

Committee Report

Item No: 1

Reference: DC/17/06318

Case Officer: Gemma Pannell

Ward: Mid Samford

Ward Members: Sue Carpendale and Fenella Swan

RECOMMENDATION – GRANT PLANNING PERMISSION WITH CONDITIONS

Description of Development

Outline planning application (with some matters reserved) including access - erection of residential development for up to 100 dwellings to be built in phases with associated infrastructure, public open space and details of highway access.

Location

7 Little Tufts and land east of Longfield Road, Capel St Mary IP9 2UD

Parish: Capel St Mary

Expiry Date: 20/04/18

Application Type: Outline planning application

Development Type:

Applicant: Persimmon House Limited, Donald Edward Baker, Carol Dorothy Lingard, Jill Katherine Buckingham and Sheila Ann Baker

Agent: Persimmon Homes Anglia Ltd

PART ONE – REASON FOR REFERENCE TO COMMITTEE

The application is referred to committee for the following reason:

It is a 'Major' application for:

- a residential development for 15 or more dwellings.

Details of Previous Committee/Resolutions and Member Site Visit

B/16/01458 – Outline (means of access to be considered) - Residential development for up to 150 no. dwellings with highway access off Little Tufts (following demolition of existing garage). Refused – Planning Committee 5th July 2017.

Currently at appeal – Public Inquiry due to be held on 25th September 2018 (3 days)

PART TWO – POLICIES AND CONSULTATION SUMMARY

Summary of Policies

Babergh Core Strategy 2014:

- CS1 Applying the Presumption in favour of sustainable development in Babergh
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- 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

Relevant saved policies of the Babergh Local Plan (Alteration No.2) 2006:

- HS31 Public Open Space (Sites of 1.5ha and above)
- CN01 Design Standards
- CN06 Listed Buildings – Alteration/Extensions/Change of use
- CR07 Landscaping Schemes
- TP15 Parking Standards – New Development

Relevant Supplementary Planning Document:

- Suffolk Adopted Parking Standards (2015)
- Rural Development and Core Strategy Policy CS11 Supplementary Planning Document, 2014

NPPF - National Planning Policy Framework

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

Capel St Mary Parish Council

Recommend refusal (see objection statement included as Appendix A).

SCC Highways Authority

No objection subject to standard conditions.

Little Tufts is a highway maintained by the County Council. It was adopted in 1975. Full records of its construction aren't held. It is anticipated that its construction is not to current 'minor access road' standard. Additional strengthening of the length outside of the site may be necessary through resurfacing, which will be included in the s278 agreement. A survey of the existing road construction is required to determine extent of required reconstruction works.

County Development Contributions Manager

Education:

Based on existing forecasts SCC will have no surplus places available at the catchment schools to accommodate any of the pupils arising from this proposed scheme. On this basis SCC will seek CIL funding for primary school provision at a minimum cost of £280,163 (2017/18 costs), secondary school provision at a minimum cost of £293,680 (2017/18 costs), and sixth form provision at a minimum cost of £79,628 (2017/18 costs).

Libraries:

A CIL contribution of £216 per dwelling is sought i.e. £21,600, which will be spent on enhancing provision at the nearest library.

County Archaeological Service

No objection – subject to conditions

County Fire and Rescue Service

No objection – condition requiring fire hydrants to be installed.

Lead Flood Authority

Recommend approval, subject to conditions.

Corporate Manager – Sustainable Environment (Land Contamination)

No objection.

Corporate Manager – Sustainable Environment (Air Quality)

No objection.

Corporate Manager – Sustainable Environment (Sustainability)

No objection subject to standard conditions.

Corporate Manager – Sustainable Environment (Environmental Health-Noise/Odour/Light/Smoke)

No objection subject to conditions.

NHS England

No objection. There is 1 branch surgery within a 2km radius of the proposed development, Capel St Mary surgery (including its main Constable Country Rural Medical Practice). This GP practice does not have sufficient capacity for the additional growth resulting from this development and known cumulative development growth in the area. Therefore a developer contribution, via CIL processes, towards the capital funding to increase capacity within the GP Catchment Area would be sought to mitigate the impact.

NHS England is satisfied that the basis of a request for CIL contributions is consistent with the Regulation 123 list produced by Babergh District Council.

Highways England

No objection

Suffolk Wildlife Trust

No objections – the recommendations made within the ecological reports are implemented in full, via a condition of planning consent, should be granted.

