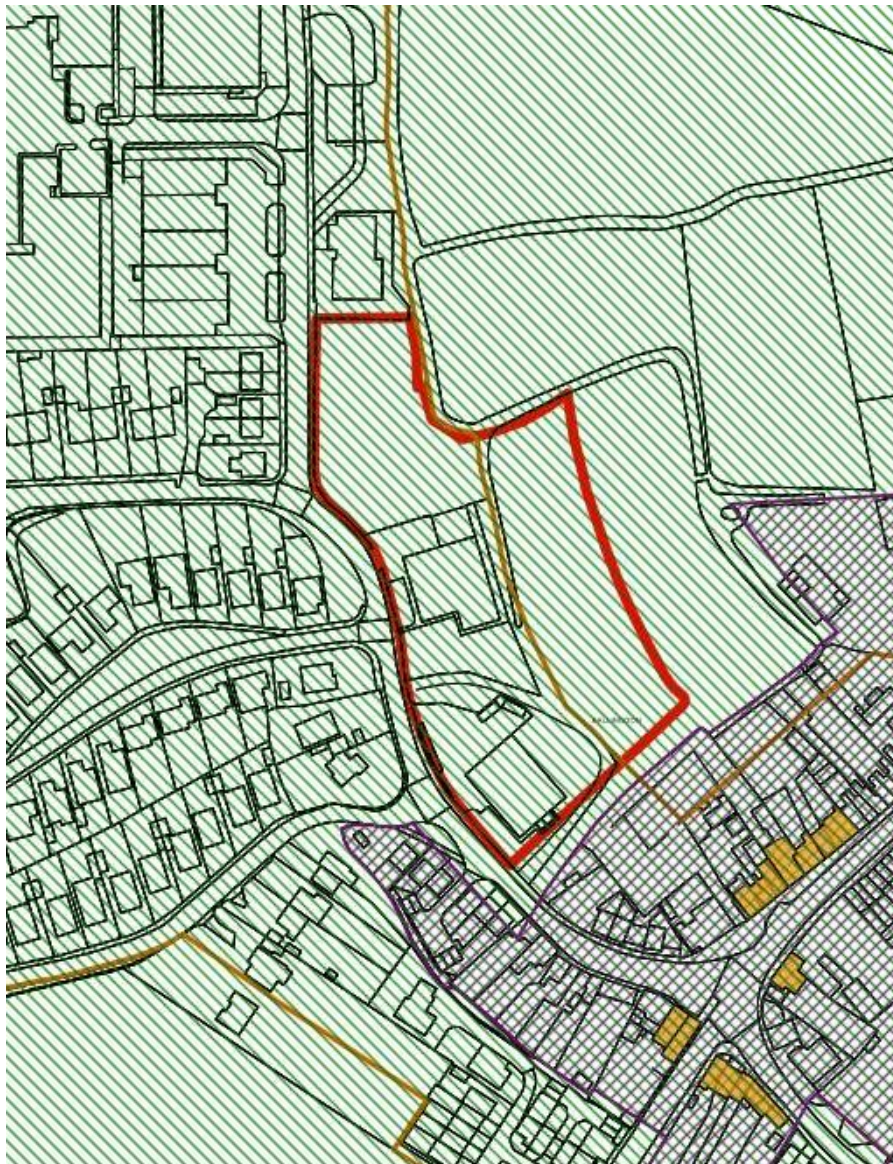
**Legend**

-  Area of Outstanding Natural Beauty
-  Special Landscape Area
-  Conservation Area

**Listed Buildings**

-  Grade 1
-  Grade 2
-  Grade 2 \*

-  The Site
-  Built up Area Boundary



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# Agenda Item 7b

## Committee Report

**Item No: 2**

**Reference:** DC/17/03982

**Case Officer:** Martin Brown

**Ward:** Brook.

**Ward Member/s:** Cllr Barry Gasper. Cllr Nick Ridley.

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## Description of Development

Outline Planning Application (Access to be considered) - Erection of up to 11 Dwellings including 3 Affordable Houses.

## Location

Land To The East Of Duke Street, And North Of Red House Cottages, Hintlesham,

**Parish:** Hintlesham

**Site Area:** 9000 m<sup>2</sup>

**Conservation Area:** N/A

**Listed Building:** N/A

**Received:** 01/08/2017

**Expiry Date:** 01/11/2017

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**Application Type:** OUT - Outline Planning Application

**Development Type:** Major Small Scale - Dwellings

**Environmental Impact Assessment:**

**Applicant:** J Bostock

**Agent:** Wincer Kievenaar Architects Ltd

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## DOCUMENTS SUBMITTED FOR CONSIDERATION

The application, plans and documents submitted by the Applicant can be viewed online at [www.babergh.gov.uk](http://www.babergh.gov.uk). Alternatively a copy is available to view at the Mid Suffolk and Babergh District Council Offices.

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## **PART ONE – REASON FOR REFERENCE TO COMMITTEE**

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The application is referred to committee for the following reason/s:

- At the request of the Ward Member – Cllr. Gasper.
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## **PART TWO – APPLICATION BACKGROUND**

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### **THE SITE**

1. The site is located on Redhouse Farm to the south east boundary of Duke Street. It sits outside, but adjacent to, Hintlesham Built Up Area Boundary (BUAB). The site boundaries are formed by Duke Street to the west, similar agricultural land to the north boundary (granted planning permission for residential development, planning ref. B/01490/OUT and DC/17/03335), the south boundary adjoins the residential curtilage of Red House Cottages and to the east is arable land (grade 3) associated with Redhouse Farm.
2. Hintlesham is listed as a Hinterland Village in policy CS2 of the development plan. The site is approximately 400m from the B1071 and is opposite residential dwellings which front onto the west side of Duke Street.

### **THE PROPOSAL**

3. Outline planning permission is sought for the erection of up to 11 no. dwellings, with means of access for consideration. The details of appearance, landscaping, layout and scale are reserved matters and, while the applicant has submitted an indicative layout as to how the site could accommodate 11 no. dwellings with associated landscaping details, such matters are not for detailed consideration in determining this application for outline permission. The site occupies 0.9ha and 11 dwellings on this site would equate to a density of 12.2 units per hectare, which is broadly reflective of the character and pattern of development within the vicinity.

### **RELEVANT HISTORY - Other developments recently approved in the vicinity under CS11**

- DC/17/03335 – Submission of details (Reserved Matters) under outline planning permission B/15/01490/OUT- relating to Appearance, Layout & Scale for erection of 8 dwellings. Delegated Approval
- B/15/01490/OUT - Outline - Erection of 8 no. dwellings (means of access and landscaping for consideration). Approved by committee
- B/15/01109/FUL – Barn House, Duke Street. CS11 - Residential development. Erection of 2 no. two storey semi-detached dwellings. Approved by committee
- B/15/0755/FUL – The Old Builders Yard, Duke Street - Proposed single storey dwelling and two bay cartlodge. Delegated Approval
- B/15/0083/FUL – Chapel Cottage, Duke Street - Erection of 2 no. dwellings. Delegated Approval

### **All Policies Identified As Relevant**

The proposal has been assessed with regard to adopted development plan policies, the National Planning Policy Framework and all other material considerations. Highlighted local and national policies are listed below. Detailed assessment of policies in relation to the recommendation and issues highlighted in this case will be carried out within the assessment:

### **Summary of Policies**

The Development Plan comprises the Babergh Core Strategy 2014 and saved policies in the Babergh Local Plan (Alteration No.2) adopted 2006. The following policies are applicable to the proposal:

### **Babergh Core Strategy 2014**

- CS1 – Presumption in favour of sustainable development
- CS2 – Settlement Pattern Policy
- CS3 – Strategy for Growth and Development
- CS11 – Strategy for Development for Core and Hinterland Villages
- CS15 – Implementing Sustainable Development in Babergh
- CS18 – Mix and Types Of Dwellings
- CS19 – Affordable Homes
- CS21 – Infrastructure Provision

### **Babergh Local Plan (Alteration No.2) 2006**

- HS32 – Public Open Space
- CR04 – Special Landscape Area
- CN01 – Design

### **Supplementary Planning Documents**

- Rural Development and Core Strategy policy CS11 (August 2014)
- Affordable Housing SPD (February 2014)

The relevant policies can be viewed on line. Please see the notes attached to the schedule.

### **Consultations and Representations**

During the course of the application Consultation and Representations from third parties have been received. These are summarised below.

#### **A: Summary of Consultations**

##### SCC Archaeological Service – Date Received 15.08.2017

The site lies in an area of archaeological potential recorded on the County Historic Environment records, close to a Bronze Age metal works, and as such there is high potential for the discovery of below-ground heritage assets of archaeological importance within the area. There are **no grounds for refusal of permission**, subject to appropriate planning conditions in accordance with National Planning Policy Framework (paragraph 141)

##### Arboricultural Officer – No Response Received

##### SCC Fire and Rescue – Date Received 05.09.2017

Access to the buildings for fire appliances and firefighters must meet with the requirements specified in Building Regulations Approved Document B (Fire Safety), 2006 Edition, incorporating 2010 and 2013 amendments Volume 1 – Part B5, Section 11 dwelling houses. It is recommended that fire hydrants be installed within this development, the number of which has not been determined in assessing this proposal. This will be determined at the water planning stage when site plans have been submitted by the water companies. Furthermore, consideration should be given to the provision of an automatic fire sprinkler system.

Natural England – Date Received 24.08.2017

The site falls within the 13km 'zone of influence' for the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site, as set out in the emerging Suffolk Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). It is anticipated that new housing development in this area is 'likely to have a significant effect' upon the interest features of the aforementioned designated site(s), when considered in combination, through increased recreational pressure. As such, we advise that a suitable contribution to the emerging Suffolk RAMS should be sought from this residential development to enable you to reach a conclusion of "no likely significant effect" whilst ensuring that the delivery of the RAMS remains viable. If this does not occur in the interim period then the per house tariff in the adopted RAMS will need to be increased to ensure the RAMS is adequately funded. We therefore advise that you should not grant permission until such time as this mitigation measure has been secured.

Providing appropriate mitigation is secured to avoid impacts upon the European site occurring there should be no additional impacts upon the SSSI interest features of the Stour and Orwell Estuaries. Natural England's Standing Advice should be applied in determining any future applications as a material consideration.

Strategic Housing – No Response Received

MSDC Waste Management – No Response Received

SCC - Corporate S106 and Education – Date Received 15.08.2017

Consultation response sets out the infrastructure requirements that would arise as a result of the proposal and the basis of a future bid to Babergh District Council for CIL funds if planning permission is granted and implemented. Local infrastructure that is identified as having the potential to be impacted upon by the proposal includes;

- Education
- Pre-school provision
- Play space provision
- Transport
- Libraries
- Waste
- Supported Housing
- Sustainable Drainage Systems
- Fire Service
- Superfast Broadband

Hintlesham Parish Council – Date Received 30.08.2017

**The Parish Council objects** to the proposed development mainly due to the detrimental cumulative effect on the village's infrastructure and lack of housing need for larger dwellings.

*Housing Need*

The application makes no reference to Hintlesham's Housing needs, with the demand for social housing being more than met with recent developments. The Parish Council believes that the needs case for further development in Hintlesham has diminished with every granted planning application for housing.

*Cumulative Effect*

The cumulative impact of development has highlighted two aspects of the village infrastructure which are already at full capacity; these being traffic volume and the village primary school. CS11 states that services and facilities must have capacity to accommodate further development, which cannot be accommodated by further development

### *Site and BUAB*

Only one of the proposed dwelling adjoins the village BUAB, with the whole site outside the existing and proposed new BUAB. SC11 states that development should be 'well designed and appropriate in size/scale.....to its setting and to the village'. The size of some of the proposed dwellings is not in character with the surrounding existing properties, in particular the size of one of the proposed dwellings totally compromises the integrity of the adjoining Red House Farm Cottage. The proposed development would result in a continuous line of settlement on Duke Street. Areas of undeveloped land are important visual and environmental features in any village including those classified as Hinterland. This is even more important in this context as the proposed development is within a Special Landscape Area.

### *Design Detail*

The topography of the proposed site emphasises the dwelling's height, making the site more imposing than it appears on the submitted indicative Street Elevation. The proposed houses would restrict the views of the residents on the opposite side of the road, and would look above them as the ground is higher on the east side of Duke Street. Local residents also fear that parked vehicles outside the proposed properties would present a hazard because of reduced visibility on the rising ground.

### Environmental Health (Land Contamination) – Date Received 23.08.2017

**No objection** to the proposal. The Phase 1 report submitted concludes that the site is of low risk. It would not be justified to ask that any further report is required by planning condition especially as the same requirement was not required for a similar proposal for new housing immediately adjacent to the application site (planning ref. B/15/01490).

### Environmental Health (Sustainability Issues) – Date Received 21.08.2017

**No objection** to the proposal, however require that the development can secure the required energy efficiency and sustainability standards (CS12, CS13 and CS15) of the Local Planning Authority and NPPF sustainable transport requirement shall be submitted to, and approved in writing by, the Local Planning Authority.

### SCC – Highways – Date Received 14.08.2017

**No objection** to the proposal, subject to the imposition of appropriate planning conditions.

### Heritage Team – Date Received 11.09.2017

The Heritage Team considers that the proposal would not necessarily cause harm to the setting of the non-designated assets known as Victoria Cottages.

### SCC - Flood & Water Management – Date Received 08.11.2017

**No objection** to the proposal, subject to appropriate planning conditions

### **B: Representations**

One representation was received raising **objection** to this application, making the following comments;

- These 11 houses are an extension to the development of 8 houses (DC/17/03335) yet to be started in Duke Street, and constitute ribbon development
- The site is located within a Special Landscape Area
- The site is located out with the recently redefined Built Up Area
- The proposal would see the loss of the last piece of open vista on Duke Street
- The development cannot be considered sustainable
- Potential for access to facilitate future development of additional properties behind the current proposal

- The proposal would result in construction vehicles obstructing the highway and public footpaths
- Based on recent application for Reserved Matters (DC/17/03335), the entire planning consent process is open to abuse, i.e. outline consent is granted and then fundamentally changed in terms of the appearance and scale of development

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## PART THREE – ASSESSMENT OF APPLICATION

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### Principle of Development

4. The village of Hintlesham is classed as a Hinterland Village in policy CS2 of the development plan and although not located inside the built up area boundary of the village, the site is considered to lie within the existing linear pattern of development in this part of the village and will reflect the development on the opposite side of Duke Street. Further within the village to the north, development is set along both sides of Duke Street. As such, the proposed development site is considered to demonstrate a close functional relationship with the existing settlement and to be well related to the existing pattern of development along Duke Street.
5. The indicative layout and the applicant's design and access statement has demonstrated that the site can accommodate up to 11 no. dwellings, which would provide 3 no. affordable terraced houses (35%), 4 no. semi-detached houses and 4 no. detached dwellings. The terraced and semi-detached dwellings would add to the stock of smaller properties in the village and is considered to meet an identified need for targeted market housing. This mix of units provides an acceptable range of property types and sizes.
6. In addition the Council's 2014 Suffolk Wide Housing Needs Survey has demonstrated that there is a need for smaller homes, across all tenures, which this development would meet in part with those wishing to down size.
7. Furthermore, the proposal is considered to be within walking distance of the centre of the village, linked by a paved footpath. It is therefore considered that the proposal would support local services and facilities and has the potential to benefit from public transport links to Ipswich.
8. As Babergh District Council policies for the supply of housing cannot be considered up-to-date, the NPPF (paragraph 14) cites the presumption in favour of sustainable development and states that planning permission should be granted unless *i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or ii) specific policies in the NPPF indicate development should be restricted.* Paragraph 7 of the NPPF describes how sustainable development has three dimensions: economic, social and environmental.

### Sustainability Assessment of Proposal

9. It is considered that policies CS2, CS3, CS11 and CS15 provide a relevant framework to consider the sustainability of this site, having regard to the three strands of sustainable development set out in the NPPF. The adopted 'Rural Development & Core Strategy Policy CS11 Supplementary Planning Document' ("the SPD") is also a material consideration.
10. Policy CS2 (Settlement Pattern Policy) identifies Hintlesham as a Hinterland Village. Policy suggests that most Hinterland Villages should accommodate some development to help meet the needs within their functional cluster. Although not located inside the built up area boundary of the village, the site is considered to lie within the existing linear pattern of development in this part of the village and will reflect the development on the opposite side of Duke Street. Further within the village, development is set along both sides of Duke Street. As such, the proposal site is considered to demonstrate a close functional relationship with the existing settlement and to be well related to the existing pattern of development along Duke Street.

11. Paragraph 55 of the NPPF sets out that local planning authorities should avoid isolated homes in the countryside. The site is not considered to be 'isolated' within the meaning of this term, and therefore would not lie isolated from services. Paragraph 55 of the NPPF also states that:
12. *"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby."*
13. The application site is considered to be within walking distance of the centre of the village, linked by a paved footpath. It is therefore considered that the proposal would support local services and facilities and has the potential to benefit from public transport links to Ipswich. As such Hintlesham is a settlement which may be capable of taking a degree of growth and this growth would help safeguard the provision of existing facilities within the settlement and the surrounding area.
14. Policy CS11 seeks to provide greater flexibility in the location of appropriate housing development beyond the existing Built Up Area Boundaries (BUABs). Policy CS3 (Strategy for Development and Growth) is a consideration and sets out that the Council must provide a minimum of 1,050 dwellings in Core and Hinterland Villages for the period between 2011 and 2031. Considering these policies in combination (and the relative weight that can be attributed to them in the absence of a 5 year supply), it is arguable that this proposal is in accordance with the wider settlement principles shared by the NPPF and the Core Strategy. These policies, having regard for the absence of a 5 year supply, and the requirement under paragraph 47 of the NPPF for the Council to "boost significantly the supply of housing", represent material considerations to depart from Policy CS2.
15. As Policy CS11 is the key Core Strategy policy relevant to guiding growth in Hinterland villages and offers useful criteria to assess the sustainability of this proposal:

#### **CS11 Criteria for Core and Hinterland Villages:**

##### The landscape, environmental and heritage characteristics of the village

16. The site lies to the east side of the adjacent road and is currently an agricultural field. There is existing hedgerow along part of the road, residential properties to the south and west, and similar land to the application site to the north which was approved outline planning permission for 8 no. dwellings, with further residential dwellings to the north on the same side as the application site. The site has an open character which would change if development were to occur, but this may not necessarily be to the detriment of the street scene or the surrounding environment.
17. At present the boundaries of existing residential dwellings on the west side of the road are not particularly sensitively screened in the existing landscape setting. Having regard for the existing characteristics of its surroundings, it is not considered that the principle for development of this site would be out of character with its surroundings or create an adverse environmental impact. Landscaping details are reserved and therefore would be considered under the submission of a Reserved Matters application. However, this issue has been assessed to a degree below in this report, as a result of the content of the objection received by the Parish Council.

##### *Impact on Heritage*

18. In accordance with Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 local planning authorities must pay special regard to the desirability of preserving or enhancing the character or appearance of a conservation area when considering planning applications. In addition Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 places a general duty upon local planning authorities which requires them to have special regard to the desirability of preserving listed buildings or their settings when considering whether to grant planning permission.

### *Impact on Listed Buildings*

19. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that '*in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority.....shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses*'.
20. The proposed development site lies on the east side of Duke Street, an existing built-up areas of Hintlesham, on land that has most recently been in agricultural use. There are no listed buildings within any close proximity of the application site, the setting of which could potentially be affected as a result of the proposal. A pair of non-designated cottages (Victoria Cottages) are located to the north of the application site, however it is considered that, subject to the sensitive arrangement of development along this side of the street, there would be no significant demonstrable or detrimental impact on the existing built environment.

### *Conclusion (Impact on Heritage)*

21. The NPPF, at paragraph 134, says that, where proposals lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. As there are no designated assets within proximity of the application site, the proposal would not have any impact on any designated heritage assets.

#### The locational context of the village and the proposed development

22. This matter requires an assessment of the context in which the application site is located by reference to the village, its facilities and applicable planning designations.
23. Paragraph 10 of the SPD states that: "To be considered under CS11 proposals must be in or adjacent to a Core Village or a Hinterland Village. Proposals should be well related to the existing settlement. It is suggested that the starting point for assessing this is whether or not the site adjoins the Built Up Area Boundary (BUAB) of the village. Some sites, even though they adjoin a BUAB may not be well related to the village and a judgement will need to be made taking in account issues such as:
  - Whether the proposal would constitute ribbon development on the edge of the village
  - How the site is connected to the exiting settlement, jobs, facilities and services including location of site access and availability of sustainable transport links
  - The scale, character and density of the proposal in relation to the existing adjoining development
  - Whether the proposal constituted a logical extension of the built up area of the village
  - Whether the proposal is self-contained and has logical natural boundaries
24. Although not located inside the BUAB of the village, the site is considered to lie within the existing linear pattern of development in this part of the village and will reflect the development on the opposite side of Duke Street. Furthermore development further along Duke Street is set along both sides. As such, the proposed development site is considered to demonstrate a close functional relationship with the existing settlement, and would relate well to the existing pattern of development that can be seen along Duke Street. In this regard, the site is considered to be well related to the village. Therefore, the proposal also complies with this part of policy CS11.

#### Site location and sequential approach to site selection

25. The acceptability of the principle of development does not turn on whether or not the site is within the BUAB. In this case the site is outside but close to the BUAB. However, the site is considered to be reasonably well related to and accessible by walking to the services and facilities of Hintlesham.



26. There are no sequentially preferable allocated sites within Hintlesham, nor are there any sites within the built up area boundary which would enable a development of commensurate scale. The outcome of R (on the application of East Bergholt PC) v Babergh District Council CO/2375/2016 before Mr Justice Mitting has clarified that in relation to sequential assessment, there is no requirement to look at alternative sites adjoining the built up area boundary, as sequentially they are within the same tier.

#### Locally identified need - housing and employment, and specific local needs such as affordable housing

27. The villages are very varied and their needs and factors which influence what is an "*appropriate level of development*" will vary from village to village, especially where villages are situated within environmentally and visually sensitive landscapes, particularly the AONBs, and/or where villages include conservation areas and heritage assets. These landscapes and heritage assets will be key considerations when considering planning applications.
28. Accordingly, "*locally identified need*" or "*local need*" should be construed as the development to meet the needs of the Hinterland Village identified in the application, namely Hintlesham and the functional cluster which it sits within.
29. The SPD identifies that proposals should be accompanied by a statement that analyses the local housing needs of the Village and how they have been taken into account in the proposal. For the reasons explained, the local housing needs of the village must be construed as the needs of the village itself and the needs of the function cluster of smaller rural settlements it serves. In this case the Applicant has not submitted a housing needs assessment.
30. The Council's 2014 Suffolk Housing Needs Survey shows that there is high demand for smaller homes, across all tenures, both for younger people, who may be newly forming households, and also for older people who are already in the property owning market and require different, appropriate housing, enabling them to downsize. Affordability issues are the key drivers for this increased demand for smaller homes.
31. Policy CS18 does require a mix of dwelling types and the applicant has given an indicative mix as part of the outline submission, however it is not for consideration as part of the application. It is anticipated that the site can accommodate a range of smaller dwellings to meet identified need within its overall mix.

#### Locally Identified Community Needs

32. The SPD identifies that proposals should be accompanied by a statement that analyses the community needs of the Village and how they have been taken into account in the proposal. In this case the applicant has not submitted a community needs assessment.
33. In the absence of such a statement, the application submission has not adequately demonstrated how the proposal would meet this element of policy CS11. However, Officers would advise that the proposed development may generate contributions towards community infrastructure, to be spent on local services and infrastructure, therefore supporting rural communities, local services and facilities. In this regard, despite the absence of the needs assessment, the proposal has the potential to benefits through CIL that would be considered to satisfy this element of policy CS11.

#### Cumulative impact of development in the area in respect of social, physical and environmental impacts

34. Policy CS11 requires the cumulative impact of development, both within the Village and its the functional cluster, to be a material consideration. This consideration was raised by the Parish Council in their objection to this application.

35. On previously considering this point, it has been outlined that in considering cumulative impact this would normally be looking at the capacity of water treatment works and the limits of the secondary school, which would put a direct limit on future developments, due to the level of infrastructure required to enable additional capacity.
36. In this instance, whilst the secondary school at Hadleigh is at capacity, there is likely to be significant growth within the Hadleigh area over the plan period which will enable further expansion of the school, as a result of CIL contributions. In addition the county are looking at catchment areas in order to address some capacity issues. It is not considered that, despite previously approved applications for further small scale development within the locale, this development of up to 11No. dwellings is sufficient to tip the balance in terms of cumulative impact and that the level of development is proportionate to the size and scale of the site and the scale of the village as a whole.
37. Given the responses from statutory consultees and the relatively small scale of development proposed, there is no reason to believe there would be significant adverse cumulative impacts as a result of the development in combination with others completed/committed to in the cluster. CIL provides a mechanism for GP surgeries and schools to adequately mitigate development and this development would contribute to providing CIL funding on a district wide and parish level. There is also no evidence to suggest that utilities infrastructure cannot serve or would be significantly adversely impacted by the development. It is therefore considered that the evidence suggests this development will be easily accommodated within the existing infrastructure of the village and will not lead to a detrimental impact on the social, physical and environmental wellbeing of the village nor the wider cluster. The proposal therefore complies with this element of policy CS11.

#### **Additional CS11 Criteria for Hinterland Villages**

##### Is adjacent or well related to the existing pattern of development for that settlement

38. As outlined above, it is considered that the proposal has a close functional relationship and is well related to the existing pattern of development for the settlement. It is also considered that the layout, size and scale of development is in keeping with the surrounding street scene and, crucially, (in line with the presumption in favour of development) demonstrable evidence does not exist that there is an adverse impact resulting from the scale and size of development proposed. This element of CS11 is therefore satisfied.

##### Meets a proven local need, such as affordable housing or targeted market housing identified in an adopted community local plan / neighbourhood plan

39. Hintlesham does not have a neighbourhood plan. Consideration of the extent to which the development meets local needs, both in terms of housing and community facilities, is considered in detail earlier in this report. In conclusion there is some evidence to suggest there is a proven local need but not at the level provided for by this application and therefore the proposal is contrary to this element of CS11.

##### Supports local services and/or creates or expands employment opportunities

40. The proposal would provide new dwellings and would make a contribution to supporting the existing facilities in the wider area. As such, the proposal satisfies this element of policy CS11 and the wider objectives of the NPPF.

##### Does not compromise the delivery of permitted or identified schemes in adopted community/village local plans within the same functional cluster

41. The proposal would not compromise delivery of permitted or identified schemes. As such, the proposal accords with this element of policy CS11.

## Summary of Assessment Against Policy CS11

42. For the reasons set out above, the proposal cannot be said to fully comply with policy CS11 in terms of whether it satisfies a local need. However, it satisfies the spatial and sustainability objectives of this policy and therefore, on balance, would be in keeping with the general aims and spirit of Policy CS11.

### **Consideration against other development plan policies.**

43. The Council cannot now demonstrate a supply of specific deliverable sites sufficient to provide five years' worth of housing against the housing requirements, as required by paragraph 47 of the NPPF. In light of this, the weight that can be given to policy CS2 needs to be considered in the light of paragraph 49 of the NPPF, which provides that "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". Policy CS2 forms part of a suite of policies to control the distribution of new housing, and can be afforded weight, since it contributes to ensuring that development is sustainably located and unsustainable locations are avoided. This planning objective remains important and is consistent with the NPPF presumption in favour of sustainable development, by limiting development in less sustainable locations with a limited range of services to meet the needs of new residents in a sustainable manner. However, in the absence of a five-year supply and with significant weight afforded to the provision of housing as to address the housing shortfall, Officers are of the view that this policy should be afforded limited weight.
44. Development in core and hinterland villages will be approved where the criteria related to core villages in CS11 are addressed to the satisfaction of the local planning authority and where proposals score positively when assessed against policy CS15. The above appraisal provides, therefore, only part of the consideration of the sustainability of the site and only part of the consideration of the development plan as a whole. As such, this report will now consider other relevant development plan policies, and also consider, in light of the entirety of this assessment, the three strands of sustainable development set out in the NPPF.
45. Policy CS15 is a long, wide-ranging, criteria based policy, setting out how the Council will seek to implement sustainable development. It contains a total of 19 criteria, covering matters such as landscape impact, job creation, minimising energy and waste and promoting healthy living and accessibility. Some of the criterion within policy CS15 are covered within the individual sections of this report and it is not, therefore, necessary to run through each and every one of those criteria in this section of the report. What follows is, therefore, an overarching summary of the key points.
46. Policy CS15 seeks to minimise the need to travel by car using alternative means and improving air quality. Hintlesham is well connected with the surrounding settlements via the local highway and public rights of way network. It benefits from a bus service which stops at the Hall, on both sides of the road that offers services to nearby towns such as Ipswich. This also provides access to railway station with onward connections to destinations throughout the Country. Therefore, while it is acknowledged that there will be a high proportion of car travel from Hintlesham, as people travel out of the village to work, residents do have access to public transport connections which provide them with a choice of using public transport, and to combine short car based journeys with public transport, in order to access opportunities for employment, recreation and leisure.
47. The socio-economic profile of Hintlesham highlights the villages important role as an economic asset for the Babergh District. It is an attractive place to a variety of people. It is considered that the development proposed will enhance the vitality of the community and new housing development will deliver a range of benefits including attracting new residents to enhance the economic contribution of Hintlesham, underpinning social capacity, providing affordable housing and widening the housing mix overall.

48. This report has already considered the landscape setting of the site and surroundings and heritage assets (criterion i of CS15), and the following issues are also noted in respect of criteria within policy CS15;
- The proposal would provide work for local contractors during the construction period, thereby providing economic gain through local spend within the community. (criterion iii of CS15).
  - The proposed development would support local services and facilities, and enhance and protect the vitality of this rural community (criterion v of CS15).
  - The application site is situated where a residential use is appropriate due to the extremely low risk of flooding. It is therefore considered that the application site is sequentially appropriate for this development (criterion xi of CS15).
  - During construction, methods would be employed to minimise waste. (criterion xiv of CS15).
  - Any proposed dwellings would be constructed as a minimum to meet the requirements of Part L of the Building Regulations, which requires a high level of energy efficiency (criterion xv of CS15)
49. Furthermore, environmental aspects related to sustainable drainage (criteria x and xii of CS15), the associated highway issues (criterion xix of CS15) and the biodiversity aspects (criterion vii of CS15) will be considered within the specific sections of this report which follow.

### **Site Access, Parking And Highway Safety Considerations**

50. The access to the site is to be considered as part of the application. The indicative site layout shows the construction of two no. separate vehicular access points taken directly from Duke Street, both capable of servicing the proposed dwellings. However, the main access for the site would be via the access proposed in the southern half of the site, with the access point to the north of the site providing farm access beyond the site to the east.
51. The principle of the proposed access arrangements have been assessed by engineers at the local highway authority and it is considered that the development is acceptable and in accordance with current standards, subject to appropriate planning conditions, and would not result in any adverse impact on highway safety.
52. The application proposal, while indicative, shows parking spaces in accordance with the adopted standards, with parking provided in driveways and garages. It is likely that the proposed parking provision would accord with current Suffolk advisory parking standards (2014).
53. It is therefore considered that the scheme would be acceptable in highway safety terms and the proposal complies with saved policy TP15 of the Local Plan, and with criteria xviii and xix of policy CS15.

### **Environmental Impacts – Land Contamination**

54. The application is accompanied by a Phase 1 land contamination assessment and this has been considered by the Senior Environmental Management Officer, who concludes they have no objection to the proposed development from the perspective of land contamination. They request that they are contacted in the event that of unexpected land contamination. As such, the proposal is considered to comply with criterion vii of policy CS15 insofar as it relates to land contamination.

### **Landscape Impact and Trees**

55. While matters relating to landscaping considerations would not form part of the assessment in determining this application for outline planning permission, the Parish Council raised landscaping issues as part of their objection to this application, and as a result the applicant submitted a Landscaping Statement looking to address the issues raised.

56. The site is located on the edge of a Special Landscape Area, where Policy CR04 states that development proposals in Special Landscape Areas will only be permitted where they:
- Maintain or enhance the special landscape qualities of the area, identified in the relevant landscape appraisal; and
  - Are designed and sited so as to harmonise with the landscape setting
57. The Babergh Local Plan notes that (para 6.22) ‘The boundaries of the Special Landscape Areas in the Babergh District tend to relate to river valleys and have been drawn to follow physical features on the ground, e.g. roads, hedgerows, etc’. This Special Landscape Area tends to centre on the Belstead Brook and its tributaries from Elmsett and Flowton in the north-west as far as the edge of Ipswich in the east from Sproughton to Copdock.
58. Joint Babergh and Mid Suffolk District Council Landscape Guidance, August 2015 states that CS11 proposals on the outskirts of villages should have regard to whether the proposals would constitute harmful ribbon development on the edge of the village and whether the proposal is visually well related to the settlement it abuts and has a logical, natural boundary and does not encroach into open countryside.
59. It is worth noting that Babergh and Mid Suffolk’s Local Plan Designations Review, published in early 2015, states:
- ‘The (SLA) designation is no longer necessary, as the Districts are now covered by an up to date landscape character appraisal, which incorporates specific guidance as to what constitutes local character.’
60. This set the tone for the Council’s preferred option in the current Joint Local Plan Consultation Document. It suggests using Landscape Character Assessment as the means to afford protection to landscapes in the emerging new Local Plan, and to do away with the SLA designation. The site lies within the Suffolk Landscape Character Assessment character type identified as ‘(3) – Ancient Plateau Claylands’. The key characteristics are described as:
- Flat or gently rolling arable landscape of clay soils dissected by small river valleys
  - Field pattern of ancient enclosure –random patterns in the south. Small patches of straight-edged fields associated with the late enclosure of woods and greens
  - Dispersed settlement pattern of loosely clustered villages, hamlets and isolated farmsteads of medieval origin
  - Farmstead buildings are predominantly timber-framed, the houses colour-washed and the barns blackened with tar.
  - Roofs are frequently tiled, though thatched houses can be locally significant
  - Scattered ancient woodland parcels containing a mix of oak, lime, cherry, hazel, hornbeam, ash and holly
  - Hedges of hawthorn and elm with oak, ash and field maple as hedgerow trees.
  - Network of winding lanes and paths often associated with hedges create visual intimacy

Landscape Management Guidelines for this type are:

- Reinforce the historic pattern of sinuous field boundaries
- Recognise localised areas of late enclosure hedges when restoring and planting hedgerows
- Maintain and restore greens and commons
- Maintain and increase the stock of hedgerow trees
- Maintain the extent, and improve the condition, of woodland cover with effective management, especially if this can be economically viable
- Maintain and restore the stock of moats and ponds in this landscape

61. The Parish Council objected to the proposed application, partly in relation to the visual impact as a result of the proposal. However, it must be noted that matter such as the scale and size of dwellings would be agreed in any Reserved Matters application, and it is therefore the principle of the proposal that is to be determined at this stage. The inclusion of a landscaping statement at this stage had demonstrated that the applicant understands the fundamental role that landscaping plays in the integration of the new build residential dwellings into the local area and the surrounding pastoral landscape.
62. It is considered that the ribbon-shaped layout is intended to reflect the character of built form along Duke Street, and would read as a continuation of the consented ribbon development to the north. The development is not considered to represent harmful ribbon development as it reflects an existing pattern of development in the locality. While a section of hedge is required to be removed to make way for the visual splay (which will be replanted behind the splay line) there is no further impact on any additional physical vegetative features. A substantial amount of new native planting is proposed (native hedgerow planting with trees), along the edge of the adjacent arable land to the east. This will provide a suitable rural edge treatment, within this context, and once matured provide screening and enclosure to the rear elevations, which will also help to mitigate the minor visual impact on long range views toward the site from distant points on Chattisham Lane to the east. Increasing the stock of hedgerow trees is a management objective for Ancient Plateau Claylands.
63. The existing dwellings on the west side of Duke are visible from parts of the Special Landscape Area (SLA) to the east. However, it can be considered that as they are sited within a wooded skyline, these buildings do not have a significant demonstrable adverse impact on the visual amenity. As such, it is considered that the addition of a single row of new dwellings, softened with appropriate boundary planting, will not be out of context and have any further significant or demonstrable visual impact. Any boundary treatment would be managed in accordance with an approved maintenance schedule.
64. On balance, it is considered that the proposed development would relate satisfactorily to the wider landscape and will not be detrimental to the characteristics of the wider Special Landscape Area to any significant degree, subject to appropriate mitigation to be considered and conditioned with any subsequent Reserved Matters application. The development will include good levels of landscaping and the inclusion of small areas of open space which will act as a buffer and soften the landscape setting from the adjacent road.

### **Biodiversity And Protected Species**

65. In assessing this application due regard has been given to the provisions of the Natural Environment and Rural Communities Act, 2006, in so far as it is applicable to the proposal and the provisions of Conservation of Habitats and Species Regulations, 2010 in relation to protected species.
66. The site falls within the 13km 'zone of influence' for the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site, as set out in the emerging Suffolk Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). New development within the location may be 'likely to have a significant effect' upon the interest features of the aforementioned designation(s), when considered in combination, through increased recreation. Development would therefore require a suitable contribution to the emerging RAMS in order to conclude there would be 'no likely significant effect' as a result of development. This can be secured via a Section 106 contribution.

### **Surface Water Drainage**

67. Policy CS15 requires development to minimise the exposure of people and property to all sources of flooding and to minimise surface water run-off and incorporate sustainable drainage systems (SUDS), where appropriate. The application is likely to be able to satisfy such requirements as would be required in assessing any Reserved Matters application. Therefore, and in broad terms, it is considered that the development would be able to demonstrate compliance with the requirements of both policy CS15 and the NPPF.

## **Summary of Assessment Against Policy CS15**

68. Policy CS15 is a detailed policy setting 19 individual criteria as to how sustainable development will be implemented in Babergh. The proposal has been assessed against these criteria and, whilst a number of the criteria are met, it is not possible to conclude that the development accords with policy CS15 as there are a number of criteria within policy CS15 that the proposal is either silent on or which the development does not strictly comply with. In this regard, the proposal can only be treated as being partly in compliance with policy CS15, however on balance would be broadly in keeping with the aims and spirit of the policy.

## **PART FOUR – CONCLUSION**

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69. At the heart of the balancing exercise to be undertaken by decision makers is Section 38(6) of the Planning and Compulsory Purchase Act 2004; which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, determination must be made in accordance with the plan unless material considerations indicate otherwise, notwithstanding that the Council cannot presently demonstrate that it has a 5-year land supply.
70. In layman's terms it is clear that the Supreme Court have identified the objective of the NPPF paragraph 47 and 49 to boost significantly the supply of housing as being the more significant matter than questions as to what is or is not a relevant policy for the supply of housing. The message to local planning authorities is unmistakable. This is a material consideration which is of weight to the decision in this case. If policies for the supply of housing are not to be considered as being up to date they retain their statutory force but the focus shifts to other material considerations and, in particular, paragraph 47,49 and 14 of the NPPF. It is, therefore, considered that paragraph 14 of the NPPF is engaged with regards to this proposal.
71. Whilst it is acknowledged that the proposal is contrary to policy CS2 and in part CS11 and CS15, these policies should be afforded limited weight insofar as they seek to restrict the supply of housing.
72. When taken as a whole and as a matter of planning judgement on balance, the proposal is considered to adhere to the development plan and NPPF, and that any adverse impacts from the proposed development do not significantly and demonstrably outweigh the benefits of the development explained in this report, including the sustainability of the proposal. The application is therefore recommended for approval.

## **Statement Required By Article 35 Of The Town And Country Planning (Development Management Procedure) Order 2015.**

73. When determining planning applications The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires Local Planning Authorities to explain how, in dealing with the application they have worked with the applicant to resolve any problems or issues arising. In this instance the applicant has worked to address issues such as landscape considerations. However, it is noted that further work is required in terms of justifying identified local housing needs relating the the size of dwellings.

## **Identification of any Legal Implications of the decision**

74. The application has been considered in respect of the current development plan policies and relevant planning legalisation. Other legislation including the following have been considered in respect of the proposed development.

- Human Rights Act 1998
- The Equalities Act 2010
- Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990
- Natural Environment and Rural Communities (NERC) Act 2006 (any rural site)
- The Conservation of Habitats and Species Regulations 2010
- Localism Act
- Consideration has been given to the provisions of Section 17 of the Crime and Disorder Act, 1998, in the assessment of this application but the proposal does not raise any significant issues.

## **RECOMMENDATION**

That authority be delegated to the Corporate Manager - Growth and Sustainable Planning to grant planning permission, subject to the prior completion of a Section 106 or Undertaking on terms to his satisfaction to secure the following heads of terms:

- Affordable Housing
- Recreational Amenities Contribution (Stour and Orwell SPA)

and that such permission be subject to the conditions including as set out below:

- Time Limit Condition
- Approved plans
- Submission of reserved matters
- Details of materials
- Site levels
- As required by highways
- As required by SCC Floods
- Details of fire hydrants
- Ecological mitigation and enhancement measures
- Detailed landscaping plan including all boundary treatment
- Archaeological work and monitoring
- Sustainability/Energy Reduction






**Application No: DC/17/03982**




**Parish: Hintlesham**



**Location: Land To The East Of Duke Street and North Of Red House Cottages**

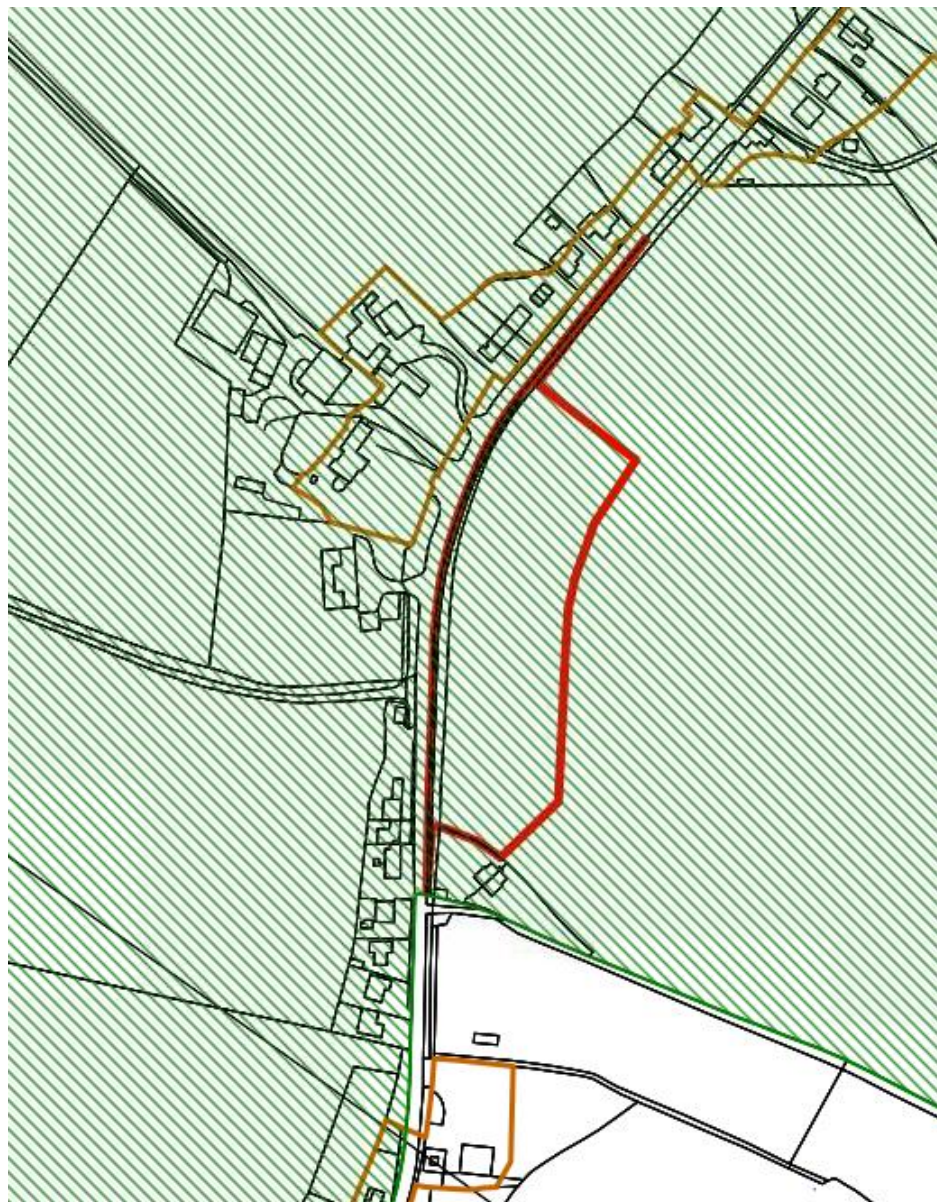
**Legend**

-  Area of Outstanding Natural Beauty
-  Special Landscape Area
-  Conservation Area

**Listed Buildings**

-  Grade 1
-  Grade 2
-  Grade 2 \*

-  The Site
-  Built up Area Boundary



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# Agenda Item 8

## BABERGH DISTRICT COUNCIL

<b>From:</b> Development Management Officer – Growth & Sustainable Planning	<b>Report Number:</b> <b>PL/17/23</b>
<b>To:</b> Planning Committee	<b>Date of Meeting:</b> 22 November 2017

### RESPONSE OF BABERGH DISTRICT COUNCIL TO THE CROSS BOUNDARY PLANNING APPLICATION IN RESPECT OF LAND AT STAFFORD PARK CLARE ROAD LONG MELFORD FOLLOWING DEVOLUTION OF DECISION-TAKING POWERS TO BRAINTREE DISTRICT COUNCIL.

#### 1. Purpose of Report

- 1.1 To agree response to Braintree District Council following devolution of the Council's powers to determine a planning application at Land at Stafford Park, Clare Road, Long Melford.

#### 2. Recommendation

- 2.1 That Babergh District Council write to Braintree District Council advising of the following;

- That had Babergh District Council determined this application, the Council would have been minded to approve the application subject to appropriate conditions and a Section 106 agreement.
- That should Braintree District Council approve the proposal, that Babergh District Council wish to be party to the wording of conditions and the terms of the Section 106.
- That all mitigation identified as necessary in this report to mitigate the impacts of development on the Babergh district, including those relative to education, highways, affordable housing and rights of way improvements, be secured through the section 106 agreement.
- That the Section 106 include obligations that ensure the delivery of the decontamination of the landfill site within the Babergh district area.

#### 3. Financial Implications

- 3.1 There are no financial implications arising directly from this report.
- 3.2 However, it is recognised that the development would bring about Community Infrastructure Levy liability.

#### 4. Risk Management

- 4.1 There are no significant risks arising directly from this report.
- 4.2 It should be noted that the risk of failure to achieve a suitable means of decontaminating the landfill site associated with this development site can have significant environmental impacts. This matter is being monitored by the Environment Agency.

#### 5. Equality and Diversity Impact

- 5.1 There are no Equality and Diversity implications arising directly from this report.

## 6. Key Information

- 6.1 On 20<sup>th</sup> December 2016, Babergh District Council resolved to devolve powers to Braintree District Council for the determination of a planning application seeking Outline planning permission (with all matters reserved except for access) for the proposed development of up to 100 dwellings and the change of use of an existing buildings to create up to 22 apartments and a community centre, to enable remediation of the adjoining licensed landfill site to the north.
- 6.2 Proposals also include the demolition of the other existing buildings, associated works to remediate the land on the application site, flood attenuation measures, reinstatement of the River Stour to include the removal of the sluice gate and the creation of a series of rock riffle weirs and associated infrastructure improvements, landscaping and provision of public open space, as amended by Flood Risk Assessment received 29th October 2015.
- 6.3 The significant majority of the application site is in Braintree District.
- 6.4 However, within part of the Babergh district lies a licensed landfill site associated with the former operations at this site. The proposed development would seek to enable the decontamination of this landfill site.
- 6.5 As Babergh District is the smaller area of the site, it has received none of the application fee. In addition, it is good planning practice to allow the majority authority to determine as it promotes cooperation between authorities, as envisioned by Localism, and avoids conflicts between what would otherwise be two planning permissions and two legal agreements; potentially two different decisions.
- 6.6 As such, work on any necessary planning obligation under section 106 of the 1990 Act will also be delegated to Braintree District Council, subject to Babergh District Council's final approval.
- 6.7 BDC will benefit from CIL contributions, the amount has not yet been confirmed due to the Outline nature of the scheme.
- 6.8 The proposed application has been the subject of a 21 day period of consultation with all consultees and interested parties being notified.
- 6.9 The assessment of the application is considered later in this report.

## 7. Consultations

- 7.1 Those consultation responses received are summarised as follows:-
- 7.2 **BDC Consultant Ecologist (James Blake Associates Ltd)** – An updated and consolidated response to the proposal, taking into consideration the updated Ecology and Nature Conservation Chapter for the ES and the updated Ecology Assessment that was included as Appendix 8.1 has been provided.

They state that their initial assessment of the application was set out in their letter to BDC dated 15th December 2015. They identified three main areas where further information was required to enable them to fully assess the likely significant effects of the proposed development on ecological receptors, these were:

1. The quality of the ecological reporting and specifically a request for information to identify the level of expertise of the report authors and the ecological surveyors who collected data to support the reports;

2. Protected species surveys and assessment of impacts. They requested that further survey evidence be provided and analysed to assess the potential effects of the proposed development on water vole, otter, great crested newt and bat populations (all of which are European Protected Species, EPS) and reptiles and other Species of Principal Importance. In their opinion, the information provided was not sufficient to determine the likely significant effects on the populations of these protected species;

3. The assessment of impacts on statutory protected sites. They requested that the ecological assessment should be revised to take into consideration the potential effects of the proposed development on all Sites of Special Scientific Interest that may be affected both during the construction and operational phases of the development, including Glemsford Pits SSSI and Kentwell Woods SSSI which are both within 2km of the site.

Furthermore, they recommended that:

- A Construction Environmental Management Plan (CEMP) is produced by the applicants to detail what precautionary measures would be put in place to minimise the risk of impact to protected species and sites during the construction phase;
- An assessment is undertaken of the potential increase in recreational use of sensitive areas of the site post-development. Details of appropriate mitigation should be included where appropriate; and
- Measures to enhance the biodiversity at the site are required in accordance with Paragraph 118 of the NPPF, and Section 40 of the NERC Act (2006).

At the request of the LPAs, they subsequently responded to a letter from the applicant dated 22nd January 2016 which provided an initial response to the matters above. In their response to the LPA dated 25th February 2016 they provided further justification for the need to address the matters set out above, before the LPA could determine the planning applications.

Both the National Planning Policy Framework (NPPF 2012) and Circular 06/2005 which still forms a part of the NPPF, require that LPAs must assess the effects of planning proposals on protected sites and species before considering granting planning permission, and should only approve proposals where the effects on such protected sites and species can be avoided, mitigated or as a last resort, compensated for. In summary they recommended that further surveys for bats, reptiles and water voles were undertaken pre-determination, as best practise advises that baseline information should be fit to inform the decision making process (BS:42020 6.2.1).

However, they also acknowledged that any mitigation requirements resulting from these further surveys and assessments of effects would likely be achievable within the site boundary and therefore could be made subject to suitable planning conditions, if a detailed mitigation strategy is provided and appropriate conditions are attached to any permission. The details of the necessary mitigation could be agreed at the Reserved Matters application stage once the further surveys recommended have been carried out.

Consequently, the LPA received further ecological reports and a revised and updated Ecology and Nature Conservation ES Chapter to support the submitted planning application. They reviewed these revised and updated documents at the request of the LPA and provided their response in a letter dated 16th February 2017. In summary they advised the LPA that:

1. The quality of the ecological reporting.

The revised and updated reports included the requested details and qualifications of all personnel involved with the ecology surveys, and therefore demonstrate that the surveys were carried out by competent individuals. They consider that this conforms with BS:42020 and therefore the results of the surveys can be relied upon;

2. Protected species surveys and assessment of impacts.

### *Water voles*

Water vole surveys were undertaken at the site in June 2016. It is stated that banks were steep and vegetation cover abundant causing in-channel inspections to be difficult to undertake and progress slow. However no discussion of the impacts of these constraints on the findings was included, therefore it is assumed that the survey conditions did not constrain the results. It would be useful to have confirmation of this as part of the final submission. Although no signs indicating the presence of water voles were recorded, the precautionary recommendations for working practices and updating surveys is welcomed and should be conditioned if the Council is minded to approve the application. The inclusion of Mink control at the site is also welcomed to prevent the spread of this species to the future detriment of water vole populations.

### *Otters*

The Ecology and Nature Conservation ES Chapter has been updated to include an assessment of potential impacts to otters from increased domestic animals and it is concluded that there is unlikely to be a significant effect. Additional planting and access to the northern bank of the river and adjacent habitat would provide areas that are not readily accessible to domestic animals.

Updated surveys recorded several spraint across the site, no holts or couch sites were recorded. Precautionary working methodologies have been proposed to minimise the risk of causing harm or disturbance to otters during the construction phase and these should be included within a CEMP that should be conditioned if the Council is minded to approve the application. Updating surveys, as recommended, should be carried out throughout the Reserved Matters applications stage to assess the continuing use of the site by otters.

### *Bats*

The internal and external inspections have been updated in 2016 and have reported no change to the conditions reported in 2014. It is understood that it has been agreed that further surveys are not required to inform the outline application, but that surveys will be undertaken in support of the Reserved Matters applications.

Precautionary working methods are welcomed and should be included within a CEMP, which should be conditioned if the Council is minded to approve the application.

### *Reptiles*

Reptile surveys have been undertaken to cover both the proposed residential areas and the area to the north of the river. No reptiles were recorded, however it is recommended within the reports that surveys are updated at the Reserved Matters applications stage to inform the detailed application. This approach is welcomed and any precautionary methods proposed following these updated surveys should be incorporated into the CEMP.

### *Great crested newts*

Updated eDNA surveys were undertaken in 2016 and returned inconclusive results for one of the ponds surveyed. However, given the lack of evidence in the other ponds surveyed and the inconclusive evidence returned from the one pond, it is recommended in the reports that the surveys are updated to inform the Reserved Matters application.

Further surveys should be conditioned and any avoidance and mitigation recommendations arising from the outcome of these surveys should, if required, be subject to further appropriate conditions including updating working methods within the CEMP.

Overall, they consider that the updated reports cover the majority of the issues raised previously, and are sufficient to support the outline planning application. Further surveys and an appropriate CEMP should be conditioned if the Council is minded to approve the application, to ensure that the impact to Ecology is updated accordingly and suitable precautionary working methods are detailed.

### 3. The assessment of impacts on statutory protected sites.

The revised and updated Ecology and Nature Conservation ES Chapter assesses both the construction and operational effects on the two SSSI's within 2km of the site, which conclude that there would unlikely be any significant adverse effects upon these.

7.3 **BDC Environmental Protection** – No objection raised, subject to the imposition of planning conditions controlling site clearance, demolition and construction work, along with matters of controlling the remediation of contaminated land.

7.4 **BDC Housing Research & Development** – Policy CS2 of adopted Core Strategy seeks a target of 40% for affordable housing on schemes 5 or more units in the rural areas of the District. The outline proposal for this site is for up to 100 new residential homes to be constructed and creation of 22 flats from the conversion of existing buildings. This means that 48.8 of the homes should be provided as affordable housing.

Although Braintree generally has a high level of housing need, evidence from the housing register in this part of the District does not justify seeking 48 affordable homes on site. As the site is located at the northern most boundary of Braintree and neighbours Babergh District, they have liaised with Babergh District Council over whether there is scope for a cross-boundary approach to meeting need for affordable homes in both Districts. Geographically, the nearest large settlement is Long Melford where it is understood that there are more than 60 applicants registered seeking affordable homes. However, BaDC have advised caution over numbers of units that are sought on site because of the remote location and lack of amenity.

It is acknowledged that details set out in the application are indicative, but they recommend that 10 affordable homes be provided on site, along with a commuted payment in lieu of 38.8 units, subject to viability. It is considered that 6 x 1 bedroom flats and 4 x 2 bedroom houses would be an appropriate mix to match housing need.

As regards a commuted payment, applying the commonly used approach illustrated below, this would amount to £970,000. This sum is higher than that advised in pre-application advice owing to the figure per unit being revised to reflect higher levels of grant needed to procure units from the open market for affordable housing.

122 units x 40% = 48.8 units  
48.8 units – 10 units (provided on site) = 38.8  
38.8 units x £25,000 = £970,000

Payments would be held in an account and used specifically to assist in providing funding to registered housing providers for the provision of new affordable homes at other locations in the District.

Additional factors concerning affordable housing that should be considered are as follows:

- Affordable dwellings should be deliverable without reliance on public subsidy;
- Affordable homes should conform to standards acceptable to the Homes and Communities Agency at the point of construction; and
- House type units should meet Lifetime Homes Standard.



- 7.5 **BDC Waste Services** - The design of the access road needs to accommodate turning movements for waste collection vehicles up to 26T and will need to be offered up for adoption to ECC as public highway. If the access road is to remain private then each household will need to present their waste bins at a suitable location near (no more than 20m) or on the public highway.

### **External Responses**

- 7.6 **Anglian Water** – No objection, as the nearest waste water treatment plant at Long Melford and the foul sewerage network both have capacity to accommodate the flows from the site.
- 7.7 **Babergh & Mid Suffolk Economic Development** – Its disappointing to see the loss of an employment site, and would have liked to have seen an employment use maintained. They suggest that part of the Community building could provide some internal office/work space for future residents' use.
- 7.8 **Babergh & Mid Suffolk Environmental Management (Contaminated Land)** – In reviewing the application they have not responded to any elements relating to the former landfill area, as the Environment Agency are regulators for this part of the site owing to the existence of an Environmental Permit, and which is also subject to a separate planning application. They have not commented on those areas outside Babergh District either (within the Braintree District where the housing is proposed to be).

The area within the application site that is within the Babergh District and outside the area of the environmental permit, includes just those areas surrounding the proposed community centre and the sludge lagoons to the east of the landfill area.

The principal risk drivers in respect of the sludge lagoons are the impact on groundwater from the former uses of the site, into which waste from the factory site was pumped. Remedial works undertaken on this area will be required to ensure that the residual soil within the beds is not impacting on the groundwater or future end users of the site. Any remediation of the sludge beds would need to be done in conjunction with the remediation of the landfill, but the investigation undertaken by Wren and Bell in March 2015 has mainly centred on the landfill site, so is outside the scope of the application.

The investigation into the effluent treatment plant states that the area would be de-silted and in-filled to make it suitable for public access. However, the details of the remediation in respect to the effluent treatment plant are insufficient to state that the site would be suitable for its intended use. The Wren and Bell report states that the area may be suitable for the importation of waste material from the landfill site, however as this site is outside of the permitted area, this may require a variation to the existing permit to cover the Effluent Treatment Plant, and may not be acceptable with the EA.

They go on to state that any imported material would need to demonstrate suitability for use in terms of the area that would be designated as Public Open Space (POS) south of the River Stour, as it would seem as though there have only been limited investigations into the presence of contamination in this area and the potential impact on end users. Whilst POS is no doubt less sensitive an end use when compared with residential with plant uptake, nonetheless the developer needs to demonstrate that the land designated for POS is suitable for use.

They recommend that this information is secured from the applicant by way of condition, and also that any remediation that may be necessary to bring these areas back to a state where they become suitable for their use as POS. They believe that the conditions proposed by the Environment Agency should suffice in achieving this goal.

Finally they advise that whilst they can only comment on the areas for which Babergh District Council has control, they state that the site now requires a comprehensive approach to remediation.



- 7.9 **Babergh & Mid Suffolk Environmental Protection Team** – Thank you for passing me the Technical Note from Peter Brett Associates ‘response to EHO comments’ (note number TN-EHORESPONSE\_01, dated May 2016). I therefore have the following additional comments to make about noise.

I accept the proposed plant noise emission criteria as given in item 3 of the note, on the basis that these have been calculated at receptors closer to the proposed development than Cranfield Cottage, and that the proposed limits are low.

I understand from item 4 of the note that the construction traffic assessment has now been revised and the number of construction traffic movements anticipated is now greatly reduced. I accept that the resulting overall sound levels anticipated at Cranfield Cottage are now within BS8233:2014 levels.

Finally, I note from point 5 that construction noise at Cranfield cottage is predicted, at ‘worst case’ during the ‘worse case month’ to be 71dB. This is above the 65dB threshold value for a ‘significant effect; as given in BS5228:2009. However, the note goes on to state that “*in practice, much of the plant is likely to be mobile and unlikely to operate continuously throughout a typical daytime period. The magnitude of construction noise impacts is therefore likely to be reduced throughout the majority of the construction period. Scope therefore exists for the main contractor to provide a detailed construction plan that considers potential noise impact on nearby noise sensitive receptors*”. I would strongly advise that such a plan be required by means of condition as in my opinion further action will be needed to mitigate construction noise at Cranfield cottage.

- 7.10 **Babergh & Mid Suffolk Housing Development Officer** – No objection subject to 35% of the proposed dwellings being provided as Affordable Housing. Whilst the development would be located within the Braintree District, it is likely that residents of the development would use services in Glemsford and Long Melford; and therefore the affordable housing should be offered to residents of these villages.
- 7.11 **Dedham Vale and Stour Valley Project** – The site rests within the Stour Valley Project area and as such is covered by the Dedham Vale AONB & Stour Valley Management Plan of which both Braintree and Babergh District Councils are signatories. There are a number of objectives within this plan which they consider to be relevant to the site and would expect the plan to be taken into consideration when determining the application to ensure that the landscape and special qualities of the Stour Valley are protected and enhanced.

They have a number of comments relating to the proposal under the following headings:

*Principle of suitability*

While the concept of redevelopment of the brownfield site is welcome in principle, the isolated location does appear likely to cause considerable difficulties and they query the principle that the site is suitable for major residential development.

*Landscape and ecology*

Proposed development within the Stour Valley should be of an appropriate scale and take into account the landscape quality of the area. The proposal is considered to be major development and whilst in landscape terms, suitable planting could mitigate the visual impact of the development over time, the landscape impacts are wider reaching. The site is particularly sensitive, encompassing the River Stour and bordering the Glemsford Pits SSSI. The site therefore falls within the impact risk zone for the SSSI.

The River Stour passes through the site and forms an important feature in the local landscape character of the area. Development within close proximity of the river presents a concern in relation to flood risk, both at the site and further afield as a result of the development. Measures for ecological enhancements as part of the proposal are welcomed as an improvement to the current situation, for example, the proposed fish pass would have a beneficial impact on the river ecology in this location.

#### *Isolation of site*

The nature of the site is isolated and separate from any existing settlement. They do not consider the site to be a sustainable location for a significant housing development, given that issues surrounding transport, social isolation, access to schools and other community facilities are poor. Whilst various measures have been proposed to overcome these issues, they do not consider that the isolation of the site can be fully mitigated and there would be a strong reliance on cars as the primary mode of travel to and from the site for all daily requirements.

#### *Transport and access*

Major residential development will result in increased road traffic through the lanes of Liston and surrounds, and has not been satisfactorily addressed. The measures to improve cycling/walking will most probably involve third party land and cannot be guaranteed. An increase in road traffic on single track lanes will result in them becoming much less attractive for non-motorised road users, reduced tranquility, impacts on the special quality of the landscape. One of the access routes is via a protected lane and increased volumes of traffic using the lane is likely to have a negative impact on its qualities.

It is proposed that the access to the north of the site via the 'private track' be used during the construction phase only. They question whether enough consideration been given to this as a permanent means of access to the site, although note that this too presents concerns about road safety and connectivity to nearby settlements.

#### *Remediation of former landfill site*

Although the proposed remediation of the former landfill site may be desirable in environmental terms, it is not clear that the benefits of this outweigh the loss of habitats, and the ecological risks associated with soil stripping and vegetation removal. It appears that the LPA will need to seek detailed ecological advice in respect of these matters. It is noted that the former landfill site is outside the 'red line' boundary. They suggest, if the overall outline application involves the former landfill site, this too should be within the 'red line' boundary to facilitate appropriate conditions being placed on this part of the proposal.

#### *Enabling development*

The concept of the development as enabling development to allow the remediation of the site seems disproportionate. They state that the enabling element should only apply to the minimum requirement for remediation of the site.

### **7.12 Environment Agency -**

#### *Flood Risk*

Their flood maps show the site lies within fluvial Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is classified as a 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment (FRA).

They have no objection to this planning application, but highlight that the proposal requires the raising of land to provide development that will be situated in Flood Zone 1. As a result, compensatory storage is required which is intended to be provided on the opposite bank of the river to the area being raised. The Flood Risk Assessment (FRA), prepared by Millard Consulting, reference 12760/AB/237 Rev C and dated February 2017, includes details of the flood mitigation proposals and associated river engineering works. The proposals will ensure that floor levels of any buildings are raised above the 1% (1 in 100 year) and 0.1% (1 in 1000) year annual probability flood levels, inclusive of climate change and that dry access can be maintained to and from the development.