Natural England

Holding objection.

As submitted, this development proposal has the potential to affect the Stour and Orwell Estuaries SPA and Ramsar site which are European sites (also commonly referred to as Natura 2000 or N2K sites) afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). These sites are also notified at a national level as the Orwell Estuary SSSI and the Stour Estuary SSSI; the relevant interest features of the SSSIs in this case broadly relate to those associated with the European sites and so the following comments are applicable in both an international and national context.

In this context, the consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include an HRA. We therefore advise that further assessment of recreational disturbance impacts to designated sites must be undertaken through a project-level HRA in order to secure adequate mitigation.

We offer the below advice to help with this assessment. Natural England considers that mitigation of such impacts usually requires more than one type of approach; this is typically a combination of 'on-site' informal open space provision and promotion (i.e. in and around the development red line boundary) and 'off-site' visitor access management measures (i.e. at the N2K site).

Place Services - Landscape

The following points highlight our key recommendations for the submitted proposal:

1) The current masterplan does not provide sufficient details. Before approval can be given, the plan needs to include the butchers land access and provide more details of landscape assets and their location.

2) The current landscape strategy does not provide adequate details to approve. The strategy should be submitted as a standalone document which demonstrates how the proposal will enhance the landscape setting, ensure landscape character is not adversely affected, and how the site incorporates itself into the existing movement and green network.

3) If approved, a detailed landscape planting plan, landscape maintenance plan and specification, (which clearly sets out the existing and proposed planting), will need to be submitted. We recommend a landscape maintenance plan for a minimum of 3 years, to support plant establishment. SuDS features such as an attenuation basin and others should also be included in the landscape management plan to ensure appropriate management is carried out and to maintain functionality as well as aesthetics.

4) The northern, eastern and western site boundaries should be designed to respond to the existing tree and hedge planting and to provide adequate screening of the development from surrounding residents. If approved, a detailed boundary treatment plan and specification will need to be submitted as part of a planning condition.

5) If the application is approved, it needs to ensure that the existing footpath/agricultural track is enhanced. Further detailing should be provided in terms of surface treatment along this route and in particular where it meets with the proposed road network within the development. There is also the opportunity to enhance the landscape setting and planting choices along this route.

Place Services - Ecology

No objection subject to securing:

- a) a proportionate financial contribution towards offsite visitor management measures for the Stour and Orwell Estuaries SPA/Ramsar and appropriate onsite recreational measures
- b) biodiversity mitigation and enhancement measures.

Place Services – Heritage

No objection. The only heritage asset that might conceivably be affected by this proposed development is the Grade II listed 'Old Hadleigh'. However, even this is some distance from the proposal site and, with screening from existing trees and boundary's taken into account, the proposed development will have negligible impact upon the setting and character of this building.

Housing Enabling Officer

No objection. This outline application appears to offer a good mix of dwelling types, sizes and tenures and offers circa 80% of the open market dwellings as 2 and 3-bedroom homes. This does reflect the need identified for smaller homes to meet the demand from smaller household units and the need for more affordable open market housing. No detail is provided about the bedroom numbers proposed for the remaining open market dwellings. It can only be assumed that these will be 4 and possibly 5-bedroom homes. An appropriate number of dwellings of this size is acceptable and needed to meet demand from larger households.

Comments on submitted Housing Needs Survey:

A report on the housing needs for the Capel St Mary functional cluster was carried out to support the application from Persimmon Homes in relation to application DC/17/006318. The pioneer does not represent a source of primary data in its own right but has reviewed the LHNS carried out by CAS in 2016 and other secondary data sources available for Babergh in the form of the SHMA 2017 and ONS data. The report, prepared by Pioneer, purports to provide evidence on the extent to which the subject site development proposals are necessary to assist with meeting local housing need (market and affordable) as required by Policy CS2 and CS11 of the Core Strategy. So, to be clear the report is not the result of a separate survey carried out by Pioneer on behalf of the applicants covering the functional cluster area.

It covers the above cluster area with Capel St Mary at the centre as the Core Village. The level of newbuild homes developed in the last 5 years will be quite small particularly in regard to Holton St Mary, Wenham Parva, Wenham Magna, and Bentley.