The conclusion of the FRA is that the development and associated works would not result in an increase in flood risk to the site or neighbouring land. The EA are in the process of having their 2011 River Stour model updated, and have compared the outputs of the above report with the draft outputs of their model update. The draft model outputs and technical note provided to them provide confidence that the proposed development works would not have an effect on third party interest and support the findings of the submitted FRA.

### *Land Contamination*

In principle the EA support the carrying out of the development as a means of environmental improvement for both the former manufacturing area, and enabling remediation of the former landfill area.

They have reviewed the Remediation Strategy and Summary of Site Investigations report of February 2017 (ref: 12.062, second edition, version 5) and the latest version of Chapter 10 of the Environmental Statement. They have no additional comments from the changes made in this revision of the proposal as much of these documents are identical to the document reviewed as submitted with the original planning application. They state that it should be noted that the points raised in their letter of 7 August 2015 (ref: AE/2015/119311/01-L01) were not addressed in this revision of the documents and these are expected to be addressed prior to discharge of planning conditions, namely:

The site is underlain by a Secondary A aquifer (sands and gravels) followed by a principal aquifer (chalk). A source protection zone 3 also underlies the site, a groundwater abstraction is located on site, is also in an EU Water Framework Directive Drinking Water Protected Area and is adjacent to the River Stour. The underlying sands and gravels aquifer, chalk aquifer and River Stour are therefore considered to be highly environmentally sensitive.

Overall, they agree with the recommendations, but have a few additional comments detailed below:

Following the additional delineation works, remedial targets for remediation will be required. They will require justification for parameters used for risk assessment, using site specific where possible. The broad concept of groundwater treatment and soil treatment as a method of remediation is acceptable, with the finer details to be determined at a later stage following further site investigation and risk assessment to refine the conceptual site model.

They note that the upgradient and downgradient monitoring points for the river for surface water quality were distant from the site. It may be beneficial to the risk assessment if monitoring points near to the site are used.

It should be noted that there would be an increased infiltration in the south of the river, which may increase leaching of contaminants. It appears that no leachate testing has been carried out to date.

They disagree with the 'unlikely' source-pathway-receptor linkage discussed on pages 17 and 18 of the Remediation Strategy and Summary of Site Investigations report (Groundwater (Chalk measures – Major Aquifer)), they believe this is 'likely'.

With respect to ground gas emissions dropping from 21% in 2008 to 15% in 2012, they state that other factors such as atmospheric pressure at the time of monitoring should be considered as this can lead to false conclusions.

However, they consider that planning permission could be granted to the proposed development as submitted subject to the imposition of planning conditions, without which, the scheme on the site poses an unacceptable risk to the environment and they would object to the application.

### *Ecology*

They recognise that the planning application seeks to resolve the dereliction at the former factory site and remediate its industrial legacy. Whilst many of the issues have been assessed and some designs and proposals have been included as part of the outline application, they state that these alone will not necessarily guarantee a favourable outcome for biodiversity, habitats and landscape issues on the site. In order to secure a viable and enhanced landscape setting and biodiversity outcome, they wish to see conditions imposed to any outline planning permission granted, to ensure that dereliction and negative manmade impacts on habitats are resolved positively.

They state that not all biodiversity and protected species issues have been completely resolved to all parties' satisfaction and suggest that a way forward would be to condition further protected species and Phase One ecological surveys for delivery before the detailed planning stage. They therefore wish to see protected species surveys for otter and water voles at the appropriate time, to ensure that the presence or otherwise of these mobile species is accurately recorded. Their presence and the way they use the site could vary with time and could affect the way that the site might be developed.

The proposed fish pass at the lower weir would need to be assessed by the Environment Agency's Fish Pass panel for approval before final design and construction. This could be done at the Flood Risk Activity Permit application stage.

Fish pass designs have to be suitable for the specific site and full range of species in the locality. Maintenance of a working fish pass can be laborious and they require regular checks. They can be a considerable financial outlay and on-going cost in perpetuity. If one gets blocked for any reason, (woody debris, algae, pump failures can be persistent problems) eels and other fish can be trapped and become desiccated. For this reason they recommend a full options appraisal of the lower weir to consider ecological, financial and Water Framework Directive issues. Weir removal and restoration of the channel to a more natural gradient and channel would likely be a better option on all fronts in the longer term here and will have wider benefits to the whole river ecosystem.

Their response of 7 August 2015 requested the production of a brief management plan setting out plans for the control of invasive non-native species on the land and proposed a condition to address this issue.

### *Water Framework Directive*

In their response dated 19 May 2016 they withdrew their previous objection on the need for a Water Framework Directive (WFD) assessment following the receipt and review of the WFD Technical Note prepared by Peter Brett Associates (PBA) dated March 16. This Technical Note was sufficiently detailed for an outline application, but they state that further assessment will be required to inform any detailed reserved matters application.

While there are potential enhancements proposed to the River Stour at this location, they consider that there remains the potential, depending on the detailed planning designs, for the deterioration in WFD quality measures. This would need to be further considered at the detailed stage, and the Technical Note states that additional surveys and studies will be undertaken which can inform any further WFD assessment. They therefore wish to see a suitable condition attached to any outline permission granted.

They consider that the scheme presents an opportunity for river restoration to a more natural river corridor free of unnatural impediments to fish passage and designed to deliver long term sustainable habitats along the river corridor. There has been agreement with the applicant to replace the redundant moving sluice gate with a series of gravel and cobble riffles. This would be a significant habitat and landscape improvement which they welcome and support, subject to the imposition of an appropriate condition.

The EA also state that there has been discussion between the applicant and themselves, but as yet no agreement has been reached for, the removal of the downstream concrete weir (downstream of the aforementioned sluice) and potential replacement of this redundant structure with a further series of stone riffles. Whilst the current proposal is to build a fish pass there, they state that this appears a bit of an anomaly in that it means building an extra concrete structure in order to bypass an old redundant concrete weir. They consider that the weir is an obsolete unsightly remnant of the factory process and old mill site and wish to see an options appraisal for the sustainable resolution of this old weir that further contributes achieving the objectives of the Water Framework Directive.

This options appraisal should consider landscape issues, river habitat and habitat enhancement, as well as fish passage, and whether building a new concrete fish pass is the most sustainable way forward in tackling the weir and the problems it presents to river habitat continuity. They have proposed a following condition in respect of this issue.

#### *Further conditions*

Their response of 7 August 2015 included a number of further conditions in relation to Groundwater and Land Contamination, and Pollution Prevention and Control. These are still considered applicable.

- 7.13 **Essex County Council (ECC) Education** – Whilst the appropriate authority for the provision of primary and secondary education for the site they support Suffolk County Council's conclusion that schools in Suffolk are better placed to provide for pupils who would live within the proposed development.

They would however remain responsible for transporting children to/from school and a financial contribution would be sought from the developer to meet travel costs for the first 5-years - £356,664 for primary pupils and £99,588 for secondary school children.

- 7.14 **ECC Flood and Water Management** – Initially registered a holding objection requesting additional information, as the submitted drainage strategy contained insufficient information in respect of storage and run-off rates from the site; information on flow routes and outfalls; and information to show that the site is safe from groundwater flooding.

Following assessment of the further information submitted by the applicants they have stated that they no longer object to the application, subject to a number of recommended planning conditions.

- 7.15 **ECC Highways** – Following a recommendation of refusal on highway grounds the applicant submitted further information to address the concerns of the Highway Authority. There were previously three recommended reasons for refusal, a summary of the assessment of the additional information is provided below:

1. Further evidence was required on trip generation and impact on the highway.

To address this, the applicant undertook a sensitivity test of trip generation in TRICS, using a selection of sites more appropriate for a rural setting. This showed that there was a slight increase in traffic generation for the permitted use and the proposed residential use, but not enough to take the local junctions over or near to capacity. It is also noted by ECC that the junctions have been tested with full forecasted proposed residential trip generation. From this basis, the Highway Authority is content that evidence has been provided to show that the development would not impact on the junctions to an extent that would cause them to go over capacity.

2. The unsuitability of the roads that access site to accommodate the traffic safely given their narrow width.

To address this, the developer has provided a proposal for a scheme of works on Liston Lane leading from the development to Long Melford. This would provide passing places at regular intervals, in most places approximately 100m apart (with one exception of 200m), giving a minimum road width of 5.5m. The applicant has confirmed and provided evidence that the passing places are all deliverable within the highway boundary.

Officers of both BDC and ECC are content that the proposal for a scheme of laybys on Liston Road from the site access to Long Melford is sufficient to mitigate the impact of traffic generated by the proposed development along that route.

However, the impact on the other routes to the application site has not been addressed. The most significant of these being the section of road between Liston and School Lane, which is the primary route from the site onto the wider highway network.

3. The accessibility of the site and lack of measures to address this.

ECC states that this still has not been adequately addressed. The applicant is proposing to fund a minibus for unspecified length of time and is investigating the option that it provides a service that will connect with bus services in Long Melford. However, no details have been supplied as to whether this will be viable in the long term and therefore there is no certainty that this is a long term provision. Unless it can be proved otherwise it is the Highway Authority's view that a bus/community bus service, even limited in nature, will not be viable in this location.

Furthermore, the walking and cycling options are still limited by the nature of the roads and the distance to the nearest facilities.

Therefore from a highway and transportation perspective they consider that the impact of the proposal is not acceptable as it does not demonstrate connectivity to the surrounding area and there are no feasible options provided as alternatives to the private car.

Further Response to be provided through the addendum or be the subject of a verbal update at the meeting.

- 7.16 **ECC Historic Buildings & Conservation** – The development would not directly affect individual heritage assets or their settings, including Lapwing Cottages near the site. Such a development would however affect the character of the area and lead to cumulative impacts which would erode the quality of the rural landscape which is characterised by old buildings, mostly listed, and historic settlements.
- 7.17 **ECC Minerals & Waste Planning** – Have no comment to make against this application.

7.18 **ECC Place Services Historic Environment Officer (HEO)** – The desk-based assessment, provided with the application has provided a good appraisal of the surviving 20<sup>th</sup> century industrial buildings and history of the site which has been a prominent feature in the local areas industrial heritage. A basic visual record has been completed along with some documentary research which has highlighted the unique and site-specific industrial use of the site over the last 200 years or more from milling to the extraction of essential oils.

A more comprehensive industrial heritage report is required, prior to demolition, which would include recording of all the industrial buildings with inspection and recording of internal fixtures and fittings that may survive, and all external features and fixtures relating to the historic industrial heritage use of the development site. This would include structures associated with the infrastructure, and water management on the site.

The report recognises that there may be waterlogged areas which may contain palaeoenvironmental remains within the development site and that there is some potential for waterlogged archaeological remains within the river and its tributaries which may be physically impacted upon by the removal of existing structures and construction. The report states that the construction works should not impact on the potential waterlogged deposits, however it is also stated that the location of these deposits is unknown.

In addition it is unclear as to how the planned remediation works may impact upon these deposits. There will need to be some form of below ground assessment of the site stratigraphy in order to determine the impact of the development on potential palaeoenvironmental deposits, including the impact of the remediation works and all water management proposals. This could incorporate existing information from borehole logs and trial pits that were submitted with the information for the remediation work.

There is an indication that peats survive on site within the illustrations supplied with the remediation report, however the full borehole logs were not included and it is unclear whether they lie within an area where they may be impacted upon. The impact of the remediation works on potentially buried palaeoenvironmental deposits will need to be assessed and a mitigation strategy proposed prior to remediation.

The report submitted considers the archaeological and cultural heritage significance of the site to be low because 20<sup>th</sup> century development is considered likely to have truncated any older remains. However the remediation report states that “Natural ground was encountered in all areas of the manufacturing area. This comprised alluvial silts and sands together with river terrace gravels.” This appears to suggest that the stratigraphic sequence has not been as heavily truncated as the application proposes and the degrees of disturbance are likely to vary significantly across the entire development site area. The level of truncation across the site will need to be established in order to substantiate the claims made within the report submitted through intrusive archaeological fieldwork methods.

This application is an outline application and the report states that the majority of the proposed development is ‘anticipated’ to be confined to the existing hard standing and demolition layers that are below the existing buildings within the Stafford Works. It is not made clear whether this material will need to be removed as part of the remediation process and therefore, in the process, uncover potentially undisturbed deposits. A programme of trial trenching across the site would provide evidence of location, depth and survival of potential archaeological horizons in order to determine the impact of the remediation works and other groundworks which may cause a greater degree of disturbance on more deeply buried deposits than the construction works. They raise no objection, subject to conditions requiring detailed archaeological investigation and recording of the site prior to the commencement of the development; mitigation strategy (as required) and post excavation recording.

7.19 **ECC Place Services Landscape Consultant (LC)** – The proposed development is mostly contained within the same footprint of the existing buildings and the site is generally well contained by existing vegetation and the surrounding valley slopes. The following suggestions are made which could be taken into account at the reserved (detailed) matters stage in the event that Members are minded to grant outline planning permission:

- Explore links from the residential development over the proposed lade system to the community facility (T2) and associated open green space;
- There are opportunities to have avenue tree planting on primary routes through the development;
- The development layout could benefit from more open spaces within the residential development
- There are opportunities to use the proposed node areas shown on the submitted illustrations to accommodate seating and planting, creating additional communal/pocket park areas;
- It is expected that the detailed development proposals incorporate the proposed mitigation measures stated on Chapter 7 Landscape & Visual Impact report;
- A detailed landscape planting plan, landscape maintenance plan and specification, (which clearly sets out the existing and proposed planting), would need to be produced as part of any further detailed reserved matters application. They recommend a landscape maintenance plan for the minimum of 3 years, to support plant establishment. SuDS features such as detention basin and others with landscaping elements should also be included as part of the landscape management plan to ensure appropriate management is carried out and to maintain functionality, as well as aesthetics;
- If the outline application is approved a detailed boundary treatment plan and specification would need to be submitted as part of any future detailed reserved matters application and
- The scheme would need to ensure that the new footpath links are reprovod within an adequate landscape setting to maintain a degree of openness and rural character. Further detailing should be provided in terms of surface treatment along this route and in particular where it meets with existing road network; opportunities for passive surveillance should also be a key consideration.

7.20 **ECC Public Rights of Way** – The entrance into the site is to be from the unclassified road adjacent to the southern boundary of the site. It is noted that the applicant states that no new public rights of way are to be provided within or adjacent to the site but that diversions/extinguishments and/or creation of rights of way are required by the proposal.

One public right of way, Footpath 10, Liston, is shown on the Definitive Map of Public Rights of Way as crossing part of the site. No width is recorded for this footpath in the Definitive Statement. Footpath 10 commences within the application site from the abovementioned unclassified road and runs in a north easterly then generally westerly then northerly direction to terminate at the County boundary of Suffolk. It appears to exit the application site before reaching the County boundary.

This public right of way must be safeguarded as it forms an important local and strategic link with the public rights of way network in Suffolk and must be kept open and available for use by members of the public at all times during the development period.

Because this application is for all matters reserved except for access, at the present time, the opportunities mentioned in the application documents for improvements to the PROW network cannot be assessed.



The aforementioned public right of way must be kept open and available for use by members of the public at all times. No construction work must impede the route for users and no construction operations or apparatus must be allowed to overhang the route of Footpath 10. If any construction works, such as for the work described above or for any other construction procedures, are likely to encroach on the existing route of this footpath, arrangements must be made for a temporary diversion order to accommodate the route by way of an application submitted to this authority.

7.21 **Essex Police** - No objection. If planning permission were granted then the developer should liaise with Essex and Suffolk Police Crime Prevention Design Advisors in the early stages of the planning and throughout the development, and that the properties achieve Secured by Design accreditation. The objective being to ensure that the security of these properties, potential residents and neighbours is relevant to the location and anticipated risk.

7.22 **Foxearth and Liston Parish Council (FLPC)** – Objects to the proposal for the following reasons:

1. The application contains many anomalies and incorrect statements, which can be construed as misleading;

2. The application does not fulfil the requirements necessary for a Sustainable Development, as per government and regional guidelines;

3. The Traffic Management assessment is flawed and gives an incorrect interpretation of the real situation vis-à-vis traffic movements and the suitability of local roads for the number of households proposed. There is no public transport in easy walking distance, the traffic plans proposing routes A,B,C are not feasible and will: a) Erode existing verges; b) The peak traffic estimate is some 2.5 times higher than the peak when it was a factory; and for much of its economic life the factory was served by a railway line. Will add to the average hourly vehicle movements along the former B1064 (currently 200 per hour) as evidenced by vehicle movement logs as part of the weekly Speedwatch monitoring exercises in Foxearth; c) Will affect a protected lane; d) Will add to the bottlenecks for traffic using the bailey bridge (temporary) at Rodbridge, which has single carriageway with priority from Foxearth & Liston & Borley directions; e) The 2 bus stops shown as being in Foxearth are only for school buses and 2 (weekly service) shopper buses to Sudbury (only allow 2hrs in Sudbury before return);

4. The application does not take account of BRLP 78 Countryside and BRLP 79 Special Landscape Areas policies. The proposed site is not an urban brownfield site and does not have the appropriate infrastructure for such a proposed new neighbourhood. The site was not included in the BDC Site Allocation Plan and is currently on a recognised Flood Plain area;

5. The proposals infer that, although in Essex, the new housing will be a satellite for Suffolk and therefore have no benefits for Essex villages. Following extensive consultations with parishioners in Foxearth & Liston, the overwhelming view is that the majority of residents are opposed to the development, as currently proposed. The Parish Council wishes to draw attention to the many objections already received by BDC from both individuals as well as local & national bodies;

6. The hydrology report is very equivocal with unquantified risks downstream on the Stour;

7. There is concern how the local schools will cope with such an influx of families;

8. The contamination that requires remedial action was there when the developer purchased the site. Indeed there was significant concern that BDC and the Environment Agency had not enforced action before now. Some residents had heard suggestions that IFF had provided a bond to cover the costs of decontamination and felt that BDC should investigate this;

9. Residents fully accept that more houses are needed and that brownfield sites should form a significant share of sites. However brownfield usually implies an urban site and much policy, including the latest White Paper from the Government, caveats brownfield sites with the word 'suitable'. The residents consider the site wholly unsuitable for residential development and suggest that the developer look again at a proposal within the existing B8 and B2 planning permission;

10. The application site falls outside the spirit and the perceived definition of a brownfield site;

11. The development is in a sensitive natural environment with protected species and of high environment value;

12. The NPPF on brownfield site states not to permit development on sites of high environmental value.

7.23 **Glemsford Parish Council (GPC)** – Recommend refusal on the grounds that they consider the proposal to amount to unsustainable development.

7.24 **Historic England (HE) - Historic England** – No objection. The proposed development would not cause harm to the significance of the nearby designated heritage assets – the grade II listed Lapwing Cottages and grade I listed Liston Parish Church.

7.25 **Long Melford Parish Council (LMPC)** – Agreed that although the proposal is a good use of brownfield land, and they acknowledged the requirement to redevelop the site, but they recommend refusal: They consider that along with the rural isolated location, the proposed development is unsustainable due mostly to the access/highways issues (including lack of passing places) and a lack of infrastructure. They further state that there have been a high number of fatal and non-fatal accidents which have occurred on the roads in the area in previous years. They are in complete support of the objections submitted by Suffolk Preservation Society and all the issues that they raised. In addition, and in response to the latest revisions made to the scheme they highlight the following:

1.The area has constantly flooded over the years and sits on a flood plain;

2.The road system is totally inadequate and in no way should the main access be through Liston Lane Long Melford. Severe consequences would be felt by the parishes of Liston, Long Melford and Foxearth - A new access from the Clare Road must be created;

3.The site should have been remediated before it was sold by the previous owner IFF Ltd. Please investigate;

4.There are weight restrictions on the two bridges in Liston Lane; and

5.Liston Lane is part of the Suffolk Cycle route and speeding cars would ruin this.

7.26 **Marine Management Organisation** – No comments on application. The applicant is advised that a marine licence would be required for activities involving the construction, alteration or improvement of any works, dredging, or a deposit or removal of a substance or object below the mean high water spring marks or in any tidal river to the extent of the tidal influence.

7.27 **Natural England** – They have sought to ensure that the proposal would not have damaging indirect impacts on the Glemsford Pits Site of Special Scientific Interest (SSSI), through changes in the river levels and river behaviour upstream of the application site. Throughout this process, they have liaised closely with the Environment Agency, working with their flood risk team on the river level models, to understand the risks arising to the SSSI.

Notwithstanding the nature and scale of the proposal, they are now satisfied that there is not likely to be an adverse effect on this site provided that the proposal is carried out in strict accordance with the details of the application as submitted.

Consequently they no longer object to the proposed development, subject to suitably worded planning conditions which seek to achieve a river level monitoring programme (before and after development), and a riffle weir monitoring and maintenance programme securing the condition of the structures (and consequently, upstream river levels) in perpetuity.

In respect of the additional information submitted in May 2017 NE state that they have no further comments to make, but advise that BDC take full account of representations made by the Environment Agency.

- 7.28 **NHS England Essex Area Team** – The proposal is likely to have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area and specifically within the health catchment of the development. NHS England therefore expect these impacts to be fully assessed and mitigated by way of a developer contribution secured through a Section 106 planning obligation:

NHS England has recently carried out a review of GP services to identify capacity issues throughout Essex. This development is likely to have an impact on the services of 1 GP Practice within the Braintree locality, the Bridge Street Surgery in Great Yeldham. This GP practice does not have capacity for the additional growth as a result of this development.

There is a capacity deficit in the catchment practice and a developer contribution of £32,900 is required to mitigate the ‘capital cost’ to NHS England for the provision of additional healthcare services arising directly as a result of the development proposal.

- 7.29 **NHS England Midlands and East (East)** –The local GP surgery in Long Melford has insufficient capacity to accommodate the additional demand arising from the proposed development. However they have no objection to the application, subject to a financial contribution of £40,180 towards increasing capacity at the Long Melford Practice being made.

- 7.30 **Pentlow Parish Council (PPC)** – They support the redevelopment of brownfield sites, but the impact on the local rural community should be minimal. They state that appropriate access should be available to all users, and the transportation infrastructure able to support any change in traffic safely, with a neutral or, ideally, a positive impact to the area. They state that the conclusions in the Transport Assessment do not address the impact on the residents, both current and future, of a single lane access road to the site. The addition of 122 residences would generate a significant, negative impact on access for all of these people: the road access with few passing places, no pavements, no other pedestrian considerations and no cycle paths is dangerous now; and are not acceptable, practical or safe for any increase in traffic.

They also highlight that the site has not run at full capacity for many decades and the local road infrastructure has been down-graded during that time. They state that the current approved uses for the site may, in theory, generate a significantly higher level of “shift worker” and “HGV” traffic than is normally seen today, and the current roads would have to deal with that, but in reality it has not had to support that level of traffic for many years. If “full” capacity was to occur then an upgrade back to the standard previously provided by Essex Highways would be the minimum requirement. The current viability study shows that the current users’ leases run through April 2017 so there is no imminent change that would suggest this hypothetical industrial traffic pattern will be realised. The lack of users of the site since it was last a factory is partly due to the current access issues.

The Transportation Assessment is inaccurate in at least one area; it states that the Essex side, Sudbury to Foxearth, has three buses daily. This counts the community bus return trip as two buses and mis-states ‘weekly’ as ‘daily’. During July/August 2015 the road closure in Clare, Suffolk provided an actual assessment of the impact of additional commuter traffic on the road infrastructure under review. The lanes and passing places are insufficient for these additional vehicles. The verges are now littered with wing mirrors and other broken pieces of cars, pedestrians have been forced into ditches, hedges and fields and the warning bollards

have been knocked down repeatedly. Pentlow Parish Council does not agree that the minimal proposed changes and a Framework Travel Plan for potential residents, as laid out in this Transport Assessment, are sufficient to meet access requirements of either the current or potential future residents.

- 7.31 **Suffolk County Council (Archaeology)** – The application area generally affects a large site in a valley location, which is topographically favourable for occupation of all periods. The site is surrounded by cropmark evidence for early occupation in the form of circular and rectangular enclosures and linear features. Despite previous land use and construction history, data presented with the application indicates the presence of un-truncated deposits which have the potential to contain archaeological remains at varying depths across the site, as well as peat deposits. Waterlogged deposits have the potential to contain palaeo-environmental information relating to the development of the areas, as well as waterlogged archaeological remains (such as preserved timbers) which may be early or may relate to historic mills: Amyce's 1580 map of Long Melford records the site of Hun Mill in the area.

The proposed remediation involves groundworks which will have the potential to damage any archaeological deposits that exist. Whilst the desk-based assessment suggests that impacts on these deposits will be limited, there is in fact at present insufficient available information on the exact depth/quality and location of potential archaeological deposits, and on the exact nature of aspects of the development. Further evaluation work prior to construction is required, followed, if appropriate, by a mitigation/investigation strategy.

They state that whilst there are no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

- 7.32 **Suffolk County Council (Education)** - With regard to Pre-school provision they would anticipate up to 12 pre-school pupils at a cost of £6,091 per place. There is 1 provider in this area with no surplus spaces available, therefore a financial contribution of £73,092.00 is required to mitigate the impacts of the development.

The Long Melford CEVCP School (Primary) has insufficient capacity to accommodate the projected 28 primary age children arising from the development. A financial contribution sought of £341,068 to cover the provision of additional places.

There is sufficient capacity at Ormiston Sudbury Academy so no financial contribution is sought for secondary education.

- 7.33 **Suffolk County Council (Highways)** – Initial Response

They have several concerns regarding the proposal. They state that the Transport Assessment has undertaken a comparative assessment to compare the difference between the proposed residential use with the permitted industrial use and concluded that the impact on the local roads is likely to be negligible in comparison. They highlight that although this maybe the case in theory using the TRICS trip generation rates originally used, there was concern that this site is more rural in its location and not representative of many of the sites used within the TRICS database. This would likely lead to a lower estimation of generated vehicle flows and subsequent impact on the local highway and therefore would be misleading. They also say the following:

The vehicular access proposed for the site is via an unclassified road, Liston Lane. Although there is an established permitted use for this site, the site has not been fully occupied for many years and therefore local road users have become accustomed to lower traffic flows on the adjacent road network, which in many locations is narrow without room for two vehicles to pass, with tight bends and with sub-standard visibility. Liston Lane is part of the South Suffolk Cycle Route A1 which has been assigned due to the suitability of the quiet lanes. There have been a number of recorded RTA's on the A1092 and B1064 where Pentlow Road and Borley

Road join the main roads, which become difficult junctions to exit at peak times of the day. It is therefore undesirable to introduce additional traffic onto the minor roads in the surrounding area.

There may be an alternative vehicular access option to consider helping mitigate the safety issues caused by promoting additional vehicles on the minor roads. There is a private access from the A1092 into the site named as Cranbrook Lane. This route has been identified for use during the construction phase. It would be preferable for this route to be widened to a suitable width and maintained for use as a private access road into the new housing site. An emergency vehicular access could be retained to the south via Liston, but promoted primarily as a cycle and link, or for a limited number of dwellings. It is suggested that this option is investigated further.

The Stafford Park Travel Plan in Liston dated April 2015 is not sufficient to mitigate the highway impact that the 122 dwelling proposed development will create. The proposed 5% mode shift target would also not be sufficient to achieve sustainable development and is unlikely to be met due to the lack of suitable sustainable transport infrastructure proposed.

The site is completely isolated from the nearest schools, shops, employment and other amenities in Long Melford, which is the nearest settlement to the site, as there are no footways connecting the site to the village. Cycling may also be difficult to promote due to the existing narrow roads which is subject to the national speed limit, that also connect the site to Long Melford. Bus travel will also be difficult to promote due to the distance the proposed bus stop will be located from the site (greater than the desired 400 metres and accessed from an unsurfaced public right of way). Also the existing two hourly services to Sudbury and Haverhill would not act as much of an incentive, even with the provision of the bus vouchers as it may not fit in with the residents' commute. Also some residents may not work in Sudbury and Haverhill and specific measures will need to be targeted towards them. This therefore limits the only viable mode of transport as the car.

The April 2015 dated travel plan would not be sufficient to mitigate the highway impact this development is likely to generate. Measures would be required such as routing an improved bus service around the site and providing a continuous footway connection to Long Melford. More information is required on how the proposed residents mini-bus will work, as it will need to list what locations it will serve, how much it will cost and what incentives will be offered to encourage residents to use the service.

National Planning Policy Framework (paragraph 32) sets out that plans and decisions should take account of whether:

1. The opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
2. Safe and suitable access to the site can be achieved for all people. Other relevant paragraphs include 34, 35, 37 and 38.

It is considered that this proposal does not comply with NPPF in respect of sustainability and access arrangements. Therefore given the drafted travel plan and lack of associated measures this authority would support a recommendation of refusal on poor sustainability and road safety grounds.

They however state that they understand that as well as Highways issues there are other considerations that the Planning Authority may need to take into account in determining this application. They state that should the Planning Authority be minded to grant planning approval they would recommend the imposition of a number of conditions and obligations.

With regard to Public Rights of Way (PRoW) they highlight that the proposed development will have a direct impact on the local network. They note from the Transport Assessment proposals to upgrade PRoW to provide cycle links to Long Melford, look forward to working with the developer to achieve this aim and are open to discussions.

They highlight that PRoW are important for recreation, encouraging healthy lifestyles, providing green links, supporting the local economy and promoting local tourism; in particular Long Melford to the east and Glemsford to the north-west. Passing through Long Melford are the promoted long distance routes, the Stour Valley Path and St Edmund Way. To that effect they recommend that planning obligations are sought to facilitate their upgrading.

#### Subsequent Response

Following discussions with the Essex County Council (ECC) and Braintree Borough Council, as the road network mainly affected the highway network in Essex County, we will align with ECC. However, we are requesting conditions to mitigate the impact on the highway in Suffolk.

The development may have a direct impact on the highway network in Long Melford and our initial response had concerns with regard to capacity and safety specifically the junctions of Little St Mary's junctions with Liston Lane and St Catherine's Lane. It is considered likely that some residents of the proposed development will look for some day to day services and these junctions caused most concern which has led to a discussion with the applicant's Highway Engineer around how the applicant could mitigate this potential impact. We will be seeking a financial contribution towards surveys and potential TRO's in Long Melford which will effectively address our concerns regarding highway capacity and safety.

### 7.34 S106 CONTRIBUTIONS

#### Public Rights of Way Requirements

The proposed development will have a direct impact on the local public rights of way (PROW) network, please refer to the map. We note from the Transport Assessment proposals to upgrade public rights of way to provide cycle links to Long Melford, we look forward to working with the developer to achieve this aim and are open to discussions.

PROW are important for recreation, encouraging healthy lifestyles, providing green links, supporting the local economy and promoting local tourism; in particular Long Melford to the east and Glemsford to the north-west. Passing through Long Melford are the promoted long distance routes, the Stour Valley Path and St Edmund Way.

The anticipated increased use of the PROW network of as a result of the development will require the following offsite improvement works as this PROW provide cycling and walking opportunities to Long Melford and Glemsford for local services or out into the wider countryside:

- Upgrade and resurface of Long Melford Public Footpath 21, 22 and 30 to Bridleways
- Resurface Public Bridleway 24

Proposed resurfacing material is to be a hoggin type surface.

Legal orders are required to upgrade Public Footpaths 21, 22 and 30 to bridleway status and divert Bridleway 24 onto the track at Bulney Moors, approx cost £8,000.

Compensation to landowners where public footpaths are upgraded to bridleway (increase in route width), approx. cost £6,431.25

The subtotal of these works is £194,806.25 Officer time @ 12% = £23,376.75 Contingency @ 10% = £19,480.63

Total ROW s106 funding requested from this development = £244,094.88

### Highway Improvements

The proposed development will have a direct impact on the highway network in Long Melford, specifically Little St Mary's junctions with Liston Lane and St Catherines Lane. We are requesting a contribution of £60,000 to fund traffic surveys and monitoring of the junctions and fund any works to mitigate the impact of this development on the highway:

- £10,000 is to be given prior to occupation,
- £20,000 on the 51st occupation then
- Balance on completion.

If it considered there is not an impact from this development, the balance will be returned to the applicant

- 7.35 **Suffolk County Council (Public Rights of Way)** – The proposed development would affect existing public rights of way and require temporary closure/diversions. Further details are sought regarding the proposals to upgrade an existing PRoW to Long Melford to provide cycle links to/from the site. Further details also sought about the construction of a fish by-pass to the north of the existing weir which could affect an existing PROW.
- 7.36 **Suffolk Fire and Rescue Service** – Development will need to comply with Building Regulations. Recommend a condition requiring the provision of fire hydrants within the site.
- 7.37 **Suffolk Preservation Society (SPS)** - Suffolk Preservation Society are concerned with the possible impact of the proposal upon Long Melford, an historic town which has a high concentration of Listed Buildings and is designated as a Conservation Area, approached from Liston by narrow and winding lanes. Whilst in principle they welcome the use of Brownfield Land over Greenfield sites and acknowledge the requirement to develop this redundant site, they object to the proposal on the grounds of the unsustainable location for a substantial number of new dwellings in a rural and isolated location that would fail to relate well to existing settlement patterns.

They consider that residential development in this location would not support a rural land use and, moreover, the proposed dwellings, together with lighting and domestic paraphernalia would be detrimental to the character of the landscape of this part of the Stour Valley which is characterised by its open and rural nature. The proposal of 122 dwellings, together with a community building, is tantamount to a new settlement rather than representing sustainable incremental growth of an existing village. With the exception of the community building there would be no services within the new development or Liston and, therefore, residents would rely on those services provided by Long Melford with a distance of 1.6km or further afield.

The Transport Statement accompanying the application assesses the potential number of cars as being less than those resulting from the site's current use. However, this conclusion is based upon the site's current use at its full capacity which is far from the current situation. Therefore, it is misleading to suggest that the proposal could result in a reduction of traffic on the single track country lanes.

The Society is concerned that the proposal would result in a significant increase in traffic on the lanes leading into Long Melford and the narrow exits onto the High Street at St. Catherine's Lane and Liston Lane which have no pavements for pedestrians. The proposed provision of a shuttle bus, electric bicycles and improvements to footpaths is laudable, however, they consider that such unrealistic measures to reduce the number of car journeys to the nearest schools, public transport and other services in Long Melford would be impractical.

- 7.38 **Suffolk Wildlife Trust** – They do not hold any records of designated sites or protected and/or UK Priority species for Essex and therefore their comments are predominantly based on potential impacts on the Suffolk side of the boundary, along with comments they consider are generally applicable across the whole site.

They raise concerns as they consider that the application fails to demonstrate that the proposal will not result in an adverse impact on protected and UK Priority species, in particular with regard to insufficient information on reptiles. They recommend consultation with the EA and Natural England regarding the SSSI at Glemsford Pits.

Following correspondence with the applicant's ecological consultant they remain concerned that the site has reptile potential, given the findings of historic surveys of the site. They also advise that consideration should be given to potential impacts on otter and water vole and other UK priority species such as hedgehogs.

## 8. Representations

The representations made in respect of this development are set out in Appendix 1 to this report.

## 9. Assessment

### Site

- 9.1 Stafford Park can effectively be subdivided into two areas as follows:

- The former factory site which currently has planning permission for B1, B2 and B8 industrial uses, and retains a wide range of buildings; and an effluent treatment plant (the latter being within Babergh District); and
- A licensed landfill site and composting area; also within Babergh District and outside the red line for this planning application, but within the ownership and control of the applicant.

- 9.2 The planning application the subject of this report concerns the redevelopment and remediation of the former factory site which extends to approximately 19 hectares (47 acres).

### *The Factory Site*

- 9.3 According to the Archaeological and Cultural Heritage chapter of the submitted ES, prior to the Stafford Mill opening in the late 19th century, the development site was in use as a parchment and then paper mill from the post-medieval period. There was also a short-lived flax mill on the site which appeared to have opened during the 1870s before its conversion for the extraction of essential oils.

- 9.4 Stafford Allen & Sons opened its manufacturing plant and distillery as well as a farm at the site in 1899. Whilst operational, locally grown herbs and plants were used to make pharmaceutical, fragrance and food flavourings. DDT was also manufactured at the site from around 1940. Known as Bush Boake Allen Ltd. from the 1960s, and then being bought out by International Flavourings and Fragrances (IFF (Great Britain) Ltd) in 2002, the factory closed in 2004 ending over 100 years as a major local employer.

- 9.5 The Stafford Works is a complex of 20th century purpose-built industrial buildings, mostly dating from a period of development in the 1950s-1960s, about the time Stafford Allen & Sons Ltd. merged with two other companies to form Bush Boake Allen Ltd. A few existing buildings appear to date from a period of inter-war expansion by Stafford Allen & Sons Ltd, when most of the earlier mill buildings were removed and the first purpose-built buildings constructed. No buildings now survive from the earlier mill period. There are also some more recent buildings on the site dating from the last few decades of the 20th century.



- 9.6 Most of the larger buildings from the later Stafford Allen & Sons Ltd/early Bush Boake Allen expansion periods have a fairly uniform appearance and are simple, red brick and concrete framed industrial buildings with limited decoration. Stylistically, many of the buildings appear older than they are, appearing pre-Second World War but, in some cases, of proven post-war date. Some are named providing evidence of their original use, but all have been largely stripped of interior fixtures and fittings, and many are now in poor condition. The majority of buildings currently in use on site are being used for the storage of PIR insulation boards. There are substantial areas of hardstanding on the site and therefore it can be considered to be previously developed (brownfield) land. No listed buildings are present on Stafford Park.

#### *Landfill Site*

- 9.7 A separate planning application has been submitted (ref. B/15/00671/FUL) for the remediation of the landfill site, the description of development is as follows: “*Remediation works to licensed landfill site north of the River Stour (to enable the surrender of the landfill license), conjunction with the residential development of land to the south of the River Stour (Stafford Works).*”
- 9.8 Both areas of Stafford Park are known to contain contaminates, but the landfill site has been classified by the Environment Agency (EA) as a High Risk site (Controlled Water).
- 9.9 Biodegradable wastes were permitted to be dumped in the landfill, but also non-compliant wastes were deposited. It is characterised by shallow waste deposits, with elevated contaminants detected in them. With no basal, side wall or capping lining systems present it also has poor surface restoration cover.
- 9.10 The EA set the landfill site’s current status thus:

#### Complex geology & hydrogeology:

- Multi layered aquifer system;
- Glacial channel cutting through the site;
- Groundwater and surface water interactions;

#### Site located in a highly sensitive water environment:

- Principal (chalk) & Secondary A aquifer (sands & gravels) units;
- Within in a Source Protection Zone (SPZ3) public water supply;
- EU Water Framework Directive Drinking Water Protected Area
- Adjacent to River Stour;
- Adjacent to SSSI water meadow (Glemsford Pits).

With the landfill site having an impact on local groundwater, including the detection of hazardous and non-hazardous substances within it the EA requires the permit holder to undertake necessary remedial works, these include:

- Reducing current pollution impact on local groundwater systems;
- Reducing impact on surface waters;
- Reducing possible impact from landfill gas emissions;
- Improving current monitoring schemes; and
- Restoring the surface of the landfill.

- 9.11 The Environment Agency’s ultimate aim is to move the site to being of low risk and leading to the surrender of the site permit.

### *Location*

- 9.12 The majority of the site is situated within the Parish of Foxearth and Liston in Braintree District, and is situated approximately 1.6km (1 mile) west of the village of Long Melford and 3.5km (2.2 miles) north of the market town of Sudbury, both in Suffolk. It is accessed via a single track road known as Borley Road and School Lane some 2.9km (1.8 miles) in length with limited passing places leading from Rodbridge Corner on the B1064 to the property. There is also access from Liston Lane, and an unnamed road (protected lane) leads via Liston Gardens to the A1092 approximately 2.7km (1.7 miles) to the north east.
- 9.13 Included within the application site (red line) area is a track which runs north from the factory site to join the A1092, being within Babergh District and which connects Long Melford to the east with Clare to the west. It is understood that use of this track is limited to construction vehicles only and that it is not intended or permitted to upgrade this to an adoptable vehicular highway.
- 9.14 Long Melford itself is well serviced by public transport. Daily bus services run to nearby settlements including Sudbury, Bury St Edmunds, Colchester and Haverhill. The nearest railway station to the site is in Sudbury which operates services to Marks Tey on the outskirts of Colchester. Marks Tey in turn has direct services to Ipswich and London Liverpool Street amongst others.
- 9.15 In addition, Long Melford is defined as a 'Core Village' in the Babergh Local Plan 2011-2031 Core Strategy and Policies (2014) (CSP). Local services and facilities include a primary school, public library, post office, numerous shops, public houses and restaurants, and a regular bus service connecting the village with surrounding settlements. Higher level shops and services can be found in Sudbury including a secondary school and variety of supermarkets. No such facilities can be found within Liston however.
- 9.16 With the exception of the small village of Liston (approximately 1km/0.6 miles from the site) to the south east, the predominant land use in the immediate locality is agricultural and grazing, with interspersed isolated residential dwellings and hamlets bordering their respective roads. One exception to this is the Philips Avent factory which is located approximately 1.5km to the north west of the site on the A1092 within Glemsford and employs around 650 people locally.
- 9.17 As denoted on the Proposals Map of the Braintree District Local Plan Review (BDLPR), the site is located in a rural area and immediately adjoins the River Stour. The majority of the site is currently within the functional floodplain (Zones 2 and 3) as designated by the Environment Agency's flood mapping. The elements of the site that fall within the jurisdiction of Babergh DC are also covered by a Special Landscape Area (SLA) designation, as highlighted within the Babergh Local Plan Alteration No.2 (2006) (BLP). The site also falls within the area of the Dedham Vale and Stour Valley Area of Outstanding Natural Beauty (AONB) Project.
- 9.18 Upstream of the site along the River Stour is the Glemsford Pits Site of Special Scientific Interest (SSSI) which comprises a series of water filled disused gravel pits to the south of the River Stour and is noted for its dragonfly population.
- 9.19 Protected species are present on the site (see below), and four local ecologically sensitive sites are within 2km of the site: Glebe Meadow, Liston Hall Meadow, Valley Walk and Weston Hall Meadow District Local Wildlife Sites.
- 9.20 In terms of heritage assets, Lapwing Cottage, the closest listed building, is located to the south of the application site on Glemsford Road and is a Grade II listed house built circa 1550 or earlier. The associated stables, barn and adjacent Hartsbuckle House are within the curtilage of the cottage and are therefore listed in association. Approximately 200 metres west of the site are the Grade II listed Liston Garden and Liston Barn. Liston Garden is a house built circa 1500 whilst the barn was built in the 1700s.

- 9.21 Slightly further afield, Park Farm Cottage and Barn comprise a 19th century cottage to the northeast of The Walled Garden and Liston Hall; and a late 15th or early 16th century barn located immediately northwest of Park Farm Cottage and forming group.
- 9.22 The site is also visible from The Walled Garden which is located to the north of Liston Hall and forms a loose group with these heritage assets comprising a late 18th or early 19th century wall enclosing a modern house. The site is also just visible from the Long Melford Conservation Area.
- 9.23 With respect to landscape context and topography the submitted Design and Access Statement (DAS) states the following:

*“The existing topography of the site is fairly flat with the level of the built up area varying from approximately +31.5m to approximately +33.0m. Over a distance of more than 450m east to west this works out at a gradient of around 1 in 300. To the north of the built up area of the factory site the ground level rises slightly towards the A1092. The topography rises from +31.5m in the south along the Stour Valley corridor to +47.0m in the north along the road. Over a distance of over 700m this works out at a gradient of 1 in 45. The elevated position in the north provides a view over the site with only the roofs of the existing factory buildings visible above the trees.”*

- 9.24 The issue of views into and out of the site are considered in more detail in the Landscape and Visual Impact Assessment within the EIA, and have been vetted by the Braintree’s EIA Consultants. A summary of their response to the ES is included later in this report.

#### Proposal

- 9.25 Outline planning permission is sought for the construction of up to 100 dwellings and the change of use of two of the existing buildings to create up to 22 apartments (building ‘X’) and a community centre (building ‘T’ which is located within Babergh District). The proposals include the demolition of the other existing buildings, ongoing works to remediate the land on the application site and on the adjoining licensed landfill site, flood attenuation measures, the reinstatement of the River Stour which would include the removal of sluice gates and the creation of a rock riffle weir, associated infrastructure improvements, as well as landscaping and the provision of public open space.
- 9.26 Ground investigations have been ongoing on the landfill site since 1990 and if further remediation works are not undertaken, it is stated that there is a risk to groundwater and soils, which over time could affect the local potable water supply (groundwater aquifer) in the area, as well as polluting the river.
- 9.27 The proposal is being promoted by the applicant as an enabling form of development, to enable the remediation of the landfill site to a standard that would allow the Environment Agency (EA) to surrender the existing permit. A legal agreement between the applicant and both Braintree and Babergh District Councils could ensure remediation takes place in conjunction with the redevelopment of the factory site. It is proposed that the landfill area would be provided to the community as public open space and nature reserve following remediation, if planning permission were granted.
- 9.28 The planning application is submitted in outline with all matters bar access reserved. Specific details in relation to layout, scale, appearance and landscape would be agreed at the stage of determining the reserved matters. Notwithstanding this, a detailed suite of documentation was submitted with the planning application, in addition to additional and revised technical evidence during the processing period, including the following:

- Planning Application Forms;
- Covering Letter;
- Sustainable Urban Drainage (SUDS) forms & Certificates;
- Planning Statement;

- Application Plans comprising:
  - Location Plan
  - Indicative Master Plan
  - Parameter Plan
  - Block Plan
  - Residential Phasing Plan
  - Remediation Phasing Plan
  - Passing Places Plan
  - Topographical Survey
- Design & Access Statement;
- Statement of Community Involvement;
- Viability Assessment;
- Sustainability Assessment;
- Transport Assessment;
- Travel Plan;
- Environmental Statement.

9.29 The Environmental Statement has been updated following the request by Braintree District Council under Regulation 22 (1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 to provide further information. The following sections have been updated:

- Volume 1 – Non Technical Summary
- Volume 2 – Chapter 1: Introduction
- Volume 2 – Chapter 4: Policy Context
- Volume 2 – Chapter 5: Scoping and Consultation
- Volume 2 – Chapter 7: Landscape and Visual Impact
- Volume 2 – Chapter 8: Ecology and Nature Conservation
- Volume 2 – Chapter 9: Flood Risk and Hydrology
- Volume 2 – Chapter 10: Contaminated Land and Remediation
- Volume 2 – Chapter 11: Traffic and Highways
- Volume 2 – Chapter 12: Noise
- Volume 2 – Chapter 13: Air Quality
- Volume 2 – Chapter 14: Socio-Economics Chapter
- Volume 2 – Chapter 15: Conclusions
- Volume 3 – Chapter 5: Scoping and Consultation (Technical Appendix 5.3)
- Volume 3 – Chapter 7: Landscape and Visual Impact (Appendices 7.1-7.5)
- Volume 3 – Chapter 8: Ecology and Nature Conservation(Appendices 8.1 and 8.2)
- Volume 3 – Chapter 9: Flood Risk and Ecology (Appendices 9.1, 9.4 and 9.5)
- Volume 3 – Chapter 10: Contaminated Land and Remediation (Appendix 10.1)
- Volume 3 – Chapter 11: Traffic and Transport (Appendix 11.1)

9.30 The applicant states that the proposals seek to create an attractive and sustainable residential community which would significantly improve the current character and appearance of the site and its surrounding environment.

9.31 Key benefits of the scheme cited by the applicant include:

- The delivery of a mixed housing scheme providing for varied local housing needs;
- Remediation of the factory site and landfill area;
- Reinstatement of the River Stour to reduce flood risk on site and areas further downstream through flood attenuation measures;
- Ecological benefits on the site and the adjacent SSSI; and
- Investment in community facilities.

- 9.32 By virtue of its location, the accessibility of the site is clearly one of the key issues with this proposal. The main access to the site is proposed to be taken from the unclassified road leading to School Lane/Borley Road and the junction of the B1064 at Rodbridge Corner.
- 9.33 In response to objections raised by ECC Highways, further evidence was submitted on trip generation and impacts on the highway. To address this, a sensitivity test of trip generation in TRICS using a selection of sites more appropriate for a rural setting was undertaken. This showed that there was a slight increase in traffic generation for permitted use and proposed residential use, but not enough to take the local junctions over to or near to capacity. The applicant states that the junctions have been tested with a full forecasted proposed residential trip generation.
- 9.34 In addition, the applicant has submitted further information showing schemes for improvements to the local highway network by the addition of carriageway widening and formal passing places providing sufficient room for two vehicles to pass at pinch points and at locations on the network where visibility is reduced.
- 9.35 The agricultural track (Cranbrook Lane) which runs between the site and the A1092 (included within the red line boundary) would be used for construction traffic to service remediation works are undertaken on land north of the River Stour. It is however envisaged that the majority of the remediated material would be reused and therefore remain on site. This would significantly reduce construction traffic during the remediation and build process whilst ensuring the sustainable reuse of materials.
- 9.36 With regard to the accessibility of the site the applicant has secured agreement to utilise a local community transport service. The DaRT 3 operated by Arrow Taxis currently covers the parish of Liston on a demand responsive basis. The routing of the service to the site has been discussed with the operator and agreed to access the development from School Lane/Borley Road onto the B1064 at Rodbridge Corner. The applicant proposes to fund this service for an agreed period of time through a planning obligation.
- 9.37 It is also proposed to facilitate and encourage car sharing amongst future residents through the establishment of a Stafford Park community database that would be promoted through a Travel Plan.
- 9.38 Furthermore, a public footpath/bridleway runs between the site and Long Melford. This is currently in poor condition and parts of the path are not currently suitable for cycles. It is intended that this and other Public Rights of Way (PRoW) in the locality would be improved and upgraded to bridleway status along the whole route, where possible.
- 9.39 Full details of the transportation impacts and mitigation measures, remediation works and reinstatement of the River Stour are contained within the ES which covers the following issues under respective chapter headings:
- Heritage & Archaeology
  - Landscape & Visual Impact
  - Ecology & Nature Conservation
  - Flooding & Hydrology
  - Contaminated Land & Remediation
  - Traffic & Transportation
  - Noise & Vibrations
  - Air Quality
  - Socio Economics
  - Mitigation and Conclusions

9.40 Whilst an an outline planning application, the DAS sets out a masterplan for the redevelopment of the site, this proposes three character areas, in order to create pockets of development with a unique character dependent on the location within the site. The masterplan has identified 3 key character areas which are described thus:

#### 1. Woodland Edge

The streets and lanes around the woodland edge would be developed to respect the existing landscape and maximise the potential for connection. The woodland would provide opportunities for new footpaths which could be used to access the new neighbourhood and the surrounding area. The streets would also be orientated to maximise views out towards the existing surrounding woodland, thus providing a backdrop to the new housing. It is stated that the existing mature woodland varies in height, but would be high enough to screen the proposed two storey development from the surrounding area; and that it would also provide valuable amenity for the new neighbourhood and for the wider community.

#### 2. Water Edge

The DAS states that the buildings around the edge of the existing and proposed water courses within the new neighbourhood should have a positive, active frontage which relates to the river and the existing and proposed lades. The masterplan layout has been developed to maximise the connection to the water's edge and bring this important feature of the site into the street environment. This has been done by addressing the existing water courses and by forming new channels through the proposed streets. It shows that the buildings along the existing lade would front onto a footpath which would provide access throughout the neighbourhood. The houses within the new streets would also front onto the new lade system and associated landscaping which would provide valuable amenity, as well as providing a practical use as part of the SUDS for the site.

#### 3. Streets and Lanes

The streets and lanes shown within the masterplan have been developed to maximise the building frontage and create spaces which prioritise pedestrians. Varying carriageway widths, building lines and street trees would reduce forward visibility and vehicle speeds, meaning that the streets would be a safer place to walk and play. Positive boundary treatments such as hedges and railings would define the boundary between private and public realm.

Buildings would front onto the streets and lanes, increasing activity and natural surveillance. The streets and lanes would form legible routes through the neighbourhood, providing maximum opportunity for connections within the site and to the surrounding area. Vehicle speeds would be reduced and limited to 20mph within home zones.

'T 'building has been identified as a focal point of the new neighbourhood with the potential to be utilised as a building for the community. It is located on the northern part of the site within the proposed open space and would be easily accessible from the proposed housing. The facility would be suitable for a range of community uses.

9.41 Finally, in response to the submitted statutory declaration of Mr Clayton, Liston Mill (see below), Mr Macpherson has also submitted a statutory declaration. This states that at no time did Philip Gardiner of IFF or any person involved in the sale/purchase of the Stafford Park site suggest that IFF would contribute towards the remediation of the site or participate in any of the required site works following the sale to Redding Park.

## **Principle of Development**

- 9.42 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In this matter, Braintree DC will formally determine the application, but will be required to determine the application in accordance with the development plan in both authorities.
- 9.43 In this case, the application site falls across the Braintree and Babergh districts. As such, the decision taker (Braintree DC) must take account of the development plan in force in both districts. However, for the purposes of this report, the extent to which the proposal affects the Babergh district is the key issue. For that reason, this report will relate primarily to the Babergh Core Strategy 2014 and the saved policies of the Babergh Local Plan Alteration No.2 (2006), except where the Braintree development plan might warrant a differing approach being taken.
- 9.44 Turning to the specifics of this proposal, there can be little contention that the site lies in an isolated position and is set well within the countryside. It should be noted that the site was considered as an allocation within the emerging Braintree Draft Local Plan (DLP), but was excluded from the DLP as an allocation for any form of land use at the Local Plan Sub Committee of 25th May 2016, the minutes of which state *“That Liston remains as a village within the countryside and that site LIST339 - Land at Stafford Park, Liston continues to be determined through the planning application process”*. The reason for this, as cited within the Agenda report was as follows:

*“17.5 Officer comments - In principle the further development of Liston is unsustainable due to the significant reliance on private transport that would be required for access to the key facilities needed for day to day living. The site is also located in the Stour River Valley landscape character assessment area which is visually sensitive to change.*

*17.6 Site LIST339 is a large site which is situated across the boundary between Essex and Suffolk. It sits in a relatively isolated rural position with poor quality roads and virtually no access to facilities or public transport. The site had been the home of chemical and fragrance works for at least 100 years. A number of buildings associated with that use remain on the site and there is some low level occupation of some of the better preserved buildings. The site is contaminated due to its previous uses and a large landfill site is located to the Suffolk side of the boundary. The River Stour runs through the site and therefore much of the site is also at risk of flooding. A triple SSSI is also present in close proximity to the site and would be sensitive to changes in the water course and development here.*

*17.7 The site is currently pending consideration of a planning application and due to the complex nature of issues related to the site including contamination, it is recommended that the site continues to be dealt with in that way; taking advantage of more detailed consultations with statutory and non-statutory consultees.”*

- 9.45 Therefore, as a matter of principle the development is contrary to the development plan, although the application must be assessed on its own merits, having regard to the development plan and all material considerations, including the NPPF's presumption in favour of sustainable development (see next section).

## **5 Year Housing Land Supply**

- 9.46 The NPPF (Paragraph 49) states that 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. For sites to be considered deliverable they have to be available, suitable, achievable and viable.

- 9.47 Case Law suggests a "narrow" interpretation of 'relevant policies for the supply of housing', but that the decision maker must decide what weight to attach to all of the relevant development plan policies, whether they are policies for the supply of housing or restrictive 'counterpart' policies such as countryside protection policies.
- 9.48 In accordance with National Planning Policy Guidance paragraph 030 (Reference ID: 3-03020140306) recommends that the starting point for calculating the 5 year supply is the housing requirement figures in adopted Local Plans, unless significant new evidence comes to light. The Ipswich and Waveney Housing Market Areas Strategic Housing Market Assessment (SHMA) is significant new evidence for the emerging Babergh and Mid Suffolk Joint Local Plan. It is for the decision taker to consider appropriate weight to be given to these assessments.
- 9.49 A summary of the [BDC] Council's 5 year land supply position is:
- i. Core Strategy based supply for 2017 to 2022 = 4.1 years
  - ii. SHMA based supply for 2017 to 2022 = 3.1 years
- 9.50 The NPPF requires that development be sustainable and that adverse impacts do not outweigh the benefits to be acceptable in principle. Paragraph 7 of the NPPF sets out three dimensions for sustainable development, economic, social and environmental:
- "an economic role - contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure:
  - a social role - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
  - an environmental role - contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy."
- 9.51 In light of all of the above, this report will consider the proposal against the three strands of sustainable development, and also give due consideration to the provisions and weight of the policies within the development plan, in the context of the authority not being able to demonstrate a 5 year land supply.

### **Core Planning Principles**

- 9.52 Furthermore, one of the core planning principles of the NPPF is that planning should encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided it is not of high environmental value. However, this must be tempered against the other principles set out within the NPPF, which include, but are not limited to:
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
  - recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
  - support the transition to a low carbon future in a changing climate, taking full account of flood risk... and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources...
  - contribute to conserving and enhancing the natural environment and reducing pollution...;



- promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation, carbon storage, or food production);
- conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations;
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable; and
- take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

### **Environmental Impact Assessment**

- 9.53 As highlighted by the Planning Practice Guidance, the aim of Environmental Impact Assessment (EIA) is to protect the environment by ensuring that a local planning authority when deciding whether to grant planning permission for a project, which is likely to have significant effects on the environment, does so in the full knowledge of the likely significant effects, and takes this into account in the decision making process. The regulations set out a procedure for identifying those projects which should be subject to an EIA, and for assessing, consulting and coming to a decision on those projects which are likely to have significant environmental effects.
- 9.54 The process of EIA in the context of Town and Country Planning in England is governed by the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the '2017 Regulations'). These regulations apply to development which is given planning permission under Part III of the Town and Country Planning Act 1990.
- 9.55 These regulations apply the amended EU directive "on the assessment of the effects of certain public and private projects on the environment" (usually referred to as the 'Environmental Impact Assessment Directive') to the planning system in England. Subject to certain transitional arrangements set out in regulation 76 of the 2017 Regulations, the 2017 regulations revoke the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (referred to as 'the 2011 Regulations').
- 9.56 However, the 2017 Regulations include transitional provisions for procedures which were initiated before they came into force. Where, before 16 May 2017 an applicant has submitted an ES, the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 continue to apply (regulation 76(2) of the 2017 Regulations).
- 9.57 In this case, it was concluded that due to its scale, nature and location, the proposed development would require an EIA and an Environmental Statement (ES) would be required to be submitted to support a planning application for this development.
- 9.58 A request by the applicant to both Councils followed as to the scope of the EIA required, the scoping opinions for which were issued by BDC and BaDC on 31 October 2014 and 4 November 2014 respectively.
- 9.59 Furthermore, as highlighted above, and following the advice of Land Use Consultants (LUC), commissioned by Braintree DC, the ES has been updated by virtue of a request under Regulation 22 (1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 to provide additional information.
- 9.60 In respect of decision making the ES together with any other information which is relevant to the decision, and any comments and representations made on it, must be taken into account by the local planning authority and/or the Secretary of State in deciding whether or not to grant consent for the development.

9.61 In advising the Council, LUC undertook a criteria-based approach, developed by the Institute of Environmental Management and Assessment (IEMA) hereafter referred to as 'the IEMA criteria', was used to undertake the review. The criteria include general criteria looking at the information contained in the ES, including the presentation of the results and the non-technical summary. Issue-specific criteria address:

- the baseline conditions;
- assessment of impacts; and
- mitigation measures and management.

9.62 The ES identifies a number of technical chapters and the report is structured under the relevant headings below:

### **Cultural Heritage and Archaeology**

9.63 Protecting and enhancing the historic environment is an important component of the NPPF's drive to achieve sustainable development, and as highlighted above, the appropriate conservation of heritage assets forms one of the 'Core Planning Principles' that underpin the planning system.

9.64 Paragraph 127 of the NPPF states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting.

9.65 NPPF para. 129 goes on to say that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

9.66 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 stipulates that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

9.67 Further clarification on the meaning of 'setting' in the NPPF has been provided in *Steer v SSCLG* [2017] EWHC 1456 (Admin) where the Judge stated that the lack or indeed existence, of a visual and/or physical connection of a development site to a heritage asset should not be the determining factor when considering the 'setting' in terms of the NPPF definition being an identification of 'surroundings in which a heritage asset is experienced'. The word 'experienced' has a broad meaning, which is capable of extending beyond the purely visual.

9.68 In its glossary, the NPPF highlights that *"There will be archaeological interest in a heritage asset if it holds, or potentially may hold, evidence of past human activity worthy of expert investigation at some point. Heritage assets with archaeological interest are the primary source of evidence about the substance and evolution of places, and of the people and cultures that made them."*

9.69 Policy CS15 of the Core Strategy states that proposals for new development must respect the local context and character of the different parts of the district and, inter alia, respect the landscape, landscape features, streetscape / townscape, heritage assets, important spaces and historic views.

- 9.70 Saved policy CN06 of the Babergh Local Plan Alteration No.2 (2006) provides a criteria based approach to the assessment of developments affecting the setting of listed buildings. It provides that development within the setting of listed buildings should retain a curtilage area and/or setting which is appropriate to the listed building and the relationship with its surroundings.
- 9.71 As part of the statutory consultation process Historic England and ECC Historic Buildings and Conservation both state that the proposed development would not cause harm to the significance, or setting of the nearby designated heritage assets, namely: the grade II listed Lapwing Cottages and grade I listed Liston Parish Church.
- 9.72 The latter consultee does however opine that such a development would affect the character of the area and lead to cumulative impacts which would erode the quality of the rural landscape which is characterised by old buildings, mostly listed, and historic settlements. This is essentially a landscape matter, the subject of assessment in the following section of this report.
- 9.73 Consequently it is considered that the proposal would preserve the setting of listed buildings located within area that surrounds the site.
- 9.74 LUC state that it is accepted that the extant building complex on the site is generally of low heritage value and significance, combining to produce an asset of local interest. The impacts of demolition have been properly assessed and are reasonable; impacts of conversion on retained structures would be assessed in detail at reserved matters stage.
- 9.75 In respect of archaeology, it has been confirmed by ECC's HEO that the desk-based assessment, provided with the application has provided a good appraisal of the surviving 20<sup>th</sup> century industrial buildings and history of the site which has been a prominent feature in the local areas industrial heritage.
- 9.76 A basic visual record has been completed along with some documentary research which has highlighted the unique and site-specific industrial use of the site over the last 200 years or more from milling to the extraction of essential oils.
- 9.77 A more comprehensive industrial heritage report is therefore required, prior to demolition, which would include recording of all the industrial buildings with inspection and recording of internal fixtures and fittings that may survive, and all external features and fixtures relating to the historic industrial heritage use of the development site. This would include structures associated with the infrastructure, and water management on the site.
- 9.78 The report recognises that there may be waterlogged areas which may contain palaeoenvironmental remains within the development site and that there is some potential for waterlogged archaeological remains within the river and its tributaries which may be physically impacted upon by the removal of existing structures and construction. The report states that the construction works should not impact on the potential waterlogged deposits, however it is also stated that the location of these deposits is unknown.
- 9.79 In addition it is unclear as to how the planned remediation works may impact upon these deposits. There will need to be some form of below ground assessment of the site stratigraphy in order to determine the impact of the development on potential palaeoenvironmental deposits, including the impact of the remediation works and all water management proposals. This could incorporate existing information from borehole logs and trial pits that were submitted with the information for the remediation work.
- 9.80 There is an indication that peats survive on site within the illustrations supplied with the remediation report, however the full borehole logs were not included and it is unclear whether they lie within an area where they may be impacted upon. The impact of the remediation works on potentially buried palaeoenvironmental deposits will need to be assessed and a mitigation strategy proposed prior to remediation.

- 9.81 The report submitted considers the archaeological and cultural heritage significance of the site to be low because 20<sup>th</sup> century development is considered likely to have truncated any older remains. However the remediation report states that “Natural ground was encountered in all areas of the manufacturing area. This comprised alluvial silts and sands together with river terrace gravels.” This appears to suggest that the stratigraphic sequence has not been as heavily truncated as the application proposes and the degrees of disturbance are likely to vary significantly across the entire development site area. The level of truncation across the site will need to be established in order to substantiate the claims made within the report submitted through intrusive archaeological fieldwork methods.
- 9.82 ECC highlight that the report states that the majority of the proposed development is ‘anticipated’ to be confined to the existing hard standing and demolition layers that are below the existing buildings within the Stafford Works. However, it is not made clear whether this material will need to be removed as part of the remediation process and therefore, in the process, uncover potentially undisturbed deposits. A programme of trial trenching across the site would provide evidence of location, depth and survival of potential archaeological horizons, in order to determine the impact of the remediation works and other groundworks which may cause a greater degree of disturbance on more deeply buried deposits than the construction works.
- 9.83 In addition, SCC’s Archaeological department state that as the application area generally affects a large site in a valley location, it is topographically favourable for occupation of all periods. The site is surrounded by cropmark evidence for early occupation in the form of circular and rectangular enclosures and linear features.
- 9.84 Whilst both consultees on this issue confirm that there are no grounds to consider refusal of permission, in order to achieve preservation *in situ* of any important heritage assets, any permission granted should be the subject of planning conditions requiring detailed archaeological investigation and recording of the site prior to the commencement of the development; mitigation strategy (as required) and post excavation recording.
- 9.85 LUC also recommend that a watching brief be maintained during ground-breaking operations and that a detailed assessment of impacts on heritage assets, based on final design solutions be submitted by way of the imposition of appropriate planning conditions. Subject to this, it is considered that the proposal would not give rise to detrimental effects upon Cultural Heritage or Archaeology.