The report refers to my planning consultation provided as part of their review of evidence and that we are using the district wide need figure for housing need in 2.2.7. This is due to the Council's housing allocation's policy which states that homes secured through planning obligation applications are to meet district wide need rather than local parish need in order that the council can meet its Housing Act 1996 obligations. There is a mismatch between the definition of 'local' between planning and housing legislation and policy which can cause some confusion in interpretation.

However, the PCR also confirms that:

"This site is a S106 planning obligation site so the affordable housing provided will be to meet district wide need hence the 1200 applicants registered is the important number."

(paragraph 63, PCR)

This suggests that the Council accept that when assessing the affordable housing element of the proposals this should be within the context of affordable housing need arising across the District as a whole, as opposed to the number of households waiting for affordable housing within Capel alone.

3.3.1 discusses the issues around "Local Housing Need" – this point was one of the areas examined in the East Bergholt JR case. For the Local Plan – local = district need. For housing policies – local = parish wide need so hence the confusion around this point.

The 2016 LHNS scheme focussed only on asking views of Capel St Mary residents and the respondents were biased to older people who were predominantly home owners as this represents a high proportion of the residents in the village, demonstrating the need for suitable new supply to be focussed on accommodation for older people, but also to provide smaller market and affordable homes for younger families of childless households, of which there is a significant shortage.

This report does make a great deal of reference to the aging demographics and the impact of this on housing demand. It is therefore disappointing that the application only provided for 4 x 2 or 3 bedroomed bungalows when all of the evidence suggests a significant demand for such dwellings in the locality and within the functional cluster. The 2016 Capel survey showed there was a real lack of accommodation for downsizers in the village.

Section 4 of the Pioneer report focusses on affordability and this is an issue for the whole of Babergh with house prices outstripping wages by a ratio of more than 9:1. Limited supply of new homes is a factor in the prices remaining high and on an upward trajectory although the rate of increase has slowed slightly. Housebuilders are generally building out at a rate of no more than 50 homes per annum on a single site and it is not in their interest to do so as an increased supply will potentially reduce prices. There are a number of other applications which have been approved in Capel over the past 12 months, so the resultant build-out rate will be one which needs to be monitored once developments have commenced.

The Pioneer report does not present any new evidence but reviews existing secondary data sources and analyses the Community Action Suffolk housing survey report from 2016. It does not provide a recommended detailed breakdown across unit types and tenures which would have been helpful.

There is a market housing need in Capel for homes which meet the needs of entrants to the housing market and for existing homeowners who wish to/need to downsize, so any development proposal should take account of this need when specifying the property and tenure mix. For the affordable requirement, there is a need for smaller 1 and 2 bed roomed and a smaller number of 3 bed roomed units in the form of affordable rent and shared ownership to enable those households on a lower income to be accommodated in the Capel area.

B: Representations

Numerous objections received based on the following grounds (summarised):

Badgers in field require protection

Impact on wildlife

Doctors' surgery is full

Schools are full

Site already floods, increased flood risk

Existing problem with parking and congestion in the roads adjacent to Little Tufts

A12 cannot cope

Problems with A12 junction

Congestion at Thorney Road and The Street

Capel has reached its limit of development

Limited employment in the village, the majority of people will drive to work, thus increasing the number of vehicles on the roads

Approval already given to 97 homes at the other end of the village and 22 next to this proposed development which are nearing the stage of completion

Increase in anti-social behaviour

Should be more open market bungalows

Little Tufts unsuitable and unsafe for 100 dwelling development

Loss of Grade 2 agricultural land

This development would give the potential for a minimum of 300+ cars plus delivery/service/ emergency service vehicles

Alternative locations should be considered

PART THREE – ASSESSMENT OF APPLICATION

1. The Site and Surroundings

1.1. The application site comprises 5.4ha of (Grade 2) agricultural land located to the east of Capel St Mary, between London Road and Longfield Road. The subject land adjoins the existing built up area of the village. Capel St Mary is a designated Core Village.

- 1.2. To the east, south and west of the application site are established residential areas primarily accessed from Longfield Road and London Road. To the north is agricultural land.
- 1.3. The site is in within walking distance (10 minutes) of the village hall which includes a library, local shops including a Co-op with a post office facility, doctor's surgery, dentist's surgery and Methodist Church. Within 15 minutes' walk is the primary school and playing fields.