### **Landscape and Visual Impact**

- 9.86 The site is located within the Dedham Vale Area of Outstanding Natural Beauty (AONB) and Stour Valley Project area, but does not fall within the AONB itself. However, concerning developments in such undesignated areas, one of the core planning principles in the NPPF is that planning should recognise the intrinsic character and beauty of the countryside.
- 9.87 NPPF para. 109 stipulates that the planning system should contribute to and enhance the natural and local environment by, *inter alia*, protecting and enhancing valued landscapes.
- 9.88 The element of the site which falls within Babergh District is subject to a Special Landscape Area (SLA) designation. This is pursuant to Policy CR04 of the Babergh Local Plan Alteration No2 (2006) (BLPA) which stipulates that development proposals in such areas will only be permitted where they maintain or enhance the special qualities of the area and are designed and sited so as to harmonise with the landscape setting.
- 9.89 The Planning Practice Guidance (PPG) states where appropriate, Landscape Character Assessments should be prepared to complement Natural England’s National Character Area profiles. Landscape Character Assessment is a tool to help understand the character and local distinctiveness of the landscape and identify the features that give it a sense of place.

- 9.90 Policy CS15 states that development proposal should “*respect the landscape, landscape features, streetscape / townscape, heritage assets, important spaces and historic views*”.
- 9.91 The site is not covered by any specific landscape designation in Braintree District, although the 2006 Landscape Character Assessment (LCA) highlights the landscape character and type as being ‘A - River Valley Landscape’, with the site itself falling within ‘A2 – Stour River Valley’. Furthermore, the Suffolk LCA identifies the site as falling within Landscape Character Typology (LCT) 26 Valley Meadowlands.
- 9.92 In terms of overall character, the Stour Valley is a wide valley with a broad flat floor and in the north and west arable farmland tends to dominate the valley. A mixture of settlement sizes characterise the valley floor from farmsteads to large sprawling settlements with modern extensions and industrial units and derelict water mills; and that the re-use of past industrial/mill site is one of the key planning and land management issues.
- 9.93 The LCAs therefore identify the special qualities of the receiving landscape and its high sensitivity to change: the assessment of the proposed development incorporates both the proposed works within the site and the adjacent landfill site to the north.
- 9.94 The site as it exists today quite clearly has a visual impact, it is an industrial complex comprising a wide range of large scale buildings, in differing states of repair, including paraphernalia associated with its former use as a food flavourings factory which has evolved over its lifetime. There are also large expanses of concrete hardstanding throughout the site which add to its nature as previously developed land : “*Land which is or was occupied by a permanent structure, including the curtilage of the developed land*” (NPPF Annex 2: Glossary).
- 9.95 This also needs to be balanced against the requirements of NPPF para. 55 which states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances.
- 9.96 The visual baseline that underpins this chapter of the ES is represented through a series of 12 viewpoints, of which 3 are chosen to demonstrate restricted visibility from sensitive receptor locations. The photographs indicate the location and extent of the proposed development site and its potential visibility.
- 9.97 The applicant states that the impact of the development on the landscape in terms of the Stour Valley Project Area is assessed as Moderate and beneficial; and that the proposed development would ‘provide improvement to the existing situation’ due to the proposed enhancements to the setting, the river and the public amenity of the area which ‘would not be possible in the absence of this proposed development’.
- 9.98 In response to this LUC state that the additional information provided within Table 7.3 Landscape Character on the reasoning for judgements on landscape value and susceptibility on landscape character types/areas is acceptable, with an assessment of the value of the site and its context in terms of its relationship with the Stour Valley Project Area being provided.
- 9.99 Effects in winter have now been assessed and winter photographs provided to illustrate a worst case scenario; and an assessment of the effects of the proposed development on the local characteristics of the landscape of the site is considered broadly satisfactory and identifies beneficial impacts as a result of the proposed development.

9.100 This is considered acceptable and does not constitute 'further information' under Regulation 22 of the EIA Regulations, therefore it is considered that the proposal would not give rise to significant adverse effects upon the surrounding landscape, subject to the mitigation measures proposed which could be secured through the submission of reserved matters and the imposition of appropriate conditions.

### **Ecology and Nature Conservation**

9.101 One aim of sustainable development should be to conserve and enhance the habitats and species on site. This is reflected within NPPF paragraph 109 which recognises that the planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, geological conservation interests and soils;
- recognising the wider benefits of ecosystem services;
- minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and
- remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

9.102 The PPG highlights that section 40 of the Natural Environment and Rural Communities Act 2006, which places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of decision making throughout the public sector, which should be seeking to make a significant contribution to the achievement of the commitments made by government in its Biodiversity 2020 strategy.

9.103 With respect to Green infrastructure, the PPG defines this as a network of multifunctional green space, urban and rural, which is capable of delivering a wide range of environmental and quality of life benefits for local communities. Green infrastructure is not simply an alternative description for conventional open space. As a network it includes parks, open spaces, playing fields, woodlands, but also street trees, allotments and private gardens. It can also include streams, canals and other water bodies and features such as green roofs and walls.

9.104 Criteria vii) and x) of the Babergh Local Plan Core Strategy and Policies (2014) (BCS) Policy CS15 seek to protect and enhance biodiversity, and state that the use of brownfield land should be prioritised, whilst creating green spaces to increase the connectivity of habitats. BCS Policy CS14 stipulates that in new developments, green infrastructure will be a key consideration and on the larger sites it will be central to the character and layout of development.

9.105 The Environment Agency state that they recognise that the planning application seeks to resolve the dereliction at the former factory site and remediate its industrial legacy. Whilst many of the issues have been assessed and some designs and proposals have been included as part of the outline application, they state that these alone would not necessarily guarantee a favourable outcome for biodiversity, habitats and landscape issues on the site. In order to secure a viable and enhanced landscape setting and biodiversity outcome, they would wish to see conditions imposed to any outline planning permission granted, to ensure that dereliction and negative man-made impacts on habitats are resolved positively.

- 9.106 Furthermore, the proposed fish pass at the lower weir would need to be assessed by the agency's Fish Pass panel for approval before final design and construction. This could be done at the Flood Risk Activity Permit application stage. Their response of 7 August 2015 also requested the production of a brief management plan, setting out plans for the control of invasive non-native species on the land and propose a condition to address this issue.
- 9.107 Natural England state that throughout the application process, they have liaised closely with the Environment Agency, working with their flood risk team on the river level models, to understand the risks arising to the SSSI. They have sought to ensure that the proposal would not have damaging indirect impacts on the Glemsford Pits Site of Special Scientific Interest (SSSI), through changes in the river levels and river behaviour upstream of the application site.
- 9.108 Notwithstanding the nature and scale of the proposal, they are now satisfied that there is not likely to be an adverse effect on the SSSI site provided that the proposal is carried out in strict accordance with the details of the application as now submitted. This is subject to the imposition of suitably worded planning conditions which seek to achieve a river level monitoring programme (before and after development), and a riffle weir monitoring and maintenance programme securing the condition of the structures (and consequently, upstream river levels) in perpetuity.
- 9.109 With regard to protected species Water vole surveys were undertaken at the site in June 2016. Although no signs indicating the presence of water voles were recorded, the precautionary recommendations provided within the revised submitted documentation for working practices and updating surveys should be conditioned if Members are minded to approve the application.
- 9.110 The Ecology and Nature Conservation ES Chapter has been updated to include an assessment of potential impacts to otters from increased domestic animals and it has been concluded that there would unlikely be a significant effect. Additional planting and access to the northern bank of the river and adjacent habitat would provide areas that are not readily accessible to domestic animals.
- 9.111 Updated surveys recorded several spraint across the site, no holts or couch sites were recorded. Precautionary working methodologies have been proposed to minimise the risk of causing harm or disturbance to otters during the construction phase and these should be included within a CEMP that could be conditioned. However, updating surveys should be carried out throughout any Reserved Matters application stages to assess the continuing use of the site by otters.
- 9.112 Concerning Bats, the internal and external inspections have been updated in 2016 and have reported no change to the conditions reported in 2014. It has been agreed that further surveys are not required to inform the outline application, but that surveys would be undertaken in support of Reserved Matters applications. Again, precautionary working should be included within a CEMP.
- 9.113 Reptile surveys have been undertaken to cover both the proposed residential areas and the area to the north of the river. No reptiles were recorded, however it is recommended within the reports that surveys are updated at the Reserved Matters applications stage to inform detailed proposals. any precautionary methods proposed following these updated surveys should also be incorporated into a CEMP.
- 9.114 On the subject of Great crested newts, updated eDNA surveys were undertaken in 2016 and returned inconclusive results for one of the ponds surveyed. However, given the lack of evidence in the other ponds surveyed and the inconclusive evidence returned from the one pond, it is recommended in the reports that the surveys are updated to inform the Reserved Matters application.

- 9.115 Subject to the above, overall JBA consider that the updated reports cover the majority of the issues raised previously, and are sufficient to support the outline planning application. Consequently, it is considered that the proposal would have no adverse impact upon protected species.
- 9.116 In addition, as part of their work in vetting the ES, LUC stated that the assessment of impacts for nesting birds was considered inadequate. The assessment would be expected to consider the size, diversity, scarcity and fragility of the bird population in informing impacts. For example, the habitats present within the application boundary and adjacent areas were considered suitable for supporting a range of Birds of Conservation Concern and specially protected Schedule 1 species. There was no detailed consideration of the importance of this site for birds within the ES, whereby the assessment would be expected to consider direct effects (habitat loss) and indirect effects (e.g. pet predation, human disturbance) during both the construction and operation phase. In addition, specific measures would be expected to be provided to adequately mitigate any of the impacts identified.
- 9.117 In light of a lack of forthcoming information from the applicant, residual concerns remained as detailed above. However, following discussions with Officers, it was agreed that the residual concerns could be adequately addressed through the use of reserved matters and planning conditions.
- 9.118 Therefore, it is recommended that should Members be minded to support the Officer recommendation, that planning conditions be attached to the outline planning permission to include the preparation of an Ecological Mitigation Strategy (EMS), CEMP, Landscape and Habitat Management Plan, along with a detailed lighting strategy, as well as undertaking breeding bird surveys and updating surveys for protected species.

### **Flooding and Hydrology**

- 9.119 Part 10 of the NPPF sets out the Government's stance on climate change, flooding and coastal change, recognising that planning plays a key role in, amongst other things, providing resilience to the impacts of climate change.
- 9.120 Para. 100 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.
- 9.121 NPPF Para.103 states that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated that:
- within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
  - development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.
- 9.122 The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. A sequential approach should be used in areas known to be at risk from any form of flooding (NPPF para. 101).



- 9.123 If, following application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied if appropriate. For the Exception Test to be passed:
- it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment<sup>1</sup> where one has been prepared; and
  - a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
- 9.124 Both elements of the test will have to be passed for development to be allocated or permitted (NPPF para.2).
- 9.125 The PPG highlights that residential development falls within the 'More Vulnerable' category of the Flood risk vulnerability classification in its Table 2. As it stands, the EA confirm that their flood maps show the development site lies within fluvial Flood Zone 3a defined by the PPG as having a high probability of flooding. Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests, as well as being supported by a site specific Flood Risk Assessment (FRA).
- 9.126 Criterion xi) of BCS Policy CS15 identifies that development proposals should minimise the exposure of people and property to the risks of all sources of flooding by taking a sequential risk-based approach to development, and where appropriate, reduce overall flood risk and incorporate measures to manage and mitigate flood risk.

#### *Sequential Test*

- 9.127 As highlighted above, the Sequential Test seeks to ensure that a sequential approach is followed to steer new development to areas with the lowest probability of flooding. The aim is to steer new development to Flood Zone 1 (areas with a low probability of river or sea flooding), but where there are no reasonably available sites in Flood Zone 1, local planning authorities in their decision making should take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2 (areas with a medium probability of river or sea flooding), applying the Exception Test if required. Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 (areas with a high probability of river or sea flooding) be considered.
- 9.128 The Council cannot currently demonstrate a five year housing land supply, and therefore it is a situation whereby each case must be assessed on its own merits, having regard to the presumption in favour of sustainable development. In the absence of a sufficient amount of deliverable housing land being available within the District within flood zones 1 and 2, it is considered that there are no other reasonably available sites for residential development, notwithstanding a need to assess fully all other material planning considerations. Therefore, from this basis, it is considered that the sequential test is passed.

#### *Exception Test*

- 9.129 For the Exception Test to be passed, amongst other things, it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk. The proposal would provide such benefits in the form of a reduced risk of flooding to the site its self, as well as both up and down stream along the River Stour; decontamination of the application site and the adjoining landfill site; and enhanced ecology once groundworks have taken place.

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<sup>1</sup> The site was not included in the Level 2 Strategic Flood Risk Assessment for the DLP as it is not an allocated site.

- 9.130 The exception text also requires the site-specific flood risk assessment to demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
- 9.131 In response to this, the EA state that they have no objection to this planning application, but highlight that the proposal requires the raising of land to provide development that will be situated in Flood Zone 1. As a result, compensatory storage is required which is intended to be provided on the opposite bank of the river to the area being raised. They state that the FRA includes details of the flood mitigation proposals and associated river engineering works; and that the proposals would ensure that floor levels of any buildings are raised above the 1% (1 in 100 year) and 0.1% (1 in 1000) year annual probability flood levels, inclusive of climate change and that dry access can be maintained to and from the development.
- 9.132 The EA agree with the conclusion of the FRA that the development and associated works would not result in an increase in flood risk to the site or neighbouring land. Further, they are in the process of having their 2011 River Stour model updated, and have compared the outputs of the FRA with the draft outputs of their model update. The draft model outputs and technical note provided to them provide confidence that the proposed development works would not have an effect on third party interest and support the findings of the submitted FRA.
- 9.133 Therefore, having regard to the proposal, which would 'lift' the area of proposed residential development out of Flood Zone 3a into a zone of low probability of flooding (zone 1) it is considered that the development would pass the Exception Test and there are no substantive reasons to withhold planning permission on the basis of fluvial flood risk.

#### *Surface Water*

- 9.134 The PPG states that when considering major development the local planning authority should consult the lead local flood authority on surface water drainage.
- 9.135 ECC as LLFA confirm that following their assessment of further information submitted by the applicants in respect of storage and run-off rates from the site; flow routes and outfalls; and to show that the site is safe from groundwater flooding, that they no longer object to the application. This is subject to the imposition of a number of recommended planning conditions.

#### **Contaminated Land and Remediation**

- 9.136 NPPF para. 111 stipulates that planning decisions should encourage the effective use of land by re-using land that has been previously developed, provided that it is not of high environmental value.
- 9.137 Para. 120 of the NPPF states that to prevent unacceptable risks from pollution and land instability, planning decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
- 9.138 Planning decisions should also ensure that:
- the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation;
  - after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and

- adequate site investigation information, prepared by a competent person, is presented (NPPF para. 121).
- 9.139 On this subject, the PPG stipulates that failing to deal adequately with contamination could cause harm to human health, property and the wider environment. It could also limit or preclude new development; and undermine compliance with European Directives such as the Water Framework Directive.
- 9.140 It goes on to state that when dealing with land that may be affected by contamination, the planning system works alongside a number of other regimes including:
- The system for identifying and remediating statutorily defined contaminated land under Part 2A of the Environmental Protection Act 1990. The government has published statutory guidance on Part 2A which concentrates on addressing contaminated land that meets the legal definition and cannot be dealt with through any other means, including through planning;
  - Building Regulations, which require reasonable precautions to be taken to avoid danger to health and safety caused by contaminants in ground to be covered by buildings and associated ground; and
  - Environmental Permitting Regulations under which an Environmental Permit from the Environment Agency is normally required to cover the treatment and/or redeposit of contaminated soils if the soils are 'waste'.
- 9.141 The contaminated land regime under Part 2A of the Environmental Protection Act 1990 (EPA) provides a risk based approach to the identification and remediation of land where contamination poses an unacceptable risk to human health or the environment. The regime does not take into account future uses which could need a specific grant of planning permission. To ensure a site is suitable for its new use and to prevent unacceptable risk from pollution, the implications of contamination for a new development need to be considered by the local planning authority to the extent that it is not addressed by other regimes.
- 9.142 CS Policy CS15 states that all development proposals should protect and enhance biodiversity, prioritise the use of brownfield land for development ensuring any risk of contamination is identified and adequately managed, and make efficient use of greenfield land and scarce resources.
- 9.143 Notwithstanding that contaminants do exist on the proposed developable area of the site, their true extent is not currently known due to the amount of the site that is covered by the former factory buildings and hardstanding. Further, it is important to note that, for the purposes of the EPA, the Stafford Park industrial complex has not to date been identified as contaminated land by either District Council. The adjacent landfill site to the north of the river is, however, the subject of a permit which is regulated by the Environment Agency.
- 9.144 In responding to the proposal, on the areas within Babergh District (excluding the landfill site), Babergh & Mid Suffolk's contaminated land specialist states that the principal risk drivers in respect of the sludge lagoons are the impact on groundwater from the former uses of the site, into which waste from the factory site was pumped. Remedial works undertaken on this area would be required to ensure that the residual soil within the beds are not impacting on the groundwater or future end users of the site. Any remediation of the sludge beds would need to be done in conjunction with the remediation of the landfill, but the investigation undertaken by Wren and Bell in March 2015 has mainly centred on the landfill site, so is outside the scope of the application.

- 9.145 The investigation into the effluent treatment plant states that the area would be de-silted and in-filled to make it suitable for public access. However, the details of the remediation in respect to the effluent treatment plant are insufficient to state that the site would be suitable for its intended use. The Wren and Bell report states that the area may be suitable for the importation of waste material from the landfill site, however as this site is outside of the permitted area, this may require a variation to the existing permit to cover the Effluent Treatment Plant, and may not be acceptable with the EA.
- 9.146 They go on to state that any imported material would need to demonstrate suitability for use in terms of the area that would be designated as Public Open Space (POS) south of the River Stour, as it would seem as though there have only been limited investigations into the presence of contamination in this area and the potential impact on end users. Whilst POS is no doubt a less sensitive end use when compared with residential gardens with plant uptake, nonetheless the developer would need to demonstrate that the land designated for POS is suitable for use. They recommend that this information is secured from the applicant by way of condition, and that the conditions proposed by the Environment Agency should suffice in achieving this goal.
- 9.147 In respect of contamination, the EA in principle support the carrying out of the development as a means of environmental improvement for both the former manufacturing area, and enabling remediation of the former landfill area. The applicant is Bonnington Investments Ltd, whereas the landowner is Redding Park Development Co Ltd therefore the blue land ie the landfill site is not within the ownership of the applicant, and both companies would need to be party to a planning obligation pursuant to S106 of the Town and Country Planning Act 1990 to ensure that phased remediation takes place, in accordance with the submitted Remediation Phases plan.
- 9.148 The site is underlain by a Secondary A aquifer (sands and gravels) followed by a principal aquifer (chalk). A source protection zone 3 also underlies the site, a groundwater abstraction is located on site, is also in an EU Water Framework Directive Drinking Water Protected Area and is adjacent to the River Stour. The underlying sands and gravels aquifer, chalk aquifer and River Stour are therefore considered to be highly environmentally sensitive by the EA.
- 9.149 Following the additional delineation works, remedial targets for remediation would be required, as would justification for parameters used for risk assessment, site specific where possible. The broad concept of groundwater treatment and soil treatment as a method of remediation is acceptable, the finer details could be determined at a later stage following further site investigation and risk assessment to refine the conceptual site model.
- 9.150 The EA note that the upgradient and downgradient monitoring points for the river for surface water quality were distant from the site and stated that it may be beneficial to the risk assessment if monitoring points near to the site are used. They also state that it should be noted that there would be an increased infiltration in the south of the river, which could increase leaching of contaminants. It appears that no leachate testing has been carried out to date.
- 9.151 Furthermore, they disagree with the 'unlikely' source-pathway-receptor linkage discussed on pages 17 and 18 of the Remediation Strategy and Summary of Site Investigations report (Groundwater (Chalk measures – Major Aquifer)), they believe this is 'likely'.
- 9.152 In their response dated 19 May 2016 the EA withdrew their previous objection on the need for a Water Framework Directive (WFD) assessment following the receipt and review of a WFD Technical Note from the applicant. They state that this note was sufficiently detailed for an outline application, but that a further assessment would be required to inform any detailed reserved matters application. While there are potential enhancements proposed to the River Stour at this location, they consider that there remains the potential, depending on the detailed planning designs, for the deterioration in WFD quality measures. This would need to be further considered at the detailed stage, and the technical note states that additional surveys and studies would be undertaken which can inform any further WFD assessment.

- 9.153 They consider that the scheme presents an opportunity for river restoration to a more natural river corridor free of unnatural impediments to fish passage and designed to deliver long term sustainable habitats along the river corridor. There has been agreement with the applicant to replace the redundant moving sluice gate with a series of gravel and cobble riffles. This would be a significant habitat and landscape improvement which they welcome and support which could be secured by way of a planning obligation.
- 9.154 The EA also state that there has been discussion between the applicant and themselves, but as yet no agreement has been reached for, the removal of the downstream concrete weir (downstream of the aforementioned sluice) and potential replacement of this redundant structure with a further series of stone riffles. Whilst the current proposal is to build a fish pass there, they state that this appears a bit of an anomaly in that it means building an extra concrete structure in order to bypass an old redundant concrete weir. They consider that the weir is an obsolete unsightly remnant of the factory process and old mill site and wish to see an options appraisal for the sustainable resolution of this old weir that further contributes achieving the objectives of the Water Framework Directive.
- 9.155 This options appraisal should consider landscape issues, river habitat and habitat enhancement, as well as fish passage, and whether building a new concrete fish pass is the most sustainable way forward in tackling the weir and the problems it presents to river habitat continuity.
- 9.156 However, the EA consider that planning permission could be granted for the proposed development, subject to the imposition of planning conditions, without which, the scheme on the site poses an unacceptable risk to the environment and they would object to the application.

### **Traffic and Transportation**

- 9.157 Where concerning the promotion of sustainable transport, the NPPF in para. 29 states that the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
- 9.158 Para. 32 of the NPPF stipulates that all development that could generate significant amounts of vehicle movements should be supported by a Transport Assessment to ensure, amongst other things, that suitable access to the site can be achieved and that opportunities for sustainable transport modes are explored to reduce the need for major transport infrastructure. Development should only be prevented where the residual cumulative impacts are likely to be severe.
- 9.159 Furthermore, the NPPF in para. 34 seeks to ensure that developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies set out elsewhere in the Framework, particularly in rural areas.
- 9.160 On this subject, the PPG goes into more detail into the overarching principles on Transport Assessments, with criteria xvi), xviii) and xix) of BCS Policy CS15 promoting accessibility for all and sustainable travel.
- 9.161 LUC highlight that extensive post-application correspondence has taken place between the applicant's transport consultants and the highway authorities. Assurances as to the adequacy and accuracy of the traffic generation rates have been sought while Suffolk County Council has challenged the basis upon which the impact of the proposed development has been assessed, namely that the proposed traffic generation should be compared with traffic generation from the permitted uses rather than the existing traffic flows to and from the site. They state that the applicant's response has provided a robust review of the traffic generation rates used, which appear acceptable, and has responded that the capacity of the junctions on the network is sufficient whether or not traffic generated by permitted uses is considered.

9.162 A summary of the Reg.22 request through LUC centred upon the need to assess: impacts on users of any parts of the existing cycle and walking networks; the effectiveness of mitigation measures suggested in Residential Travel Plan; the effects of varying the construction vehicle routing; improvements to PRow network to east of the site; the impact of proposed passing places on roads around the site, with regards to other environmental impacts that could occur; and the impacts of traffic flow changes without reference to flows from permitted land uses.

9.163 In response to this, following their reassessment conclusion on the updated ES (May 2017), LUC state that:

- The baseline traffic flows used to determine the environmental effects are now presented in the ES;
- The applicant has provided sufficient information taking into account the likely impact of the predicted number of cycling and walking trips;
- Although the type and extent of some of the mitigation measures suggested in the Residential Travel Plan has been expanded upon, their effectiveness has not been assessed in detail. There is however a commitment to monitor and evaluate the effectiveness of the Residential Travel Plan and to take action to mitigate any adverse impacts that may arise as a result of missing targets. It is considered that the measures suggested have the capability to minimise the impact of the development;
- The applicant has stated that a variation to the proposed construction routing is not considered feasible due to legal constraints associated with use of the alternative access to the north of the Site. In addition, there is a road safety concern associated with the visibility of and for turning traffic at the access point onto the A1092. The applicant has also identified that construction traffic on the existing road network would be lower than the HGV movements associated with current permitted development. As the proposal is to route construction traffic in one direction only thereby avoiding conflicting movements, it is considered that the applicant does not need to submit any more information regarding this matter;
- The applicant has added further information regarding the type of improvement to and likely users of the PRow. Selective improvements in conjunction with the monitoring of travel behaviour through the Residential Travel Plan should enable appropriate use of the PRow to be optimised;
- The applicant has included an assessment of the impacts of the passing places which has focussed on ecology specifically. It is considered that the level and quality of assessment is in appropriate. Typically, it would be expected that each passing place would have been surveyed and a judgement made as to the ecological value and the predicted level of impact, both in terms of habitat loss, but also the effect on protected and notable species. It is evident that this hasn't been done as there is no description of the habitat type and quality, or the potential importance to features such as bats, reptiles, dormouse etc. Notwithstanding this lack of detailed assessment, each of the passing places has been reviewed by LUC and it is considered that they are restricted to areas of low ecological value. Given that the passing places are localised and restricted to widening/upgrading of existing informal passing places, the level of ecological impact would be negligible;
- The impact of traffic on the network against this lower baseline has not been assessed however data has been added to Tables 11.9, 11.10 and 11.11 to enable a visual comparison to be made. Although the applicant has not included an impact assessment it can be deduced that the thresholds for different impact significance criteria to be applicable are not reached.

9.164 Consequently LUC conclude that the above is considered acceptable and does not constitute 'further information' under Regulation 22 of the EIA Regulations. No additional information is therefore required in respect of the ES.

- 9.165 In respect of the specific impacts within the Babergh district area, the Local Highway Authority raised concerns from their original consultation response and significant further work was required to be undertaken by the applicant's Transport specialists. This has resulted in discussions between Essex CC, Suffolk CC and the applicant's representatives over a period of some months prior to the most recent responses from ECC and SCC Highways.
- 9.166 In respect of SCC, they have confirmed that following discussions with the Essex County Council (ECC) and Braintree Borough Council, as the road network mainly affected the highway network in Essex County, they will align with ECC. However, they request conditions to mitigate the impact on the highway in Suffolk.
- 9.167 They acknowledge that the development may have a direct impact on the highway network in Long Melford and their initial response had concerns with regard to capacity and safety specifically the junctions of Little St Mary's junctions with Liston Lane and St Catherine's Lane. They consider it likely that some residents of the proposed development will look for some day to day services in Long Melford and these junctions caused most concern, leading to a discussion with the applicant's Highway Engineer around how the applicant could mitigate this potential impact. SCC are seeking a financial contribution towards surveys and potential TRO's in Long Melford which will effectively address their concerns regarding highway capacity and safety.
- 9.168 It is considered that this provision would satisfy the tests for planning obligations set out in the CIL Regs as it is: necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonable related to the development in scale and kind.
- 9.169 Finally on this issue, the Council's adopted parking standards state that a minimum of 1 space per dwelling should be provided for 1 bedroom dwellings and a minimum of 2 spaces per dwelling should be provided for 2 and more bedroom dwellings. Also 0.25 spaces per dwelling are required for visitor parking. Parking spaces should measure 5.5 metres by 2.9 metres and garages (to be counted towards parking provision) should measure 7 metres by 3 metres. The development would be laid out in a manner that adheres to these standards.
- 9.170 Therefore in conclusion, the proposed effects of the development can be mitigated such that the development would not give rise to severe highway impacts, and the proposal would therefore accord with the provisions of the NPPF and saved policy TP15 of the Babergh Local Plan Alteration No.2 (2006).

### **Noise and Vibration**

- 9.171 As previously referred to in this report, NPPF paragraph 109 states that the planning system should contribute to and enhance the natural and local environment, in this case by, *inter alia*, preventing both new and existing development from contributing to or being put at unacceptable risk from noise pollution.
- 9.172 Para. 123 of the NPPF stipulates that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development; and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.
- 9.173 The PPG states that noise needs to be considered when new developments may create additional noise and when taking decisions about new development, there may also be opportunities to consider improvements to the acoustic environment. It goes on to say that decision taking should take account of the acoustic environment and in doing so consider:
- Whether or not a significant adverse effect is occurring or likely to occur;
  - whether or not an adverse effect is occurring or likely to occur; and
  - whether or not a good standard of amenity can be achieved.

- 9.174 LUC confirm that Baseline noise surveys have been carried out at the nearest noise sensitive receptors over relevant time periods and at locations agreed with the Local Authorities. The assessment has taken account of a worst case regarding the parameter plans on phasing of the development, layout of buildings, landscaping, building heights and vehicle movements.
- 9.175 The assessment establishes the magnitude of the noise and vibration effects of the scheme during construction and operation. Consistent descriptors are used for the significance of impact assessment and relevant national planning guidelines have been taken into account.
- 9.176 The construction noise assessment takes account of ambient noise levels at sensitive receptors and adequate consideration has been given to noise generated by construction traffic. The assessment considers a worst case and typical case for the assessment of demolition and construction activities, showing minor adverse effects as a worst case.
- 9.177 Furthermore, operational noise levels due to road traffic and building services plant have been adequately assessed and showing negligible impact. The recommended WHO standards for noise in amenity areas would be met throughout the proposed development.
- 9.178 Measures to control demolition construction noise and vibration are described which are likely to result in minor adverse effects remaining. These measures can be agreed with the local authorities in a CEMP prior to the commencement of construction. Although measures to control internal noise and external noise in amenity areas are advised not to be required by LUC, they also recommend that conditions be imposed which place limits on construction working hours; and limit any noise from external plant so as not to exceed 5dB below background levels.

### **Air Quality**

- 9.179 NPPF paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by, *inter alia*, preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels air pollution.
- 9.180 Para. 124 of the NPPF stipulates that planning decisions should aim to ensure that any new development in Air Quality Management Areas (AQMA) is consistent with the local air quality action plan. The site isn't within an AQMA, however Dust Assessment and Mitigation Measures specified by The Institute of Air Quality Management (IAQM) can be secured by way of planning condition.
- 9.181 The PPG provides more detailed advice on air quality and Criterion xvii) of Policy CS15 also seeks to protect air quality.
- 9.182 LUC advise that the scope of the ES is acceptable as it covers the demolition, construction and operational phases of the development. The site does not lie in or near an AQMA and there are no air quality monitoring stations or diffusion tube sites in the vicinity of the site. The nearest monitoring site is 15 km distant, while the nearest diffusion tube site is within an AQMA and therefore not relevant to the location of the proposed development.
- 9.183 They state that the Defra background air quality database for the location indicates pollutant concentrations ranging from 26 – 45% of the Air Quality Objective (AQO) for the three main pollutants assessed. These levels are so far below the AQO that no further background measurements are required to substantiate the assessed levels which are considered acceptable. The operational phase assessment indicates that changes in traffic flows will fall below the threshold for significant air quality effects and that therefore no quantitative assessment is required.



- 9.184 In the absence of significant operational effects and taking into consideration the low background air pollutant levels, the site is considered to be suitable for development in air quality terms. The assessment does not include the significance criteria that would normally be adopted for an operational air quality assessment, but since the effects will be insignificant, the omission is considered acceptable in the circumstances.
- 9.185 Therefore it is considered that the proposal, during either the demolition/construction or operational phases would not have a detrimental effect upon the air quality of the surrounding area.

### **Socio-Economics**

- 9.186 For the avoidance of doubt and duplication, the socio-economic impacts that would be mitigated through planning obligations secured through S106 of the Town and Country Planning Act 1990, and the policy basis for requiring them, are included in this section of the report.
- 9.187 Ultimately, para. 203 of the NPPF states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.
- 9.188 Consequently, this section also outlines the manner in which planning obligations would satisfy the tests set out in the Community Infrastructure Levy Regulations 2010 (CIL Regs) and paragraph 204 of the NPPF, which states that obligations should only be sought where they meet all of the following tests:
- necessary to make the development acceptable in planning terms;
  - directly related to the development; and
  - fairly and reasonably related in scale and kind to the development.
- 9.189 The final core planning principle as set out within para. 17 of the NPPF requires the planning system to take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.
- 9.190 Policy CS21 of the Core Strategy states that the District Council will work with service providers, developers and other partners to develop sustainable places in the Babergh District with safe and healthy communities and secure the appropriate social, physical and green infrastructure needed to support these places and safeguard the environment. The Council will protect, safeguard and enhance existing services, facilities and amenities that are important to the sustainability of local communities.
- 9.191 The ES, as originally written, considered the potential effects of the development on employment, housing, open space, education and healthcare. The scope of the assessment generally covered what would be expected in a socio-economic assessment, although the effects of the development on the provision and demand for community facilities and children's playspace was not included.
- 9.192 It was also a request of both Councils in their respective Scoping Opinions that the socio-economic assessment should include socio-cultural impacts, such as quality of life and community integration and the potential impact on community identity. The applicant was therefore asked to make reference to these and the effect that the development would have on these aspects, as part of the Reg.22 request for further information.

9.193 The assessment has been updated to include information on quality of life, community integration and community identity and LUC confirm that no further clarification is sought on these matters with no potential significant adverse effects reported, subject to the mitigation below.

**Affordable Housing**

9.194 Para. 50 of the NPPF requires, *inter alia*, LPAs where they have identified that affordable housing is needed, to set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities.

9.195 Braintree CS Policy CS2 requires developers to provide affordable housing on site with a target of 40% affordable housing provision on sites in rural areas. Babergh Core Strategy Policy CS19 stipulates that in order to promote inclusive and mixed communities all residential development will be required to provide 35% affordable housing, although as all of the residential development would be located within Braintree District it is considered appropriate to apply the higher percentage figure upon the scheme.

9.196 Furthermore Policy CS18 provides that the mix, type and size of the housing development will be expected to reflect established needs in the Babergh district.

9.197 Braintree DC's Housing Research & Development confirm that as the proposal for this site is for up to 100 new residential homes to be constructed and the creation of 22 flats from the conversion of existing buildings, it means that 48.8 of the homes should be provided as affordable housing.

9.198 However, they states that although Braintree generally has a high level of housing need, evidence from the housing register in this part of the District does not justify seeking 48 affordable homes on site. As the site is located at the northern most boundary of Braintree, they have liaised with Babergh DC over whether there is scope for a cross-boundary approach to meeting need for affordable homes in both Districts.

9.199 Geographically, the nearest large settlement is Long Melford where it is understood that there are more than 60 applicants registered seeking affordable homes. Babergh's Strategic Housing Team have also advised caution over the number of units that are sought on site because of the remote location and lack of amenity; they also say that it is likely that residents of the development would use services in Glemsford and Long Melford; and therefore the affordable housing should be offered to residents of these villages.

9.200 It is acknowledged that details set out in the application are indicative, but it is recommended that 10 affordable homes be provided on site, along with a commuted payment in lieu of 38.8 units, subject to viability. It is considered that 6 x 1 bedroom flats and 4 x 2 bedroom houses would be an appropriate mix to match housing need.

9.201 As regards a commuted payment, applying the commonly used approach illustrated below, this would amount to £970,000. This sum is higher than that advised in pre-application advice owing to the figure per unit being revised to reflect higher levels of grant needed to procure units from the open market for affordable housing.

122 units x 40% = 48.8 units  
48.8 units – 10 units (provided on site) = 38.8  
38.8 units x £25,000 = £970,000

9.202 Payments would be held in an account and used specifically to assist in providing funding to registered housing providers for the provision of new affordable homes at other locations in the Districts.

9.203 Additional factors concerning affordable housing that should be considered are as follows:

- Affordable dwellings should be deliverable without reliance on public subsidy;
- Affordable homes should conform to standards acceptable to the Homes and Communities Agency at the point of construction; and
- House type units should meet Lifetime Homes Standard.

9.204 It is considered that this provision would satisfy the tests for planning obligations set out in the CIL Regs as it is: necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonable related to the development in scale and kind.

### **Community Facility & Employment**

9.205 Whilst Stafford Park is not an allocated site within either Development Plan, the NPPF in para. 22 states that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.

9.206 In support of this, policies CS15 (criterion iii) and CS17 seek to protect or create jobs and sites to strengthen or diversify the local economy, including rural businesses, which is also reflected in para. 28 of the NPPF.

9.207 Saved policy EM24 of the Babergh Local Plan Alteration No.2 (2006) stipulates that planning applications to redevelop or use existing or vacant employment land, sites and premises for non-employment purposes, will only be permitted if the applicant can demonstrate that their retention for an appropriate employment use has been fully explored. This may be undertaken in one of the two following ways:

1. by an agreed and sustained marketing campaign, undertaken at a realistic asking price; or
2. where agreed in advance, the applicant can demonstrate that the land, site or premises are inherently unsuitable or not viable for all forms of employment related use.

9.208 As part of the evidence base for the DLP, the Viability Review of Employment Sites in Braintree District produced by Lambert Smith Hampton makes explicit reference to Stafford Park, giving it the reference ELR5. The Market Appraisal comment as set out therein states:  
*“Stafford Park in Liston is a former chemical factory in a rural location, accessed via narrow lanes which are the subject of protection in terms of traffic generation. The site is considered to be an unsustainable location for a B1/ B2/ B8 employment use and as such should be considered for alternative uses.”*

9.209 The poor and dated condition of the majority of buildings on the site is a barrier to economic re-use of Stafford Park, which although partially occupied by businesses doesn't currently render it attractive to high value end users. Clearly greater investment could be made in the site, although its location, being a symptom of its historic use is also a barrier and in reality it is unlikely that it would ever be occupied (or employ the historic number of workers) to the extent that it would continue as an employment site in the long term.

- 9.210 However, as highlighted within the indicative site layout plan, it is proposed to convert building 'T', which is located within Babergh District, into a community centre. In response to this and the demolition of other commercial buildings within the site, Babergh DC's Economic Development team state that it is disappointing to see the loss of an employment site, and would have liked to have seen an employment use maintained. They suggested that part of the community building could provide some internal office/work space for future residents' use. Pursuant to the Reg.22 request, the applicant has stated that this building would provide approximately 10 jobs, and therefore it is considered that the proposal would not conflict with the spirit of the aforementioned policies.
- 9.211 NPPF paragraphs 69 and 70 state that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Planning decisions, in turn, should aim to achieve places which promote opportunities for meetings between members of the community, by planning positively for the provision and use of shared space, community facilities.
- 9.212 As highlighted above, Policy CS11 of the Core Strategy and BCS Policies CS15 (criterion iv) and CS21 seek to ensure that the infrastructure services and facilities required to provide for the future needs of the community are delivered, and which can include the provision of local community facilities.
- 9.213 Taking the above into account, it is considered that the proposal to utilize the Community Facility as a multi functional social and workspace would go some way to mitigate the loss of the wider employment site. Further, Policy CS12 (Sustainable Design and Construction Standards) requires all new non-residential developments to achieve, as a minimum, the BREEAM "Excellent" standard or equivalent. In the interests of maximising the environmental performance of the Community Facility, both through its conversion and operational phases it is considered that a planning condition to this effect would enhance the sustainability credentials of this 'hub' building.
- 9.214 It is considered that this provision of the community facility would satisfy the tests for planning obligations set out in the CIL Regs as it is: necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonable related to the development in scale and kind.

### **Crime**

- 9.215 NPPF paragraph 69 states that planning decisions should also aim to achieve safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.
- 9.216 Essex Police confirm that they raise no objection to the proposal, but that if planning permission were granted then the developer should liaise with Essex and Suffolk Police Crime Prevention Design Advisors in the early stages of the planning and throughout the development, so as to ensure that the properties achieve Secured by Design accreditation. The objective of this being to ensure that the security of these properties, potential residents and neighbours is relevant to the location and anticipated risk.
- 9.217 This could be secured by way of a planning condition, which Officers consider to be both reasonable and necessary.

### **Education**

- 9.218 NPPF paragraph 72 states that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should: Give great weight to the need to create, expand or alter schools; and Work with schools promoters to identify and resolve key planning issues before applications are submitted.

- 9.219 This is supported by Policies CS15 (criterion iv) and CS21 of the Core Strategy.
- 9.220 It will be noted from the consultation section above that ECC, as Education Authority states that whilst the appropriate authority for the provision of primary and secondary education for the site, they support SCC's conclusion that schools in Suffolk are better placed to provide for pupils who would live within the proposed development.
- 9.221 SCC states that with regard to Pre-school provision they would anticipate up to 12 pre-school pupils generated from future occupation of the proposed development, at a cost of £6,091 per place. There is 1 provider in this area with no surplus spaces available, therefore a financial contribution of £73,092.00 would be required to mitigate the impacts of the development.
- 9.222 Furthermore, the Long Melford CEVCP School (Primary) has insufficient capacity to accommodate the projected 28 primary age children arising from the development. A financial contribution of £341,068 would be sought to cover the provision of additional places. There is however sufficient capacity at the Ormiston Sudbury Academy so no financial contribution would be sought for secondary education.
- 9.223 ECC would remain responsible for transporting children to/from school and a financial contribution would be sought from the developer to meet travel costs for the first 5-years - £356,664 for primary pupils and £99,588 for secondary school children.
- 9.224 It is considered that this provision would satisfy the tests for planning obligations set out in the CIL Regs as it is: necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonable related to the development in scale and kind.

### **Healthcare**

- 9.225 NPPF paragraph 69 highlights that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities which is supported by policies CS15 (criterion iv) and CS21.
- 9.226 In response to Braintree's consultation process, the NHS England Essex Area Team states that the proposal is likely to have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area and specifically within the health catchment of the development. NHS England therefore expect these impacts to be fully assessed and mitigated by way of a developer contribution secured through a Section 106 planning obligation.
- 9.227 They have recently carried out a review of GP services to identify capacity issues throughout Essex. This development would likely have an impact on the services of 1 GP Practice within the Braintree locality, the Bridge Street Surgery in Great Yeldham which does not have capacity for the additional growth as a result of the proposed development. They request a developer contribution of £32,900 to mitigate the 'capital cost' to NHS England for the provision of additional healthcare services arising directly as a result of the development proposal.
- 9.228 However, in response to Babergh's consultation process on the joint application NHS England Midlands and East stipulate that the GP surgery in Long Melford has insufficient capacity to accommodate the additional demand arising from the proposed development. They state that they have no objection to the application, subject to a financial contribution of £40,180 towards increasing capacity at the Long Melford Practice being made.

9.229 In view of the fact that Long Melford is the closest settlement which contains key community facilities and services to Stafford Park, it is considered reasonable to assume that future occupants would seek to register at the Long Melford Practice, rather than Great Yeldham. Therefore, Officers recommend that a planning obligation in tune with NHS England Midlands and East's request is sought to mitigate the impacts of this development.

9.230 It is considered that this provision would satisfy the tests for planning obligations set out in the CIL Regs as it is: necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonable related to the development in scale and kind.

### **Public Open Space**

9.231 NPPF para. 73 states that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.

9.232 Criterion ix) of Policy CS15 requires proposals to make provision for open space, amenity, leisure and play through providing, enhancing and contributing to the green infrastructure of the district, whilst Policy CS21 states that Babergh will work with service providers, developers and other partners to develop sustainable places in the Babergh District with safe and healthy communities and secure the appropriate social, physical and green infrastructure needed to support these places and safeguard the environment.

9.233 Furthermore, Local Plan Policy HS31 requires proposals for residential development on a site of 1.5 hectares and above to provide 10% of the gross site area as public open space. This must include providing play equipment, which has been agreed in advance with the District Council

9.234 Due to the location of the site, it is also considered appropriate to require the provision of allotments on site, the potential location of which is identified on the Indicative Site Layout Plan, these are considered to be a positive feature of the scheme and would serve future residents of the development.

9.235 In addition it would be necessary for the S106 to include an obligation for the applicant to form a Management Company responsible for the day to day and longer term management and maintenance of the Public Open Space, including the Equipped Play Area and the allotments.

9.236 It is considered that this provision would satisfy the tests for planning obligations set out in the CIL Regs as it is: necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonable related to the development in scale and kind.

9.237 In totality in respect of socio-economic impacts, LUC confirm that as the chapter has been updated to include an assessment of demand for playspace, pre-school education, and community facilities, no significant adverse environmental effects are identified. This is therefore considered acceptable and does not constitute 'further information' under Regulation 22 of the EIA Regulations and no additional information is required.

### **Other Planning Considerations**

#### *Viability*

9.238 As set out through this report, the site gives rise to a number of competing requirements, each of which affect the viability of the proposal in varying ways including, but not limited to, the conversion of existing buildings, land contamination, works to the river, affordable housing, education, highways works and public rights of way.

- 9.239 The viability appraisal provided by the applicant has been updated to reflect various alterations to factors affecting the viability of the scheme, and this has been independently assessed and scrutinised. An important facet in this element of the proposal is ensuring that the development can deliver the decontamination of the landfill site given that the development is seen as enabling development in that regard.
- 9.240 In light of the viability assessment carried out and the external consideration of the figures provided, it is considered that the proposed development (including those obligations in terms of affordable housing, highways, education etc set out through this report) would facilitate the required decontamination. The scheme can, therefore, deliver the necessary infrastructure to mitigate the development and deliver the environmental benefits resulting from the decontamination of the landfill site.

### **Appearance, Layout and Scale**

- 9.241 Paragraph 56 of the NPPF states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 58 states that developments should aim to 'establish a strong sense of place, using streetscapes and buildings to create attractive comfortable places to live, work and visit; and respond to local character and history and reflect the identity of local surroundings and materials'.
- 9.242 The provisions of policies CS15 of the Core Strategy, and saved policy CN01 of the Local Plan, set a framework for the expected appearance, layout and scale of new development. The current application is an outline application with all matters reserved except access. The applicant has submitted indicative layout and parameter plans, which set out their vision for developing the site, demonstrating along with the Design and Access Statement one way in which the site could be developed.
- 9.243 The applicant describes this as a residential development of up to 122 dwellings, giving rise to a density of approximately 15 dwellings per hectare. The Braintree DLP states that "*As a general guide the Council would expect densities in the District to be at least 30 dwellings per hectare to ensure the most efficient use of land*". This density needs to be taken in the context of the site having some large areas of undevelopable land.
- 9.244 The scheme would be built to a maximum of 2 storeys over the majority of the site, with the exception of the 3 storey apartment blocks to be created through the conversion of the existing building 'X'.
- 9.245 Whilst illustrative, the proposal would take cues from the local vernacular, and it is considered that it has the potential to respond positively to local character, provide buildings that exhibit individual architectural quality and a mix of densities and house types with well-defined public and private spaces.
- 9.246 The public realm through additional landscaping, street furniture and other distinctive features, including use of the lades would assist in creating a sense of place, and provide streets and spaces that are overlooked and active, promoting natural surveillance and inclusive access, as well as including parking facilities that are well integrated as part of the overall design.
- 9.247 Although appearance, layout and scale are reserved matters, the general principle of this level of development on the site is considered acceptable; and would be in keeping with the site's location within the countryside.

### **Residential Amenities**

- 9.248 One of the Core planning principles set out in the NPPF is that planning should always seek to secure a high quality of design and a good standard of amenity for all existing and future occupants. Para. 57 of the NPPF states that it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

- 9.249 In terms of promoting healthy communities, para. 69 of the NPPF states that planning decisions should aim to achieve places which promote
- opportunities for meetings between members of the community who might not otherwise come into contact with each other, including through mixed-use developments, strong neighbourhood centres and active street frontages which bring together those who work, live and play in the vicinity;
  - safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and
  - safe and accessible developments, containing clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas.
- 9.250 The environmental impacts upon occupants of existing dwellings in the locality have been assessed as part of the EIA process (see above).
- 9.251 Whilst matters of layout and scale are reserved for future determination, with regard to privacy and outlook, the Essex Design Guide states that *“with rear-facing habitable rooms, the rear faces of opposite houses approximately parallel, and an intervening fence or other visual barrier which is above eye level from the potential vantage point, a minimum of 25 metres between the backs of houses may be acceptable”*. It goes on to state that *“where new development backs on to the rear of existing housings, existing residents are entitled to a greater degree of privacy to their rear garden boundary, and therefore where the rear faces of the new houses may not encroach any closer than 15 metres to an existing rear boundary, even though with a closer encroachment 25 metres between the backs of houses would still be achieved”*.
- 9.252 The distances between new and existing dwellings could be well in excess of those required by the Essex Design Guide and Officers do not consider that there are any grounds for refusal in terms of the relationship between existing dwellings in the locality and the proposed development.
- 9.253 Consequently, adherence to these standards would ensure that the living conditions of future residents would be protected from overlooking; and the indicative layout of the proposal would also ensure that the existing and future occupants of the closest two residential properties, Lapwing Cottage and Hartsbuckle House could be protected from a material loss of privacy, outlook and sunlight/daylight.

## **10. Planning Balance**

- 10.1 Whilst the main 'built' elements of the development lie primarily in the Braintree District, the proposal gives rise to environmental benefits (in terms of the remediation of the contaminated landfill site) in the Babergh District, social benefits (in terms of meeting need within the Babergh District) and economic benefits (in terms of the construction of the development and the resultant use of services and facilities in Glemsford and Long Melford. This is an unusual situation where, having devolved its powers to determine the duplicate application submitted to it, Babergh District Council now takes on the role of consultee. In reaching a recommendation on this proposal, the Council should consider the entirety of the benefits of the scheme and weigh them against any identified harm.
- 10.2 This application brings about a number of issues which require careful attention in reaching a recommendation upon this proposal. What follows, therefore, is a balancing of those issues in light of the assessment carried out within the preceding paragraphs of this report.
- 10.3 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990, applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The consideration is, therefore, whether the development accords with the development plan and, if not, whether there are material considerations that would indicate a decision should be taken contrary to the development plan.



- 10.4 The development plan includes the Babergh Core Strategy (2014) and saved policies in the Babergh Local Plan (2006). In light of this application relating to a proposal for new housing, a further important consideration in determining this application is that both Babergh and Braintree do not currently have a five-year supply of deliverable housing sites. Paragraph 47 of the NPPF requires LPAs to identify a 5 year supply of specific deliverable housing sites. Paragraph 49 of the NPPF states that *'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'*.
- 10.5 Paragraph 14 of the NPPF states;
- "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.*
- For decision-taking this means:
- approving development proposals that accord with the development plan without delay; and
  - where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
    - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
    - specific policies in this Framework indicate development should be restricted".
- 10.6 As such, the effect of paragraphs 47, 49 and 14 are that:
- the local authority should be able to identify a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements;
  - that where such a supply cannot be demonstrated, policies for the supply of housing should not be considered up-to-date, and;
  - where policies are not up-to-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole or where specific policies in this Framework indicate development should be restricted. Policy CS1 sets out a similar approach where relevant Core Strategy policies are out-of-date.
- 10.7 The Supreme Court in May 2017 has clarified the position with regards to 'policies for the supply of housing' and how that is to be considered. Officers note that the judgement makes it clear that the meaning of that expression is not the real issue, and that the absence of a five year housing land supply triggers the application of paragraph 14 of the NPPF, and that in applying the 'tilted balance' required by this paragraph, it is necessary to consider the weight to attach to all of the relevant development plan policies.
- 10.8 It is considered that policy CS3 is a policy for the supply of housing. It is, therefore, considered that paragraph 14 of the NPPF is engaged with regards to this proposal. So, too, is policy CS1.
- 10.9 However, prior to considering the presumption in favour of sustainable development identified by paragraph 14, it is necessary to consider whether there are specific policies in the Framework that indicate development should be restricted. The footnote to this part of the NPPF identifies, amongst other things, policies relating to land designated as an Area of Outstanding Natural Beauty and designated heritage assets, as being those which may indicate development should be refused.

- 10.10 It is identified that there would not be harm to designated heritage assets such as listed buildings or conservation areas, and the site is not within an AONB. As such, it can be concluded that there are not specific policies in the NPPF that would indicate that development should be restricted. As such, consideration turns to the presumption in favour of sustainable development.
- 10.11 The proposal would result in the reuse of brownfield land, on a site that has been mostly vacant for some time. It is, however, in an isolated position where there are concerns with regards to the accessibility of the site and its connectivity to local facilities and services. The proposal would seek to bring about the comprehensive redevelopment of the site, and generate significant environmental improvements through the decontamination of the factory site and the adjacent landfill. In this regard, it is considered that, notwithstanding the harm resulting from the traffic generation associated with the development, the proposal brings about environmental benefits that would, overall, result in a negligible impact in environmental terms.
- 10.12 In terms of the social dimension, the proposal brings about the delivery of housing that would meet the needs in two districts that do not have a five year supply of housing land. Whilst the development does not deliver policy compliant affordable housing, it does make a positive contribution in this regard. As such, the proposal is considered to deliver social benefits.
- 10.13 From an economic viewpoint, whilst the proposal results in the loss of an employment site, the NPPF is clear that the long term protection of employment sites should be avoided and alternative uses should be explored where there is no reasonable prospect of the site being used for those (employment) purposes. There would be a positive benefit from employment generated by the construction of the development and the viability of facilities and services in the locality through the occupation of the development. To this end, the proposal also brings about economic benefits.
- 10.14 Therefore, in applying the tilted balance, the proposal is considered to be sustainable development, in accordance with the three dimensions of sustainable development set out in the NPPF, and a recommendation of 'minded to approve' is therefore made. Whilst such a decision would not be in accordance with the development plan, viewed as a whole, it is an outcome that is envisaged by policy CS1 where the 'tilted balance' and the presumption in favour of sustainable development are engaged.

## **11. Appendices**

Appendix 1 - Representations  
Appendix 2 - Location Plan (showing County Boundary)  
Appendix 3 - Indicative Layout Plan

## **12. Background Papers**

Relevant papers of Planning File B/15/00649/OUT

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**Application No: B/15/00649/OUT**




**Parish: Long Melford**



**Location: Stafford Park, Clare Road**

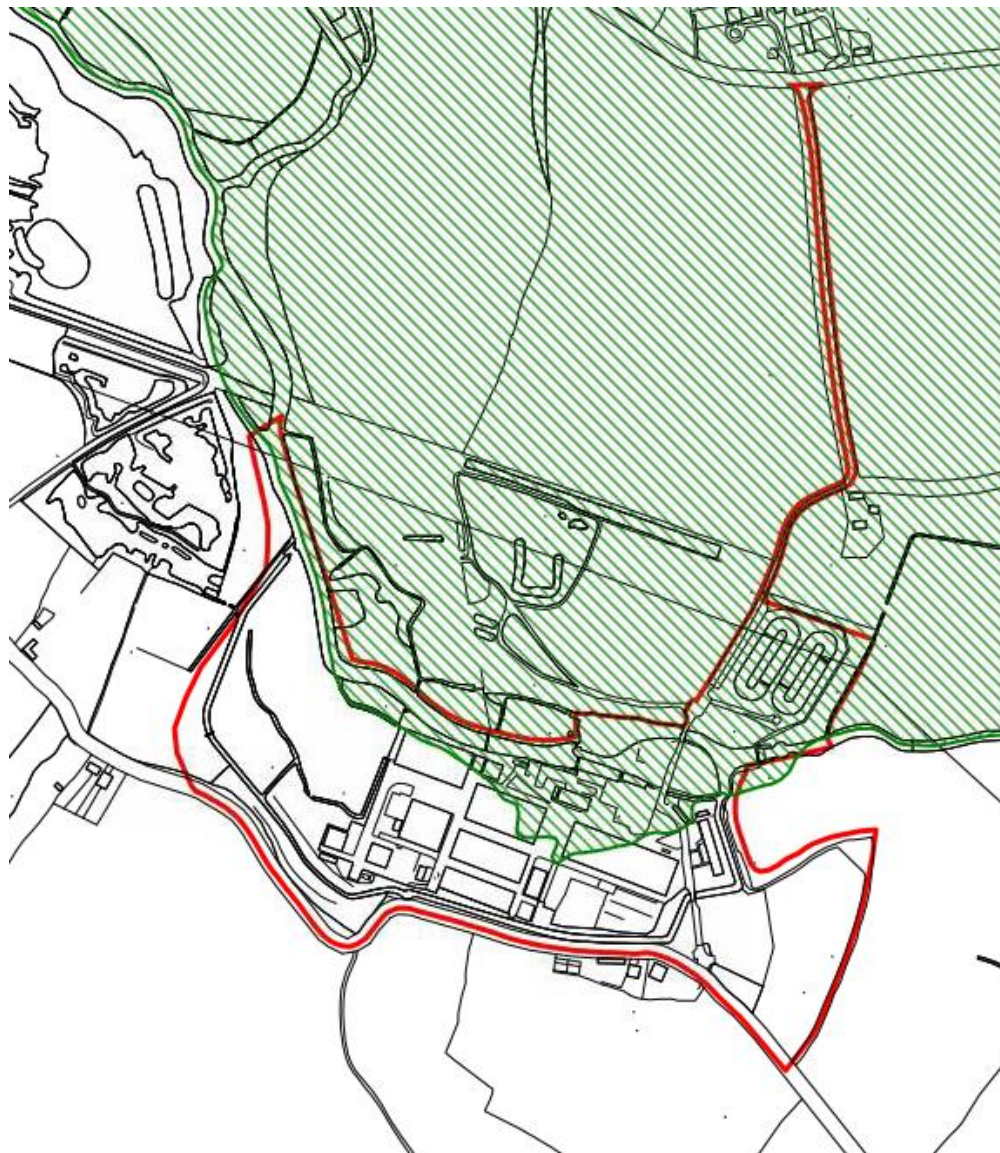
**Legend**

-  Area of Outstanding Natural Beauty
-  Special Landscape Area
-  Conservation Area

**Listed Buildings**

-  Grade 1
-  Grade 2
-  Grade 2 \*

-  The Site
-  Built up Area Boundary



**BABERGH DISTRICT COUNCIL**

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**REPRESENTATIONS**

**Letters of Objection**

In addition to the numerous individual letters of objection to the proposal, (a number of which have been made by individuals more than once), a petition with 381 signatories has also been submitted against the proposal, primarily with regard to increased traffic on the local road network. In totality, the objections include the following:

*Principle and Land Contamination*

- Liston is a small Parish of 28 houses and is in the middle of Liston, the scale and density of the proposed development of 122 residences would seriously overwhelm the village and have an unacceptable impact.

- The proposal would create a community isolated from any existing community and unsupported by any nearby services or facilities. Therefore, such a community could not be considered sustainable. The community that would be created within the Parish of Liston would be perceived as having nothing to do with Liston Village itself.

- The applicant justifies the proposal for two key reasons, neither of which should carry significant weight:

- Five Year Housing Land Supply – the proposals do not comply with Local Plan allocations, or emerging allocations and the site is in an unsustainable location (as confirmed by two Local Plan Inspectors). Planning permission should be refused in accordance with the NPPF Paragraphs 49 and 14; and

- Site Remediation / ‘Enabling Development’ – It is inequitable that the applicant expects the planning system to effectively fund site remediation costs where current legislation seeks the polluter, or failing this the current landowner to fund site clean-up. A legal opinion from Andrew Parkinson of Landmark Chambers has been provided by the Liston Residents’ Association (LRA) which sets out the legal issues relating to the ‘polluter pays principle’;

- The applicant refers to the Council’s current deficit in providing the required amount of housing within its Local Plan. The Council has a strategy for developing existing towns, new sustainable garden towns and key service villages. This development fits with none of these strategies. Such a development cannot even be considered to be part of Braintree District in any meaningful sense as in reality it will be part of Long Melford in respect of the provision of services.

- Whether the polluter pays principle applies to this particular planning application depends largely on (a) whether the Site falls within the contaminated land regime in Part IIA of the Environmental Protection Act 1990 (“the 1990 Act”) and (b) whether, if planning permission is not granted, the cost of remediation is likely to be borne by the public purse;

- Applying those criteria, it is highly likely that (a) the site is a “contaminated site” as defined in the 1990 Act and (b) absent the grant of planning permission for enabling development, the cost of remediation is unlikely to be borne by the public purse. Therefore, the polluter pays principle is a material consideration to be taken into account by the Council in determining the planning application;

- The weight to be attached to the principle is a matter for the Council. However, applying the principle here, it would be open to the Council to give limited weight to the benefits of remediation when deciding whether the development should be justified as enabling development;

- There seems to be little recent tangible evidence in the application of contamination requiring remediation of the areas in Braintree District where it is proposed to build houses. It is not immediately clear from the Viability Assessment what the cost of remediation of this part of the site will be, whereas the cost of remediating the landfill is clearly stated. The Developer purchased the Stafford Park site with full knowledge of the actual and potential issues of contamination and would have taken these into account in the price paid for the site and/or would have been indemnified by the Vendor against some or all of the costs of any remediation carried out.

- The assertion that a large unsustainable development is necessary to pay for the remediation of contamination caused by the previous ultimate owners, International Flavours and Fragrances Inc. who present market capitalisation is USD 10.8 billion is little short of attempted blackmail, clearly intended to force the planning authorities to approve a development, contrary to their policies. In the year ended 01.01.2016 IFF, in the UK alone made a profit after tax of £17.7 million and had net assets of £108 million.

- Mr Clayton, Liston Mill submitted a Statutory Declaration that states the following:

1. On the 7<sup>th</sup> March 2012 he engaged in a telephone conversation with Philip Gardiner, the Finance Director of International Flavours and Fragrances (GB) Ltd (IFF) the subject of which was the terms of purchase of the former Bush Boake Allen site at Liston by Reading Park Development Company Ltd (RPD); and
2. In the course of the above phone call he was informed by Mr Gardiner that although IFF had carried out extensive remediation of the site there was still further work required, the cost of which had been underwritten by IFF in the form of a Bond issued by them to RPD covering the cost of the additional clean up.

- The application contains a Statutory Declaration by the owner of RPD which confirms “at no time did Philip Gardiner or any person involved in the sale/ purchase of the Stafford Park site suggest that IFF would contribute towards the remediation of the site or indeed participate in any of the required site works following the sale to Redding Park.” The Resident’s Association highlight that there isn’t any suggestion in that statement that IFF would not pay for the costs of any necessary remediation in the event of RPD failing to meet its obligations.

- The purpose of the planning application is to make a substantial profit for the developer not to fund remediation of the factory site and landfill site. The granting of planning permission would result in a substantial increase in the value of the site enabling the applicant to sell the site to another developer who would doubtless have their own ideas as to the scale and nature of development.

- The answer to whether the remediation costs should be excluded from the viability appraisal turns on the question of whether the polluter pays principle applies at all, and how much weight should be attached to it. If the polluter pays principle does apply, and is given significant weight, then it follows that those costs should be excluded;

- In respect of the level of decontamination necessary and with reference to the submitted Remediation Strategy and Summary of Site Investigations it is not at all clear how severe the contamination is and does not advise what the minimum remediation strategy to bring contamination levels down to an acceptable level is. Furthermore, it does not appear to state whether the level of decontamination proposed is absolutely necessary, regardless of whether residential development is brought forwards. It seems likely that part of the decontamination proposes only necessary due to the proposed residential development, but detail is not provided on this issue.

- Concerning viability, assumptions regarding existing use value are flawed and of such significance that even if the principle of 'enabling development' is accepted, more development is proposed (in an unsustainable location) than necessary. Also potential tax relief benefits on remediation works do not appear to have been taken into account. To confirm whether enabling development is needed to secure site remediation it must be clarified what the cost of site remediation to bring contamination down to an acceptable level is. This can be then considered against the existing land use value to see if remediation would cost more than the existing land value, and whether it is viable without 'enabling development'.

- As the applicant claims site remediation is needed and seems to suggest that without redevelopment it would be financially prohibitive, how is a positive valuation of the existing use justified? If the contamination is such that enabling development is necessary, shouldn't a nil existing use value be adopted? It is important that the actual cost of remediation is separated from all other costs in the Viability Appraisal. Also the cost of necessary decontamination to make the site for continued operation should be identified to allow proper assessment.