2. The Proposal

- 2.1. The outline planning application is for up to 100 dwellings with associated infrastructure, public open space and details of highways access. All matters (with the exception of access) are reserved for further consideration at detailed stage.
- 2.2. An indicative layout is detailed on the illustrative drawings with 100 dwellings shown, representing a density of approximately 40 dwellings per hectare.
- 2.3. The scheme proposes 35% affordable housing with 35 units being affordable and 65 being market dwellings.
- 2.4. Up to 80% of all the proposed dwellings are likely to be 2 and 3 bedroom dwellings with four affordable 2 bedroom bungalows, two market 2 bedroom bungalows and 2 market 3 bedroom bungalows to meet locally identified need.
- 2.5. The site area is 5.4ha.

3. Main Considerations

- 3.1. The principal consideration is determining whether the scheme represents sustainable development. In light of the planning history (see below), a key focus is determining whether the scheme adequately addresses the reasons for the Planning Committee refusing previous planning application B/16/01458, which involved a residential development of the same subject site.

4. The Principle of Development

- 4.1. On 5 July 2017 the Planning Committee resolved to refuse outline planning permission B/16/01458 for up to 150 dwellings on the subject land. Officers had recommended approval. An appeal was lodged on 19 January 2018 and a Public Inquiry is scheduled for 25 September 2018.
- 4.2. The Committee's reasons for refusing outline planning permission B/16/01458 related to the absence of justifiable need for the development, impacts on residential amenity due to increased traffic, impacts on infrastructure and loss of agricultural land.
- 4.3. The Draft Babergh and Mid Suffolk Joint SHLAA, May 2016, identifies the application site as SS0251 (5.56ha of land east of Longfield Road). In respect to development suitability the Draft SHELAA states:

*The site is potentially considered suitable for residential development, taking identified constraints into consideration. However only part development is recommended in order to avoid disproportionate development to the existing settlement. Estimated new net site area: 3 ha.
Estimated dwellings yield: 75*

- 4.4 The National Planning Policy Framework (NPPF) requires Councils to identify and update on an annual basis a supply of specific deliverable sites sufficient to provide for five years' worth of housing provision against identified requirements (paragraph 47). For sites to be considered deliverable they have to be available, suitable, achievable and viable.
- 4.5 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 (as stated in paragraph 49 of the NPPF). Where policies 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. The presumption in paragraph 14 also applies where a proposal is in accordance with the development plan, where it should be granted permission without delay (unless material considerations indicate otherwise).
- 4.6 The precise meaning of 'relevant policies for the supply of housing' has been the subject of much case law, with inconsistent results. However, in May 2017 the Supreme Court gave judgment in a case involving Suffolk Coastal District Council which has clarified the position. The Supreme Court overruled earlier decisions of the High Court and the Court of appeal in this and other cases, ruling that a "narrow" interpretation of this expression is correct; i.e. it means policies identifying the numbers and location of housing, rather than the 'wider' definition which adds policies which have the indirect effect of inhibiting the supply of housing, for example, countryside protection policies. However, the Supreme Court made it clear that the argument over the meaning of this expression is not the real issue. The absence of a five year housing land supply triggers the application of paragraph 14 of the NPPF. In applying the 'tilted balance' required by this paragraph, the Council 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.
- 4.7 A summary of the Babergh five year land supply position is:
- Core Strategy based supply for 2017 to 2022 = 4.1 years
SHMA based supply for 2017 to 2022 = 3.1 years
- 4.8 The site is located outside the Settlement Boundary for Capel St Mary. Therefore, there is a policy presumption against development in such locations. Capel St Mary is identified as a Core village.
- 4.9 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.'

- 4.10 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 in the development plan, in the context of the authority not being able to demonstrate a 5 year land supply.
- 4.11 As detailed at paragraph 19 above, in applying the 'tilted balance' required by paragraph 14 of the NPPF, the Council must decide what weight to attach to all the relevant development plan policies, whether they are policies for the supply of housing or restrictive 'counterpart' policies such as countryside protection policies.
- 4.12 In that regard, whilst it is for the decision maker to determine the weight that is to be given to these policies, it is your officer's opinion that policies CS2, CS3, CS11 and CS15 provide a framework to consider the sustainability of this site, having regard to the three strands of sustainable development set out in the NPPF. As such, these policies and their requirements are assessed further here.
- 4.13 Policy CS2 (Settlement Pattern Policy) identifies Capel St Mary as a Core Village. Sites outside of a defined settlement form part of the countryside and Policy CS2 limits development in the countryside so that it will only be permitted in exceptional circumstances subject to a proven justifiable need. The application site is outside of the defined Core village and needs to satisfy these tests to comply with Policy CS2.
- 4.14 Policy CS3 sets out the Council's Strategy for Growth and Development. It states that