- The proposed development would be south of the river on land that is not classified as contaminated by Braintree District Council. The contamination issue relates to the now closed landfill site to the North of the river in Babergh District, categorised by the Environment Agency as "high risk – known". In 1.3 of the introduction to the Supplementary Planning Statement (SPS) it is suggested that the classification is as a result of contamination in the soil which impacting upon sensitive groundwater and a local aquifer. However, 10.4.31 of the Environmental Statement (ES) states that the available data suggests very little change in water quality between samples obtained upstream and downstream of the site. This is evidence that the site is not impacting upon surface water quality of the River Stour. It also indicates that remediation work will not actually improve the quality of the river water.

- In briefing notes prepared by Babergh District Council's Dr Nathan Pittam has explained that the high-risk known classification of the site is related to the potential risk to ground water. 'Risk' does not imply that harm is currently being caused, but means that the site requires additional scrutiny. The known element of the designation relates to the EA having a good understanding of site processes from previous ground investigations. He goes on further to explain that the Environmental Protection Act does not permit regulatory action based merely on the presence of contamination, but requires that there is evidence that contamination poses a "significant possibility of significant harm" before action is taken, which in their view has not been demonstrated at Stafford Park.

- Paragraph 10.4.10 of the ES states that the water quality of the River Stour both upstream and downstream of the site is classified by the Environment Agency as B-"Good". The evidence seems to be that any current contamination of the river, including high levels of ammonia, is related to agricultural activities not Stafford Park.



- In his letter of 3<sup>rd</sup> August 2015 to James Cartlidge MP, Dr Charles Beardall, EA Area Manager, says that in 2005 the EA had no technical or legal basis to require the new permit holder to instigate clean-up of the former waste disposal area. Putting aside the fact that the applicant did not buy the site until 2007, the EA must have been aware of issues that needed to be dealt with because in 2005 they refused IFF's attempts to surrender their landfill licence after the factory had closed. In the full knowledge that IFF wanted to obtain permission for a large residential development and would be selling the site, the EA did nothing to oblige IFF to carry out the required works. The risks attaching to the landfill site were recognised in 2012 but, already, five years later, the EA have not taken any action to force the new owner to carry out the necessary remediation and they question why action has not been taken long since.

- In 2004, a Public Inquiry was held into objections to the review of the Braintree District Local Plan. The Planning Inspector considered an objection by IFF concerning the site. They presume IFF was seeking to have the site allocated for residential development following the cessation of manufacturing activities at the site. The main issues were a) whether the site should be allocated for residential development; and b) whether it may be appropriate to identify the area as a new settlement.

- The Inspector's Report concluded: a) the site is surrounded by countryside and is about 3km to the East of Long Melford and 1.5km from the villages of Foxearth and Liston. Access to the site is along country lanes with no footpaths or lighting and is not served by public transport. b) ... though part of the site is Brownfield it performs poorly against criteria for the development of previously developed land; c) the site, in fact, is not in a suitable location for large scale housing; d) though the proposed allocation would partly contribute to the government's commitment to the reuse of previously developed land, it would be unsatisfactory in relation to the government's desire to concentrate housing provision mainly within or adjacent to urban areas; e) it is unlikely, and given its location and position relative to major trunk roads, that any of the buildings are going to be attractive to B1 or B8 users.

- The Braintree District Council Core Strategy Inspector stated in his report (40.3.2) regarding Stafford Park: *"... though part of the site is brownfield it performs poorly against criteria for the development of previously developed land set out in PPG3. The site, in fact, is not in a sustainable location for large scale housing such as that proposed. Though the proposed allocation would partly contribute to the government's commitment to the re-use of previously developed land it would be unsatisfactory in relation to the government's desire to concentrate housing provision mainly within or adjacent to urban areas."*

- Following closure of IFF, certain land remediation ('clean-up') works were carried out on the site to address the immediate risks. Both Babergh and Braintree District Councils and the Environment Agency were made aware of these works and have continued to liaise with each other regarding the status of the site. Both Councils and the Environment Agency consider that there are currently no significant risks to nearby residents/people, property or the environment from any residual contamination present on the site.

- It is perfectly possible and acceptable in regulatory terms to have and to allow contamination to remain on a site provided that it is not causing any significant harm. There are countless former industrial 'brownfield' sites across the country which "hold" contamination within the land, but are not causing any significant harm, provided they remain inaccessible. In certain cases, it is also acceptable to allow contaminants to leach out of the ground provided that, by the time they reach surface or ground waters, they would be sufficiently dispersed/diluted so as not to cause any significant harm.



- It is understood that this site with the River Stour going through it rates as one of the most contaminated sites in East Anglia. When acquired the developer was aware of this and it is not understood why the Environment Agency have not served notice on the owners to go ahead with immediate remediation.

- According to the Viability Assessment the proposed development will require an investment of about £28 million pounds. There is nothing to suggest that the owner has ever had any interest as an investment for commercial reuse and the purchase of Stafford Park was from the outset a speculative gamble and a change of use to residential as evidenced by its accounting treatment as 'stock' i.e. an asset bought for resale, rather than as a fixed asset i.e. investment. The planning authorities have no duty to enable a site owner to make a profit.

- The Residents Association would like to see the site being developed on a scale and of a nature appropriate to the village of Liston and its rural surroundings. Development for commercial use may not be as profitable as residential use, but there is no justification for a large-scale housing estate in a remote rural location.

#### *Highway Matters*

- The proposals do not meet highway standards and are unacceptable in highway planning terms;

- With regard to transport comparison of existing traffic with what may be is wholly inappropriate particularly as the applicant highlights that the existing buildings are not up to modern construction and insulation standards and therefore would require a very large investment which would be subject to planning permission.

- The applicant uses the theoretical potential volume of traffic that might be generated if the existing buildings were fully used for commercial /industrial purposes, some 387 in and 390 out per day, a total of 785 movements. They did their own 7am to 7pm census on the 20<sup>th</sup> June 2017 and there were 114 movements – more than on two counts conducted mid week in 2016. The increase is probably accounted for by a new tenant, an MOT station, which would have increased the cars accessing the site. The chances of the site ever becoming fully utilised are extremely remote and should be dismissed.

- A true comparison is about 100 per day with existing use and about 785 per day (Savills own calculations) after development – and the latter figure appears not to include the lorries, vans and other commercial vehicles that would service a large housing estate and could well generate a significant number of vehicle movements. Furthermore, LPAs should recognise the accelerating shift towards home shopping and deliveries with even the big supermarkets projecting a large switch away from in-store shopping. Amazon are now in the grocery market!

- There is misrepresentation that the proposal will have a positive effect on local traffic by reducing HGV trips and the failure to recognise that in changing the type of traffic from commercial to residential, car users will take shorter smaller roads through residential areas into Long Melford. Liston Road will be the primary route to Long Melford from the site after construction and the route via Liston to the site is very narrow with very tight /sometimes blind corners (when the verges are grown in summer) and is deeply unsuited to large volumes of traffic.

- The number of HGV movements is nowhere near as significant as is being presented which are likely to reduce substantially when the main site user, Celotex, proceeds with its plans to transfer most of their outside warehousing to another site. Residents are, nevertheless, very conscious of the number of HGV movements and would prefer that there were even less, although in experience there is a greater danger from speeding cars than from HGVs.
- There is very little activity at the site and to the credit of the occupants there is little or no noise except for when one of the approximately 5 – 10 lorries per day enters or leaves the site.
- Liston has a vehicle population of 31 cars/small vans, lower than the national average, probably because there are a number of houses occupied by one person and eight by retired couples mostly with one car. The average for a new-build estate of 122 properties in a remote rural location largely with 3 – 4 bedrooms is likely to have an average close to two vehicles per household say 244 vehicles. Liston's car population would increase from 31 to 275 clearly the increase in traffic on the Protected Lane would be very material.
- Disagree with the claim that residents are more likely to combine trip making to multiple destinations and potentially even car share with neighbours where they can. The vast majority will travel between the site and surrounding areas by car and believe that there would be at least two trips per day on average per household.
- According to the Planning Statement, access to the site will be taken from the unclassified road leading to School Lane / Borley Road and the junction of the B1064 at Rodbridge Corner. Nowhere in the document is there any reference to the access by Liston Lane / New Road / St. Catherine's Road. This is seen as a deliberate ploy to avoid questions being asked about the vast increase in traffic using the Liston Lane route into Long Melford via the blind and narrow St. Catherine's Road junction with Long Melford High Street. This would be a much shorter and more direct route for traffic journeying to Long Melford, Bury St. Edmunds, Haverhill and Cambridge. Any traffic to and from Sudbury will use the route suggested in the Statement.
- The Developer states many times that the access to and from the site during construction will be via the agricultural road (Cranbrook Lane) from the site to the A1092. Therefore question why developers have not proposed to use this route as the main and only access to the site when development is completed.
- There have been fatalities including one directly at the junction of the proposed construction service road with other fatalities and accidents within the area.
- The A1092 at the point where the temporary construction traffic would enter the A1092 is subject to the National Speed Limit and there is a sharp blind bend 60m only from the junction towards the village of Clare and declines downhill to the River Glem. Visibility at the proposed access route is limited and the applicant will have no control over the direction of traffic and heavy vehicles using the access.
- Under the Common Land Act 1969 the Estate of Sir Richard Hyde-Parker claim the grass verges in the Long Melford area and this includes the verges that lie at the entrance to the construction access as well as the area for the proposed possible bus stops. No evidence has been provided that the applicant has the permission of the Estate should they own those other verges, or that the farm track is a public right of way.

- Current access to the site from one side is a narrow unclassified road and the Developer states that improvements will be undertaken where practicable with improved passing places. Liston is a quiet hamlet with very narrow picturesque lanes used by walkers and cyclists and the residents and visitors like it this way.

- From the Foxearth Road through Liston the road is narrow, it is used by walkers and is part of the National Cycle Network (Suffolk A1), a traffic increase would endanger these recreational uses.

- From Hall Street, Long Melford access through Liston Lane is very narrow between Medieval cottages of which the front doors open directly on to the carriageway. Any increase in traffic would result in greater risk of injury/ accidents to pedestrians, and affect the resident's quality of life.

- The route into Long Melford from Liston is via St. Catherines Road, this is a Victorian street of some 100 properties and only those on the southern side have off-street parking in rear gardens. This means the carriageway is effectively single due to parked vehicles on the northern side.

- Liston Lane and St. Catherines Road are also the only access to two other residential roads and the Long Melford Football and Cricket Clubs and Grounds.

- On the theme of passing places; it is noticed that one of those proposed in Liston Lane uses the garden hedge of Little Hall where there is a 12ft drop into the paddock.

- The initial ECC response dated 17th August 2015 indicated the proposals were not acceptable for 3 principal reasons:

- Further information required on trip generation and the impact on the highway;
- The unsuitability of the roads that access the site to accommodate the traffic safely given their narrow width;
- The accessibility of the site and lack of measures to deal with this.

- A subsequent ECC letter dated 18 November 2015, in response to further information provided, indicated;

- The additional trip information provided indicated that the development would not impact the junctions to an extent that would cause them to go over capacity;
- The scheme of passing places was sufficient, apart from a length between Liston and School Lane;
- The accessibility of the site still had not been adequately addressed.

In that response ECC indicated the impact of the proposal was still not acceptable because of its lack of accessibility.

- SCC provided an initial response dated 3 September 2015 and this was repeated with a subsequent response dated 10 March 2016. The main points raised in the SCC response were:

- The inadequacy of the trip rates used in assessing existing and proposed traffic flows;
- The country lanes are not appropriate to use because traffic flows have been very low for many years and part of the route is on the South Suffolk Cycle Route A1 and protected lane;

- An alternative access connecting northwards to the A1092 should be investigated further as a much better solution for access;
- The isolated nature of the site means the only viable means of access is by car and the Travel Plan does not address accessibility issues sufficiently.

- Both the highway authorities have therefore expressed serious concern about the redevelopment of this site for residential use.

Comments on additional highway information submitted:

- Some sensitivity testing of the trip rates has been undertaken for both the residential development and the industrial estate and these have been examined to assess whether they are more reasonable than the trip rates used in the original TA.

- The latest residential trip rates relate to sites which are included as 'village' locations within the TRICS database and, because there are a limited number of these surveys, the surveys date back as far as 1989, nearly 30 years old.

- The points to note about these surveys are:

- The surveys were undertaken well beyond the time limit of 8 years which TRICS uses and so their validity in assessing current trip rates must be questioned;
- Of the 15 surveys used, 4 were undertaken on a Sunday which is always the lowest daily flow of any week. Sunday information is never used to establish typical weekday peak hour and daily trip rates;
- None of the sites surveyed are isolated in the same way as Stafford Park. They are all part of or closer to a bigger village set up with local facilities available;
- The use of average trip rates is completely unrealistic because it includes surveys of sites which are simply not comparable to the proposed site. For example, the morning peak hour trip rates for the 15 sites range between 0.2 vehs/dwelling to 1.0 veh/ dwelling. That lowest figure is never used for a residential development of detached houses even in an urban area. It would be far more reasonable to test the system on the highest figure because of the isolated location of the site, but this has still not been done.

- The sensitivity testing for the industrial estate trip rates used sites which were described as "free standing" in the TRICS database. The points to note about these surveys are that the sites selected are, again, unrepresentative of the location or size of Stafford Park.

- Stafford Park is a distance of 2.7km along country lanes from the nearest main road, the B1064. Any realistic assessment needs to take this factor into account. There are no sites in the TRICS database that reflect a similar site location for an industrial estate of that size. Bearing in mind there are surveys of 169 sites in the database, it reflects the fact that an industrial estate of this size will not be found in an isolated location accessed by country lanes.

- The location of the site is clearly a significant factor in the lack of interest in businesses occupying the site and was one of the reasons why the factory closed in 2002. It is therefore inappropriate for any assessment of the permitted development to use figures from sites which have good access to the main road network and consequently both the residential and industrial estate trip rates which have been used still do not represent realistic assessments.

- In order to respond to the concerns raised by ECC regarding the narrow roads leading to the site, the applicant's highway consultants have prepared a scheme which includes passing bays at various intervals. The passing bays tend to be located in places where traffic has formed existing passing places.

- The Highway Authority seems content with the passing place solution proposed, however, there are several significant failings as the scheme uses many field entrances and unofficial passing places which are regularly blocked by walkers and residents parked cars. The scheme shows lane widths which are completely inaccurate and would mislead the Highway Authority into thinking the access is safer than it actually is.

- The passing places are designed to provide a minimum carriageway width of 5.5m. Some points to note about this scheme are:

- The scheme is a compromise in highway design, because it does not conform with current ECC highway design advice which requires a minimum carriageway width of 6.75m for a bus route or a constant 5.5m width for a carriageway serving 122 houses;
- There is a further compromise, because the ECC design carriageways must include footways either side of the carriageway. The passing bay scheme makes no allowance for pedestrian or cycle activity along these routes. A CPRE survey found 65% of people felt threatened all or some of the time by speeding traffic on country lanes;
- The effect of increased traffic flows on country lanes is that the grass verges will gradually be over-run as vehicles meet where there is not sufficient width. As flows increase so the impact on the verges increases;
- In addition as vehicles meet, there are occasions a driver will reverse to a wider place in order to be able to pass more easily. Again this occurs more often as traffic flows increase;
- There is no standard guidance as to the volume of traffic acceptable on country lanes or the frequency of passing places and so, as a solution, this is purely based on conjecture.

- For this scale of development, where traffic flows will increase up to 10 times the current level during a morning peak hour, the proposed solution is not acceptable and does not meet minimum highway design requirements.

- Concerns are also raised with regard to visibility at a number of locations along the local highway network.

- The adoption of this scheme as a solution will raise a serious precedent for other rural sites where country lanes could become busy routes serving large developments.

- The site is in a very isolated location and will have no local facilities within walking distance. SCC has noted in their response, that the development will be entirely dependent on car travel.

- The site currently has no public transport facilities and is situated 2.5km from the nearest bus route in Long Melford. Even if a new bus stop is located on the A1092 the 800m walk is twice the distance normally required for access to a bus, this walking route has no lighting so use of the bus service in winter-times would be limited.

- The nearby village of Foxearth has weekly bus service to Sudbury on market day and the average take-up for this service is 8 persons and that for a village with a housing density much greater than proposed at Stafford Park, in reality people much prefer the flexibility of travelling by car, especially for shopping, travelling to work or visiting community facilities such as GP surgeries.
- Unless a new access on to the A1092 is proposed, as expressed in the NPPF, the residual cumulative impacts of the development are severe and the development should be prevented or refused on transport grounds.
- The Developer is estimated to return a net profit of £6,454,177 which makes a complete mockery of the statements that 122 dwellings are the minimum required to finance the reinstatement of the landfill site and also that there are insufficient funds available to create a proper access to the A1092.
- No new Public Rights of Way are to be created. The application provides an ideal opportunity to improve the Public Rights of Way network by creating new bridleways within the development, especially in view of the proximity of the adjoining site which will be landscaped in due course. Bridleways are, in reality, multi-user tracks that can legally be used by walkers, cyclists, riders and people with mobility issues i.e the sections of society who are recognised as vulnerable road users.
- The Dart 3 Service is to be commended for providing transport to those without cars or who have had to give up their licence. However, there is no evidence that it is taken up by those who already have their own transport. It should be noted that the Dart 3 Service does not currently serve Long Melford.

#### *Community Facilities*

- There is one GP surgery not two as stated in the Planning Statement, situated in Long Melford and with other new housing developments for Long Melford there will shortly be no room left for further patients. This would require future residents to sign on to one of the Practices in Sudbury.
- As the proposed development is situated in Essex it will require residents with children of junior or primary age to attend the school in Bulmer which is situated some 6km from the site.
- The only Dentist in Long Melford is a private practice and the NHS dentist will be in Sudbury.
- There are already 121 dwellings being built in Long Melford and 71 more in the pipeline. This increase will overwhelm the already strained local services. Moreover, Sudbury 3 miles away has planning permission for 2,000 homes, so enlarging the rural hamlet of Liston with its 23 houses to 145 dwellings is not a sensible policy.

#### *Landscape*

- The site is in a primarily undeveloped rural location of natural beauty with the Stour Valley.
- Over the years the site has slowly returned to nature and is partly shielded by trees and vegetation in the summer and wildlife has returned to the river including protected species.
- The site does not fit the normal definition of a Brownfield Site as the site is of high environmental value and has blended into the environment.

- Concerns over the landscape impact with sections of the existing buildings being quite visible especially in winter and with it being illuminated at night.

### *Ecology*

- The application provides wholly inadequate information available for consultation and on which the planning authorities can make a decision about the biodiversity value of the application land and impacts of the proposed development. The planning authority has a responsibility to ensure that any application provides adequate information and proposals for compensation and / or mitigation before determination of the planning application, to make sure that it is compliant with the Wildlife and Countryside Act, Section 42 of the NERC Act, and the National Planning Policy Framework.

- The Stafford Park site and the field to the West, also owned by the applicant, are immediately adjacent to the site as is part of Liston Gardens. The area around the site is very diverse with the River Stour, the Glemsford Pits, woodland, boggy wetland, flood meadows, typical Stour Valley farmland and the factory site itself. 122 large houses will generate far more noise, light, traffic and disturbance to the environment and wildlife than existing activities and the effect will be substantially negative including upon the SSSI.

- With regard to the SSSI they believe the development cannot but have a material negative effect. The SSSI is known not only for its Damsel Flies and Dragon Flies, but also breeding Nightingales, Water Voles and Otters and a wonderful variety of birds such as Osprey and Red Kites have been sighted close by as has a Bittern, Owls, Hobbys etc.

- It is scarcely credible to suggest that the proposed development would not have a significant adverse effect on the SSSI particularly bearing in mind likely the average number of pets owned by households that may be higher than the national average of pet ownership and the site just a few hundred metres from the SSSI such animals could have a significant adverse effect on the SSSI.

### *Flooding*

- The site is situated in an area of high flood risk and no improvements will alter that fact. In past years flood water flowing across the road into the site with water lapping up against the buildings has been witnessed, three times in the past 15 years Liston has been completely cut off by flood water.

- The potential for flooding does not just apply to the Stafford Park site, concerns raised that the flood measures proposed, including reinstatement of the River Stour, removal of the sluice gates etc. could have a knock-on effect and cause flooding problems elsewhere along the river.

### *Affordable Housing*

- The proposal would not meet the required quantum of off-site affordable housing provision as the applicant asserts the development is financially unviable.

- Surprised and concerned to learn that the Councils have communicated broad support for the proposed development and that Braintree DC has entered into discussions as to the level of affordable housing to be provided or financed before it has been considered by Councillors or the various parties that have the right to be consulted.

- The suggestion of support gives the impression of pre-determination and is liable to influence the opinions of Planning Committee Members.

### *Other Matters*

- The Developers state that they have made an effort to keep local communities involved but the Liston Residents Association which has 100% support by the Liston community has not had any approach made by the developer for a direct meeting to discuss proposals. There have been a couple of exhibitions mainly for the benefit of Long Melford and Foxearth residents, but neither of these were advertised by way of a mail drop to Liston residents.
- Babergh District Council has previously advised that they consider the site to be an important source of employment and would not support any application for change of use to residential development.
- The economic benefits relating from construction generating employment would be short-term and the fact that the site owner has chosen to seek permission for a larger more profitable housing development rather than to invest in employment related development should not be turned into a positive consequence of the proposal.
- It should be noted that early plans to bypass Long Melford to the west were successfully objected to on the grounds that the vibrations from the increase in traffic were likely to cause lasting damage to the Grade I listed Church in the centre of Liston, and the plan was dropped in favour of a bypass to the east.
- A significant increase in traffic (permitted as things stand to travel at 60mph through the village) has the potential to create lasting damage to the fabric of this ancient and long standing place of worship.

### Letters of Support

Three extensive letters of support have been received from the same individual, points raised include the following:

- The proposal is considered to be the only realistic and economically viable means of correcting the serious and long standing environmental contamination of the Stafford Park site, composed as it is of a series of deteriorating industrial units and a closed licensed landfill.
- From the very detailed assessment provided within the application and its accompanying Environmental Statement there is an abundance of evidence to support the conclusion that this proposal's many benefits easily outweigh any harm that might arise.
- The Council's failure in meeting its required housing delivery objectives over several consecutive years (5 year supply), together with a substantial further decline in deliveries in the year just ended has become a material consideration of major significance in the determination of this application.
- In view of the much higher house building trajectory now adopted by the Council in the Publication Draft Local Plan (approximately 3 times that given in the Core Strategy) its countryside protection policies as cited in its extant Local Plan (CS5 and RLP2 - the so-called restrictive policies) no longer accord with the Council's contemporary housing delivery obligations.
- All planning applications before the Council pertaining to housing development must be considered under the provisions of the second bullet of the second part (decision taking) of NPPF para. 14 namely that, when relevant policies are out of date planning permission



should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (the so-called 'tilted balance').

- Although previously developed land (aka brownfield land) the subject application site is nevertheless designated as 'countryside' according to the definition given in the Core Strategy, but is not designated under any of the special land categories listed in footnote 9 of the Framework (flood risk having been addressed within the subject application to the documented satisfaction of the lead local flood authority). The site is therefore not subject to any specific policies within the Framework indicating that development should be restricted.

- The subject application site was submitted for consideration by the Council under its 2014 Call-for-Sites programme (LIST339). However, in line with the Officers' recommendation, the Council's Local Plan Sub-committee, at its 25 May 2016 meeting, decided "*that the site LIST339 continues to be determined through the planning application process*" i.e. rather than through the local plan making process. The Subcommittee therefore intentionally (and exceptionally) made no determination in respect of the subject application site's candidacy for the emerging Local Plan's site allocations list and, in the absence of any public comments following public consultation, it reaffirmed this position at its 15 December 2016 meeting.

- The subject application site's absence from the emerging Local Plan's site allocations list is therefore as a result of a conscious and deliberate action on the part of the Local Plan Sub-committee not to make any determination in this regard and therefore the said absence does not and cannot constitute a material consideration when determining the subject application.

- It is also noted that Officers are now regularly advising the Planning Committee of the pressing and urgent need for the Council to repair its housing land supply in their application case reports. For example, one such recent report relating to an application where the site does not appear on the Council's site allocations list (16/01813/OUT) states "... the development would make a substantial contribution toward the Council's 5 year housing land supply deficit, a factor which must be given significant weight in the determination of this application."

- Whilst by no means solving the Council's problem, the subject application would nevertheless constitute a significant contribution to the process of recovery by providing a net 122 homes increase to the Council's housing land supply as well as boosting its housing delivery performance. The subject development scheme will involve the remediation and recovery of a large contaminated brownfield site, a high priority for the Government as well as being a preference repeatedly and enthusiastically expressed by both Councils and the general public alike. Further, this project will return several hectares of greenfield land back to the countryside in the form of parkland and adds materially to the argument in favour of this application.

- Stafford Park is well within the required 30 minute walking and cycling range of Long Melford and Accordingly, the site meets the Council's own definition of an accessible location (CS paragraph 7.1) and as such the geographic position of Stafford Park cannot be considered as having an adverse impact when assessing the project's sustainability.

- In the end this proposal is about the repurposing of Stafford Park to a more viable and beneficial use whilst reducing the risk it currently poses to the environment. It is universally acknowledged that we in this country have a major housing crisis on our hands and, as has been highlighted above, one that is very much reflected at our local level.

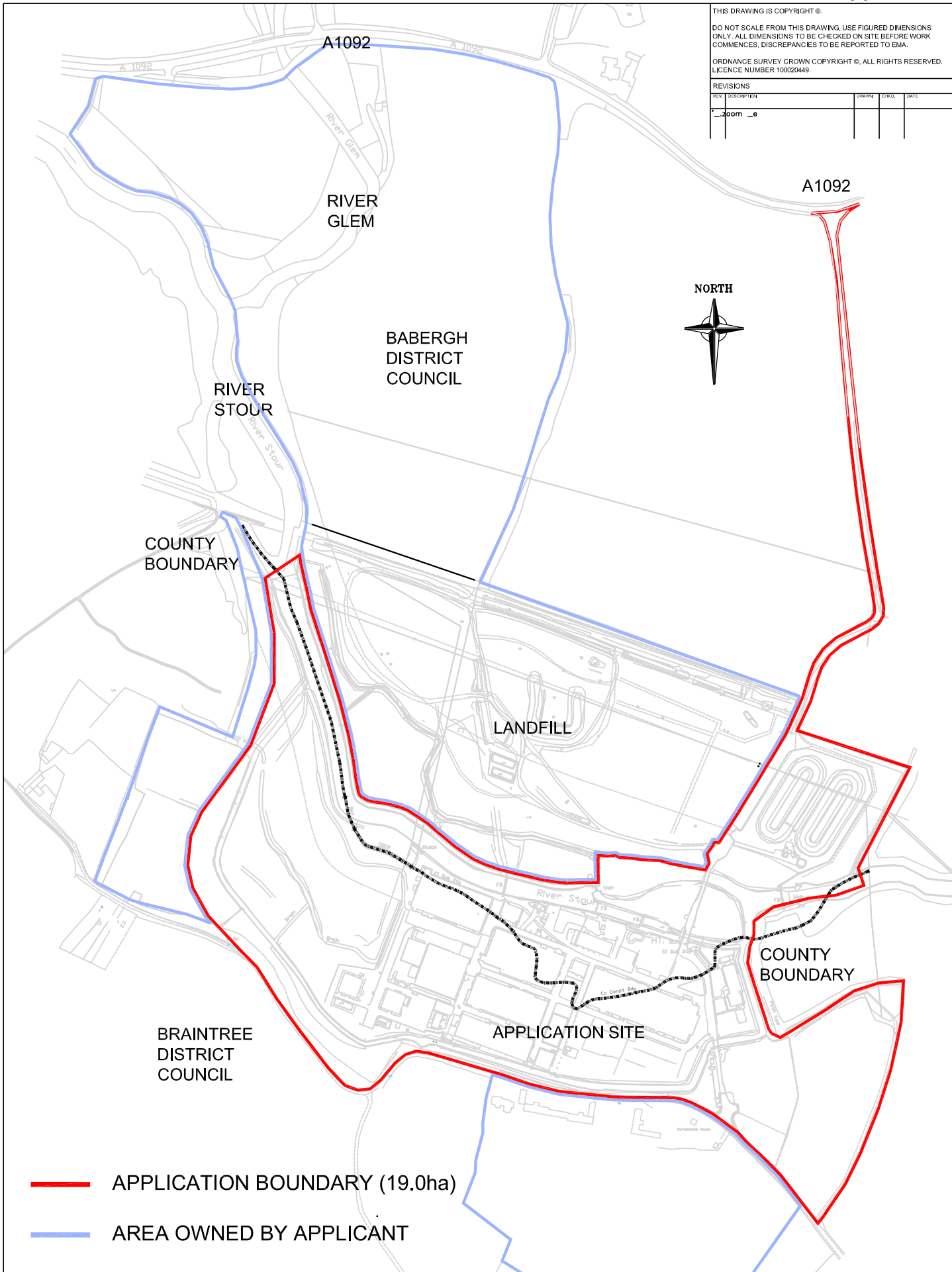
- We desperately need many more houses and Stafford Park's status as a brownfield site offers the prospect that, in this case at least, these will come at far less cost to the environment than the many projects now consuming greenfield and even greenbelt land both within the Braintree District and the country as a whole.

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REVISIONS			
NO.	DESCRIPTION	ISSUED	DATE
1	Issue		



- APPLICATION BOUNDARY (19.0ha)
- AREA OWNED BY APPLICANT

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BONNINGTON INVESTMENTS LTD LOCATION PLAN  
 RESIDENTIAL DEVELOPMENT  
 STAFFORD PARK, SUFFOLK

Page 111

SCALE: 1:5000 / A4	DATE: MAY 14 / CM	PROJECT: 13064 (OS) 001F	SHEET NO. / NO. SHEETS: 1 / 1
DRAWING REFERENCE:			
FILE CLASSIFICATION:		WORK STAGE:	
FILE REFERENCE:			

PLANNING

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REVISIONS			
REV	DESCRIPTION	DRAWN	DATE

NORTH



REV A 19.12.14 CM SITE BOUNDARY UPDATED FOR APPLICATION

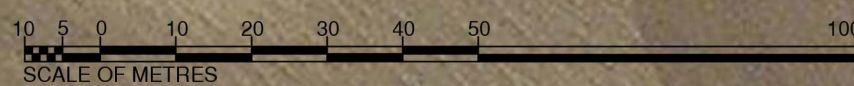
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ARCHITECTURE + DESIGN

BONNINGTON INVESTMENTS LTD  
RESIDENTIAL DEVELOPMENT  
LONG MELFORD, SUFFOLK

INDICATIVE SITE LAYOUT

SCALE: SIZE 2000 @ A1	DATE / DRAWN 08.12.14 / CM	PROJ. TYPE	SHEET NO. / NO. SHEETS 1 / 1
DRAWING REFERENCE <b>13064(PL)001A</b>			
SITE PURPOSE PLANNING		WORK STAGE FILE REFERENCE	

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**BABERGH DISTRICT COUNCIL  
PLANNING COMMITTEE**

22 November 2017

**SUMMARY OF ADDITIONAL CORRESPONDENCE RECEIVED SINCE THE PUBLICATION OF THE AGENDA BUT BEFORE 12 NOON ON  
THE WORKING DAY BEFORE THE MEETING AND ERRATA**

**PAPER PL/17/23**

<b><u>ITEM</u></b>	<b><u>REF. NO</u></b>	<b><u>REPRESENTATION FROM</u></b>	<b><u>SUMMARY/COMMENTS</u></b>	<b><u>CASE OFFICER</u></b>
1	B/15/00649/OUT	Lambert Smith Hampton, on behalf of Liston Residents Association	Documents attached to this addendum as Appendix 1 and 2	Ben Elvin

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# Appendix 1

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20<sup>th</sup> November 2017

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## By email

LPA Ref: B/15/00649

Dear Mr Elvin,

### **Planning Committee (22<sup>nd</sup> November 2017) - Objection to application proposal of 100 new build dwellings and conversion of existing buildings to 22 dwellings at Stafford Park, Liston, CO10 7HU**

Liston Residents Association strongly object to the above development, and I would be grateful if the Planning Committee are able to take the following issues into account in agreeing a response to Braintree DC.

The applicant justifies the proposal for two key reasons, neither of which we consider should carry significant weight:

- **Five Year Housing Land Supply** – the proposals do not comply with Local Plan allocations, or emerging allocations and the site is in an unsustainable location (as confirmed by two Local Plan Inspectors). The site is unsustainable and planning permission should therefore be refused in accordance with the National Planning Policy Framework (Paragraphs 49 and 14).
- **Site Remediation / ‘Enabling Development’** – it is inequitable that the applicant expects the planning system to effectively fund site remediation costs where current legislation seeks the polluter, or failing this the current landowner to fund site clean-up. Attached is a Legal Opinion from Andrew Parkinson of Landmark Chambers which sets out the legal issues relating to the ‘polluter pays principal’.

These objections are outlined in more detail below.

#### **Lack of Five Year Housing Land Supply**

To successfully bring forward a site based on five year housing land supply arguments, it is necessary to meet the ‘presumption in favour of sustainable development’ as set out in Paragraph 49 and 14 of the National Planning Policy Framework (NPPF). Both Paragraphs 14 and 49 of the NPPF make clear that housing applications should be considered in the context of the “*presumption in favour of sustainable development*”. Paragraph 14 of the NPPF states that if Local Plans policies are out of date planning permission should be granted unless (our emphasis):

*“any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted”*

Stafford Park is in our view highly unsustainable, and any of lack of five year housing land should not therefore be given any significant weight in making a decision.

Of particular note the Braintree District Council Core Strategy Inspector stated in his report (40.3.2) regarding Stafford Park (our emphasis):

*“... though part of the site is brownfield it performs poorly against criteria for the development of previously developed land set out in PPG3. The site, in fact, is not in a sustainable location for large scale housing such as that proposed. Though the proposed allocation would partly contribute to the government’s commitment to the re-use of previously developed land it would be unsatisfactory in relation to the government’s desire to concentrate housing provision mainly within or adjacent to urban areas.”*

and the Babergh Local Plan (Alteration no. 2) Inspector stated in his report of November 2005 (Paragraph 4.91 and 4.92) in respect of the landfill area (our emphasis):

*“... The site, which is remote from the village, and with a poor vehicular access, includes an extensive range of unused industrial buildings with established use.*

*It seems to me that some of the objections raised have been resolved in that the Council has agreed to delete the allocation of the site for employment use under Policy EM02a. This accords with the approach taken by Braintree District Council in its recent Deposit Draft Local Plan and the recommendations of the Inspector.”*

These sustainability considerations by two separate Local Plan Inspectors are key, and have not been addressed by the applicant. The site is clearly in an unsustainable location, as it does not provide easy access to local services or facilities.

Furthermore the following issues impact significantly on sustainability:

- Cottee Transport consultants have detailed why the application proposals do not meet highway standards and are unacceptable in highway planning terms
- the site has flooding issues
- there remains outstanding objections on the ecology impacts from the Essex Field Club; and
- the proposal would not meet the required quantum of off-site affordable housing provision as the applicant asserts development is financially unviable.

## **Enabling Development**

Subject to very limited exemptions the Environmental Protection Act 1990 puts legal and financial responsibility for remediation of land which is contaminated on either the party who caused, or knowingly permitted the pollution, or the current owner (ie. the Polluter Pays Principal).

Andrew Parkinson of Landmark Chambers sets out in a Legal Opinion (enclosed) detailed consideration of the ‘polluter pays principal’, and how the LPA should assess the proposed development.

In our view it is wholly inequitable that the public are being effectively asked to fund site remediation via the planning system, when the law requires the site polluter’s or current owners to fund site remediation, subject to limited exemptions. The applicants were fully aware of their obligations to address remediation when they purchased the site.

## **Conclusions**

The site is clearly unsustainable (as confirmed by two separate Local Plan Inspectors), both in terms of its location being remote from local services and facilities, and in the nature of development (highway, flooding, and ecological issues especially). Five year housing land supply arguments made by the applicant are in our view contrary to provisions at Paragraph 14 of the NPPF, and do not provide justification for development.

The 'polluter pays principal' places a legal requirement on either the original polluter, or current landowner. It is inequitable that the public are effectively being asked to fund site remediation, given the 'polluter pays principal'. Attached is Legal Opinion from Andrew Parkinson of Landmark Chambers which sets this out in detail.

If I can provide further details, or you would like to discuss this, please do not hesitate to contact me.

Kind regards.

Yours sincerely,



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IN THE MATTER OF STAFFORD PARK, LISTON

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OPINION

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### **Introduction and Summary of Conclusions**

1. I am instructed on behalf of Mr. Allan Binks and the Liston Residents Association and asked to advise in relation to a planning application for development at Stafford Park, Liston (“the Site”) of 100 new build dwellings, and conversion of an existing building to 22 flats. The local planning authority is Braintree District Council (“the Council”).
  
2. In summary, I conclude as follows:
  - (1) The polluter pays principle is capable in law of being a material planning consideration;
  
  - (2) Whether the principle applies to this particular planning application depends largely on (a) whether the Site falls within the contaminated land regime in Part IIA of the Environmental Protection Act 1990 (“the 1990 Act”) and (b) whether, if planning permission is not granted, the cost of remediation is likely to be borne by the public purse;
  
  - (3) Applying those criteria here, it is highly likely that (a) the Site is a “contaminated site” as defined in the 1990 Act and (b) absent the grant of planning permission for enabling development, the cost of remediation is unlikely to be borne by the public purse. Therefore, in my opinion, the polluter pays principle is a material consideration to be taken into account by the Council in determining the planning application.
  
  - (4) The weight to be attached to the principle is a matter for the Council. However, I conclude that, applying the principle here, it would be open to the Council to

limited weight to the benefits of remediation when deciding whether the Development should be justified as enabling development;

- (5) The answer to whether the remediation costs should be excluded from the viability appraisal turns on the question of whether the polluter pays principle applies at all, and how much weight should be attached to it. If the polluter pays principle does apply, and is given significant weight, then it follows that those costs should be excluded.

### **Factual Background**

#### *The use of the Site*

3. The Site is a 23 hectare industrial complex with adjacent associated landfill site and agricultural land. The former factory area comprises a mixture of traditional and modern industrial units totalling in excess of 17,770sq m (191,285sq ft). The Site is located approximately 1.5km west of Long Melford. It is split into two halves by the River Stour. To the North of the river is the landfill site, and to the south is the former factory area.
4. Industrial development at the Site commenced in the 1800s with a Flax Mill for the production of textile fibres.
5. In or around 1899, Stafford Allen and Sons (“Stafford Allen”) purchased the Site and it was used for the extraction of fragrances. In the early part of the 20th century further development took place and an essential oil distillery was created for the extraction and refining of fragrances; a process which involved the use of organic solvents. By the 1920s, production included pharmaceutical products, textile dyes and controlled drugs. During the Second World War, the manufacture of DDT was undertaken.
6. In 1966, Bush Boake Allen Ltd (“Bush”) was formed through the merger of Stafford Allen, WJ Bush & Co and A Boake, Roberts and Co. I understand that Bush still trades and has net assets of £42.5m. Manufacturing activities, focussing primarily on food colorants and flavourings, were carried out since the 1980s.
7. In 2002, Bush was acquired by International Flavours & Fragrances I. F. F. (Great Britain) Ltd (“IFF”). IFF acquired the Site at the same time and carried out manufacturing

at Stafford Park until 2004. At that point, manufacturing at the Site ceased and the buildings have since in part been let for various employment uses. IFF has a net value of £250m.

8. The current owner, Redding Park Development Company Ltd (“Redding Park”) purchased the site on 2<sup>nd</sup> May 2007 from IFF for £2.9m. The Site was purchased following extensive site survey work, and with knowledge of site contamination. A deposit was made into a joint account of £250,000 which would act as an indemnity to IFF, which is registered at HM Land Registry. The indemnity is in respect of “*all matters*”, and in my opinion this is likely to include matters relating to contamination. A mandate was also given to IFF that Redding Park would assume liability for all environmental, or other, responsibilities for the Site.

#### *Planning History*

9. On 6<sup>th</sup> May 2015, an outline planning application (ref: 15/00565) was submitted to the Council for the following development (“the Development”):

*“Outline planning application (with all matters reserved except for access) for the proposed development of up to 100 dwellings and the change of use of existing buildings to create up to 22 apartments and a community centre, to enable the remediation of the adjoining licensed landfill site to the north. Proposals to also include the demolition of the other existing buildings, associated works to remediate the land on the application site, flood attenuation measures, reinstatement of the River Stour to include the removal of the sluice gate and the creation of a series of rock riffle weirs and associated infrastructure improvements, landscaping and provision of public open space.”*

10. Through a Screening Opinion dated 3<sup>rd</sup> July 2014 it was concluded that the development would require an EIA.
11. On 22<sup>nd</sup> February 2017, a planning application (ref: B/15/00671/FUL) was submitted to Babergh District Council, the local planning authority in respect of the landfill component of the Site, for the following development (“the Remediation Development”):  
*“Remediation works to licensed landfill site north of the River Stour (to enable the surrender of the landfill license), in conjunction with the residential development of land to the south of the River Stour (Stafford Works)”*

12. I am instructed that the Development does not comply with the Local Plan, as the Site is in an unallocated location in the countryside, outside of any settlement boundary, and is in an unsustainable location. This is confirmed by the Inspector's report into the Examination of the Council's Core Strategy, where he stated (at paras. 40.3.2 – 40.3.3):

*“...The Site, in fact, is not in a sustainable location for large scale housing such as that proposed. Though the proposed allocation would partly contribute to the government's commitment to the re-use of previously developed land it would be unsatisfactory in relation to the government's desire to concentrate housing provision mainly within or adjacent to urban areas...it is remotely located in the countryside and, though the re-use of existing buildings for employment purposes would be encouraged by the Council, large-scale development such as that proposed would be inappropriate.”*

13. The applicant seeks to justify the grant of planning permission on the basis that the Council does not have a five year housing land supply (“5YHLS”) and that the Development can be justified on the basis that it is “enabling development” in order to fund the proposed Remediation Development. I have seen two estimates for the cost of this remediation which puts the cost at either £6,167,367.50 or £7,218,335.00.

14. It is this latter justification that I will consider in this Opinion: in particular, the weight that should be attached to the benefits of remediation (which, in turn, is relevant to the question of whether these benefits outweighs the Development's non-compliance with the development plan).

15. In this respect, there can be no doubt that the Site is currently contaminated. This is confirmed by numerous surveys that have been carried out: see the Environmental Statement (“ES”) at Chapter 10. The Environment Agency (“the EA”) has categorised the Site as “high risk” in relation to potential groundwater contamination, a ranking based on a lack of technical precautions to prevent/limit groundwater pollution: see letter from the EA to James Cartlidge MP dated 3<sup>rd</sup> August 2015. As it is put in the “Contaminated Land and Remediation” section of the ES at para. 10.9.8:

*“In general terms, it is concluded that if the site is not remediated contamination in the soils and groundwater have the potential to impact adversely upon the River Stour (particularly during flood events) and potentially upon potable water supplies in the vicinity. Remedial works will be required at the site in order to mitigate the potential*



*effects of contaminants on the health of current and future site users and upon the water environment.”*

16. Notwithstanding this, it does not appear that the Site has ever been formally identified as “contaminated land” as it is defined in Part IIA of the 1990 Act: see letter from the EA dated 3<sup>rd</sup> August 2015.

### **Analysis**

17. I will first consider whether the “polluter pays principle” is a material planning consideration which the Council should take account of when determining the planning application.

18. In determining an application for planning permission, a local planning authority is required, by virtue of section 70(2) of the Town and Country Planning Act 1990 (“the TCPA 1990”), to have regard to:

*“(a) the provisions of the development plan, so far as material to the application,  
(b) any local finance considerations, so far as material to the application, and  
(c) any other material considerations.”*

19. In deciding whether a particular consideration is “material” for the purposes of section 70(2) of the TCPA 1990, two questions must be considered. The first is whether the consideration in question is one *capable* of being a material consideration for planning purposes. The second is whether it is *in fact* material for the purposes of the determination of the particular application in question: see R (on the application of WE Black Limited) v St. Albans City and District Council [2015] EWHC 2059 (Admin) at para. 33.

20. Turning first to the question of whether the polluter pays principle is capable of being a material consideration. This is a question of law, and is not a matter for the Council’s own discretion: see Tesco Stores Ltd v Secretary of State for the Environment [1995] 1 WLR 759 per Lord Hoffmann at page 780F.

21. A broad range of considerations are capable of being a material planning consideration. The test is that set out by Lord Scarman in Westminster City Council v Great Portland Estates Plc [1985] AC 661 (at p.669H to p.670C-E) i.e. whether the consideration “*serves*

*a planning purpose*”, which is one that “*relates to the character and use of land*”. As Cooke J also put it in Stringer v Minister for Housing and Local Government [1971] 1 WLR 1281 at page 1294G to H, “*in principle ... any consideration which relate to the use and development of land is capable of being a material consideration*”

22. In this respect, it is well established that material planning considerations include general planning principles including those deriving from European Union law. This includes the precautionary principle (see, for example, R (on the application of) Trevone Objectors Group v Cornwall Council [2013] EWHC 4091 (Admin)), the proximity principle (see, for example, North Lanarkshire Council v Scottish Ministers [2012] CSOH 150), and the principle of self-sufficiency (see, for example, R (on the application of Blewett) v Derbyshire County Council [2004] EWCA Civ 1508). This is because these are general planning principles which relate to the use and development of land, and also because they derive from EU law and so are capable of amounting to material considerations in determining domestic planning applications.
23. In my opinion, the polluter pays principle is clearly capable in law of being a material planning consideration. The “polluter pays principle” is a principle of EU law which states that since polluters are responsible for the pollution they have caused, and have derived a profit from doing so, they should therefore bear the cost of measures aimed at preventing and reducing pollution.
24. The principle has been recognised in EU law. Article 191(2) of the Treaty of the Functioning of the EU (“TFEU”) states that:

*“Union policy on the environment shall aim at a high level of protection taking into account the diversity of situations in the various regions of the Union. It shall be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay.”*
25. In domestic law, the polluter pays principle is given effect in the contaminated land regime contained in Part IIA of the 1990 Act. This deals with the identification of “contaminated land” (see section 78A(2)), with its “remediation” (see section 78A(7)) and, in section 78F, with the “determination of the appropriate person to bear

*responsibility for remediation*". The 1990 Act therefore deals with the question of where liability should lie for the cost of cleaning up land. Underpinning the regime is the polluter pays principle. Put simply, the 1990 Act provides that the "*appropriate person*" to clean up land will be the person who "*caused or knowingly permitted*" the contaminating substances to be in, on or under the land (known as a "Class A" appropriate person: see section 78F(2) and (3) of the 1990 Act). It is only if no Class A person is found after reasonable enquiry that liability will fall to the current owner or occupier (a Class B person) (section 78F(4), 1990 Act).

26. In my opinion, in the same way that the other principles of EU law referred to above are seen as being capable as amounting to a material consideration, so too is the polluter pays principle.

27. I have been unable to find any case-law which directly addresses the question of whether the polluter pays principle is capable of amounting to a material planning consideration (which may be because the point is trite and not capable of dispute). However, in a number of appeal decisions, Inspectors have treated the principle as being capable of being material, with the only dispute being whether it was material on the facts of each appeal and, if so, how much weight should be attached to it. For example, in appeal decision ref: APP/C4615/A/08/2066072 (considered further below) the Inspector proceeded on the basis that the polluter pays principle was capable of being a material planning consideration: see paras. 13-17.

28. Therefore, I am firmly of the view that the polluter pays principle of capable of being a material planning consideration.

29. Next, I will turn to the question of whether the principle is in fact material for the purposes of determining this particular planning application. This turns on two considerations: first, whether the Site is, or is likely to be, land that falls within the contaminated land regime in Part IIA of the 1990 Act, and second, whether there are any "appropriate persons" on whom liability will fall for remediating the contamination on the site.

30. Taking these in turn, and applying them to the facts of this case:

31. The first key consideration in determining whether the polluter pays principle is material in determining the current planning application is whether the Site is, or is likely to be, land that falls within the contaminated land regime in Part IIA of the 1990 Act. That is because the polluter pays principle is given effect in domestic law through Part IIA of the 1990 Act (see above). Unless contaminated land falls within Part IIA, there is no domestic liability on polluters and/or owners to remediate the land, and to bear the costs of doing so. It follows that if the Site does not fall within the Part IIA regime, the principle is of less relevance.

32. I note that in two appeal decisions it was found that the polluter pays principle was not material in those particular appeals because the land in question did not fall within Part IIA of the 1990 Act:

(1) In appeal decision ref: APP/Q1825/A/02/1102705, relating to a contaminated site in Redditch, the Secretary of State did not apply the principle because the site did not fall within Part IIA of the 1990 Act (see paragraph 56 of the Inspector's Report which was endorsed by the Secretary of State at paragraph 13).

(2) Similarly, in appeal decision ref: APP/C4615/A/08/2066072 relating to a site at Dudley, an Inspector did not consider that the polluter pays principle applied because, inter alia, there was no indication that the Part IIA regime would apply: see paragraphs 14 and 16.

33. Therefore, in deciding whether the polluter pays principle is a material consideration, it will be necessary to consider whether the land is likely to fall within the Part IIA regime. Not all contaminated land does. As it is put in the Government's statutory guidance on Contaminated Land (April 2012) ("the Guidance") at paragraph 1.3 and 3.21-3.22:

*"1.3 Under Part 2A the starting point should be that land is not contaminated land unless there is reason to consider otherwise. Only land where unacceptable risks are clearly identified, after a risk assessment has been undertaken in accordance with this Guidance, should be considered as meeting the Part 2A definition of contaminated land."*

*3.21 The Part 2A regime was introduced to help identify and deal with land which poses unacceptable levels of risk. It is not intended to apply to land with levels of contaminants*

*in soil that are commonplace and widespread throughout England or parts of it, and for which in the very large majority of cases there is no reason to consider that there is an unacceptable risk.*

*3.22 Normal levels of contaminants in soil should not be considered to cause land to qualify as contaminated land, unless there is a particular reason to consider otherwise. Therefore, if it is established that land is at or close to normal levels of particular contaminants, it should usually not be considered further in relation to the Part 2A regime and the local authority should have regard to paragraphs 5.2 to 5.4 of this Guidance.”*

34. Part 2A of the 1990 Act defines “contaminated land” in section 78A(2) as being any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land that: (a) significant harm is being caused or there is a significant possibility of such harm being caused; or (b) significant pollution of controlled waters is being caused, or there is a significant possibility of such pollution being caused. In order for land to fall within the contaminated land regime in Part IIA, there must be at least one significant contaminant linkage (contaminant, pathway and receptor), resulting from the presence of at least one contaminant.
35. In this respect, whilst the Site has not been formally identified by the Council as contaminated land falling with Part IIA, the applicant’s own assessment in the Contaminated Land chapter of the ES concludes that without remediation the existing contaminants on the Site are likely to result in harm to designated receptors, including groundwater and future site users (see Table at 10.5.1 read together with Table at 10.2.8). The EA classes the Site as “High Risk”: see above. Given this, it is highly likely that the Site would be classed as “contaminated land” under section 78A(2) of the 1990 Act. Certainly, in the absence of any evidence to the contrary, it would be unsafe for the Council to conclude otherwise.
36. The second factor that will determine whether the polluter pays principle is material on the facts of this case is whether there are any “appropriate persons” on whom liability will fall for remediating the contamination on the site. That is because if there are no such persons, liability for remediating the land will fall on the enforcing authority (either the Council, or occasionally the EA). In that situation, the cost of remediation will be borne by the public purse (and not by the polluter) and therefore the principle is of limited relevance.

37. For the purposes of determining whether there are any “appropriate persons” on whom liability will fall for remediating the contamination on the site, I will assume for present purposes that (as above) there is a realistic prospect of the Site being identified as contaminated land under Part IIA of the 1990 Act. In that event, an “appropriate person” will be required to pay for any remediation action relevant to the contaminant that forms part of the significant contaminant linkage.

38. The identification of appropriate persons is set out in section 78F of the Act. This provides as follows:

*“(2) Subject to the following provisions of this section, any person, or any of the persons, who caused or knowingly permitted the substances, or any of the substances, by reason of which the contaminated land in question is such land to be in, on or under that land is an appropriate person.*

*(3) A person shall only be an appropriate person by virtue of subsection (2) above in relation to things which are to be done by way of remediation which are to any extent referable to substances which he caused or knowingly permitted to be present in, on or under the contaminated land in question.*

*(4) If no person has, after reasonable inquiry, been found who is by virtue of subsection (2) above an appropriate person to bear responsibility for the things which are to be done by way of remediation, the owner or occupier for the time being of the contaminated land in question is an appropriate person.*

*(5) If, in consequence of subsection (3) above, there are things which are to be done by way of remediation in relation to which no person has, after reasonable inquiry, been found who is an appropriate person by virtue of subsection (2) above, the owner or occupier for the time being of the contaminated land in question is an appropriate person in relation to those things.”*

39. Clearly, at this stage, determining with any certainty whether there are any appropriate persons is a difficult exercise. There has been no formal contaminated land assessment, and the information I have as to the activities that were carried out at the Site (and the contaminant linkages that may have been introduced) is understandably “high level”. However, at this stage, for the purposes of deciding whether the polluter pays principle is material, I consider that the Council need only consider whether it is likely that appropriate persons will exist and, if so, who they are. It is not necessary for a detailed

examination to be carried out. I note that a similar approach was taken in appeal decision ref: APP/R3650/A/06/2028286, at para. 10.59 and 10.87.

40. In determining who is an “appropriate person”, each significant contaminant linkage is treated separately (unless it is reasonable to treat more than one linkage together because the same parties are liable). For the purposes of what follows, for the sake of simplicity, I will assume that the all of the companies who have manufactured from the Site are liable for all of the contaminant linkages. It may well be the case, however, that some of the contaminant linkages are particular to one company. That will be a matter for detailed consideration as and when the Council identifies the Site as being contaminated land within the Part IIA regime.
41. To determine who the relevant “appropriate persons” are in respect of each linkage, the first stage is to identify all those who have “*caused or knowingly permitted*” the contaminant in question to be in, on or under the land: see s. 78F(2). Any such persons constitute a “Class A liability group” for the significant contaminant linkage.
42. In this case, it would appear that initially Stafford Allen “*caused or knowingly permitted*” contaminants to be on the Site. Stafford Allen however merged with two other companies to form Bush, and ceased to exist as a separate entity. Bush also appear to have “*caused or knowingly permitted*” contaminants to be on the Site, but it was in turn was acquired by IFF. As set out above, Bush still exists as a separate entity, with assets of £42.5m. Its parent company in the UK has assets of £250m and in the US of USD 1.6bn.
43. In a situation where one company has been acquired by another, the law is unclear on whether it can be found to be an appropriate person under s. 78F(2). In R(National Grid Gas plc) v Environment Agency [2007] 1 WLR 1780, the House of Lords considered this point, but did not reach a firm conclusion. Lord Neuberger stated (at para. 29) that “*there are no doubt arguments for extending the “polluter pays” principle to a company which has acquired the whole of the business (or at least the whole of the relevant part of the business) of the polluter, at least in some circumstances, perhaps particularly where the company concerned has taken a statutory transfer of the business.*” However, he pointed out that there were also arguments against, and did not reach a concluded view (as it was unnecessary on the facts of that case). However, Stephen Tromans QC concludes in

Contaminated Land (2<sup>nd</sup> edn) at para. 5.70 that where a company is acquired by another company “...the original polluting company still exists and can be found, albeit that the ownership of its shares have changed...”

44. In light of the above, it is certainly very arguable (and probably the case) that Stafford Allen and Bush are capable of being identified as Class A “appropriate persons” under the 1990 Act for each contaminant linkage on the Site. Given that Stafford Allen has been acquired by Bush (which in turn still operates as a separate entity notwithstanding the fact that it has been acquired by IFF), in reality that means that Bush would be required to bear the remediation costs for which Stafford Allen is liable.
45. Further, IFF would also appear to be an appropriate person on the basis of its activities carried out at the Site between 2002 and 2004, which means that it may have caused or knowingly permitted contaminants to be on the Site. On this basis it too would be a Class A appropriate person. Therefore, albeit on limited information, it appears likely that there is a Class A liability group for the contamination on the Site consisting of two or more Class A persons. Both Bush and IFF have considerable assets.
46. In a situation where there are two or more Class A persons, it is necessary then to decide whether any of the Class A persons should be excluded from liability. As it is put in section 78F(6) of the 1990 Act:

*“Where two or more persons would, apart from this sub-section, be appropriate persons in relation to any particular thing which is to be done by way of remediation, the enforcing authority shall determine in accordance with guidance issued for the purpose by the Secretary of State whether any, and if so which, of them is to be treated as not being an appropriate person in relation to that thing.”*

The guidance referred to is the statutory Guidance referenced above. If all of the members of any liability group benefit from an exemption, the authority should treat the significant contaminant linkage in question as an orphan linkage, which means that the enforcing authority (the Council, or in some cases the EA) bears liability.

47. The basis for determining whether members of a Class A liability group can be excluded from liability are set out in section 7(c) of the Guidance. In light of the information I



have, I have considered whether any of the exceptions apply. My opinion as matters currently stand is that none of the exceptions set out in the Guidance applies so as to exclude Stafford Allen, Bush or IFF.

48. In particular, I do not consider that the exclusions in relation to sale with information (see paras. 7.49-7.50 of the Guidance) or agreements as to liabilities (see paras. 7.29-7.30 of the Guidance) applies so as to exclude any of these companies (and in particular, IFF). Taking each in turn:

(1) Under the Guidance, the exclusion on sale with information does not apply to “related companies” (as defined in para. 7.37). This means that neither Stafford Allen nor Bush (who both appear to have sold to related companies) can avoid liability on the grounds that the purchaser was aware of the contamination. In particular, I note that when Bush was sold to IFF, there was a transfer of assets. The annual report of IFF stated (at page 23) that “*Goodwill arose upon the transfer of the trade, assets and liabilities from Bush Boake Allen Limited to the Company on 28 April 2001. The goodwill arising was amortised over a two year period.*” Further, the exception does not apply to exclude liability where the land is sold to a non-polluter (meaning that IFF are not excluded from liability simply on the grounds that Redding Park was aware of the contamination when it purchased the Site).

(2) Similarly, the exclusion of liability where parties have reached an agreement between themselves on liability only applies where this agreement is made between two “appropriate persons”, i.e. in this case, two members of the same Class A liability group. As the indemnity and mandate made between IFF and Redding Park was not made between two members of the same Class A liability group, it does not apply so as to exclude IFF from liability under the contaminated land regime in Part IIA.

49. Given this, I consider it likely that there is at least one Class A appropriate person in respect of the Site, who will be found to be liable for the cost of remediating the contamination at the Site. It will be for the Council to apportion the costs of remediation between Bush and IFF.

50. In that case, there would be no liability on the Redding Park under the Part IIA regime. That is because it is only if “*after reasonable enquiry*” no Class A person has been found for any significant contaminant, then the current owner or occupier of the land is the appropriate person (known as a “Class B person”): see s.78F(4).<sup>1</sup> That said, the indemnity and mandate means that, whilst Redding Park does not bear statutory liability under the Part IIA regime (because it is not a Class A person), because of the indemnity and mandate it will in reality have to pay any sum which IFF is found to be liable for under the regime as a consequence of IFF being a Class A person.

51. Ultimately, therefore, one way or another, either Bush, IFF or Redding Park is likely to be required to pay to remediate the Site. This is the effect of the polluter pays principle. Bush and IFF are “polluters” and are therefore required to pay for the cost of remediation. Redding Park is not a direct polluter. However, that does not mean that the principle does not apply. It can be fairly assumed that Redding Park acquired the Site at a reduced price on the basis that it would indemnify IFF for its liabilities in respect of remediation. Given that the estimated cost of remediation is in the region of £7m, this reduction in price is likely to be substantial. In this way, if Redding Park is able to avoid the cost of remediation, it will have (albeit indirectly) benefitted from the pollution that has been carried out. Therefore, applying the polluter pays principle, it too should be required to pay for the cost of remediation.

52. Therefore, in light of the above:

- (1) The polluter pays principle is capable in law of being a material planning consideration;
- (2) Whether the principle in fact applies depends on whether (a) the Site falls within the contaminated land regime in Part IIA and (b) whether or not the cost of remediation is likely to be borne by the public purse;

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<sup>1</sup> There is an exception where the significant contaminant linkage relates solely to the significant pollution of controlled waters, in which case the Council – as enforcing authority – bears the cost of any remediation to be carried out – but it does not appear that that is likely to be the case here.

- (3) Applying those criteria here, it is highly likely that (a) the Site is a “contaminated site” as defined in the 1990 Act and (b) absent the grant of planning permission for enabling development, the cost of remediation would not be borne by the public purse.
- (4) Therefore, the principle is a material consideration to be taken into account by the Council in determining the planning application.

53. The question of how much weight to be attached to the principle is ultimately a matter for the decision maker (see Tesco Stores). However, in my opinion, it would be open to the Council to give limited weight to the benefits of remediation. This is for three main reasons:

- (1) First, if planning permission is not granted, the cost of remediating the Site is likely to fall on either or both of Bush and IFF (with IFF’s costs being underwritten by Redding Park). There is no suggestion that these companies would be unable to afford to carry out the works. In this respect, I note that in called-in decision (ref: APP/R3650/A/06/2028286), reduced weight was attached to the benefits of remediation on the basis that the contamination authority (in that case the Environment Agency) would be under a duty to remediate the site, and would receive government funding to do so: see para. 10.80 and 10.87. A similar conclusion can be reached here (and in fact, even less weight given to the benefits of remediation on the basis that the cost will not be borne at all by the public purse).
- (2) Second, I have seen no consideration in the application of whether the applicant’s scheme is the only viable option to prevent the continued contamination of the Site. It may well be the case that there are alternative development schemes that would fund the remediation and which are not contrary to the development plan. As I understand it, no such analysis has been carried out. At the very least, the Council should require this to be satisfactorily demonstrated. Should there in fact be such scheme, this would further reduce the weight that can be attached to the remediation benefits: see appeal decision ref: APP/R3650/A/06/2028286 at para. 10.88.

(3) Third, there does not appear to be any consideration in the application of whether there are any temporary measures that can be employed which would avoid the short-term risk of environmental damage or harm to human health. If there are, this would again reduce the weight that can be attached to the benefit of remediation: see appeal decision ref: APP/R3650/A/06/2028286 at para. 10.61.

54. It is of course correct that the Guidance recognises that the grant of planning permission for development which includes remediation should be preferred to use of the contaminated land regime in Part IIA. As it is put in the Guidance at para. 1.5:

*“Enforcing authorities should seek to use Part 2A only where no appropriate alternative solution exists. The Part 2A regime is one of several ways in which land contamination can be addressed. For example, land contamination can be addressed when land is developed (or redeveloped) under the planning system, during the building control process, or where action is taken independently by landowners. Other legislative regimes may also provide a means of dealing with land contamination issues, such as building regulations; the regimes for waste, water, and environmental permitting; and the Environmental Damage (Prevention and Remediation) Regulations 2009.”*

55. However, this Guidance does not consider the particular issue of enabling development where (as here) the Development in question is in principle unacceptable, and is being justified on the basis of the remediation benefits. In such a situation, it would (in my opinion) be reasonable for the Council to conclude that remediation through Part IIA is preferable to granting planning permission for an unsustainable development. It is for this reason that this guidance was given limited weight in appeal decision ref: APP/R3650/A/06/2028286.

56. Overall, therefore, I conclude that it would be open to the Council to give limited weight to the benefits of remediation.

57. Finally, I have considered whether the expenditure involved in remediating the site should be deducted from the potential value of the completed development in assessing the residual land value, and therefore the economic viability of the alternative development under consideration.

58. I can deal with this issue briefly.

59. As I understand it, the purpose of the viability appraisal is to determine what level of affordable housing and section 106 contributions can be reasonably provided on the Site without it becoming unviable: see section 1.1 of the appraisal. Therefore, this particular issue is only likely to be considered if the Council concludes that the development is acceptable in principle as enabling development, and then turns to consider the level of affordable housing/contributions required.

60. The answer to whether the remediation costs should be excluded turns on the question of whether the polluter pays principle applies at all, and how much weight should be attached to it (see above). If contrary to the above, the Council concludes that the polluter pays principle does not apply, or should only be given limited weight, then it follows that these abnormal costs can be taken into account in deciding the level of affordable housing that can be reasonably provided on the Site. This was the approach taken in appeal decision ref: APP/C4615/A/08/2066072 at para. 17. Conversely, if the polluter pays principle does apply, and is given significant weight (for the reasons set out above), then it follows in turn that those costs should be excluded.

### **Conclusion**

61. My conclusions are set out above at paragraph 2.

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