'Babergh District Council will make provision for 5,975 new dwellings between 2011 and 2031 in the District. These dwellings are planned as follows: 1,100 between 2011 - 2016; and 4,875 between 2017-2031. The housing target will be achieved by:

- i) Existing commitments as identified in the trajectory;*
- ii) Allowing for a windfall figure of 1,640 dwellings;*
- iii) Making provision for 2,500 new dwellings to be built in the following locations: ...Core and Hinterland Villages 1,050 ...*

The Council will introduce management actions to address housing delivery should there be a 20% deviation in housing delivery as opposed to targets for 2011-2016; and 2017 – 2021; and a 10% deviation for 2022-2026. These management actions could include constructively and proactively working with developers to bring forward committed or allocated sites; reviewing phasing of allocated sites; reviewing housing targets and associated policies; and allocating additional sites to meet targets if required'.

- 4.15 Policy CS11 sets out the Local Plan 'Strategy for Development in Core and Hinterland Villages' and (so far as relevant) states that:

'Proposals for development for Core Villages will be approved where proposals score positively when assessed against Policy CS15 and the following matters are addressed to the satisfaction of the local planning authority ... where relevant and appropriate to the scale and location of the proposal:

- 1. the landscape, environmental and heritage characteristics of the village;*
 - 2. the locational context of the village and the proposed development (particularly the AONBs, Conservation Areas, and heritage assets);*
 - 3. site location and sequential approach to site selection;*
 - 4. locally identified need - housing and employment, and specific local needs such as affordable housing;*
 - 5. locally identified community needs; and*
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6. cumulative impact of development in the area in respect of social, physical and environmental Impacts.

The Core and Hinterland Villages identified in the Spatial Strategy provide for the day to-day needs of local communities, and facilities and services such as shops, post offices, pubs, petrol stations, community halls, etc that provide for the needs of local communities will be safeguarded.

New retail, leisure and community uses appropriate in scale and character to the role, function and appearance to their location will be encouraged in Core and Hinterland Villages, subject to other policies in the Core Strategy and Policies document, particularly Policy CS15, and other subsequent (adopted) documents as appropriate.'

- 4.16 The general purpose of Policy CS11 is to provide greater flexibility in the location of new housing development in the Core and Hinterland Villages. Considered together, Policy CS2 (Settlement Pattern Policy) and Policy CS3 (Strategy for Development and Growth) and Policy CS11 provide for a minimum of 1,050 dwellings to be delivered in Core and Hinterland Villages for the period between 2011 and 2031. Subject to specified criteria, Policy CS11 intentionally provides greater flexibility for appropriate development beyond the existing Built Up Area Boundaries (BUAB) for each Core and Hinterland Village, as identified in the 2006 Local Plan Saved Policies.
- 4.17 The accompanying 'Rural Development and Core Strategy Policy CS11 Supplementary Planning Document ('the SPD') was adopted by the Council on 8 August 2014. The Council produced the SPD to provide guidance on the interpretation and application of Policy CS11, acknowledging that the Site Allocations Document foreshadowed in Policy CS11 may not be prepared for some time. Although the SPD is not part of the statutory development plan, its preparation included a process of community consultation before it was adopted by the Council, and means that it is a material consideration when planning applications are determined.
- 4.18 The matters listed in Policy CS11, which proposals for development for Core Villages must address, are now considered in turn.

The landscape, environmental and heritage characteristics of the village

- 4.19 As concluded in the assessment of the previous development proposal, the impact of the revised scheme on landscape character will not be unacceptable. The site is visually contained and the backdrop of the body of the village mitigates character impacts. Landscape screening, including boundary planting, will further mitigate landscape harm. Place Services (Landscape) recommend a suite of mitigation measures to enhance the appearance of the development and soften the landscape impact, all of which can be adequately managed at the reserved matters stage of the approvals process.
- 4.20 The application site is not in a conservation area, or near to any conservation area, and will not impact upon any heritage assets. Place Services (Heritage) raise no objection.
- 4.21 A supporting Geophysical Report concludes that no responses of archaeological interest were recorded in the data.
- 4.22 The proposal complies with policy CS11 in terms of the impact of the proposal on the landscape, environmental and heritage characteristics of the village.
- 4.23 It is noted the previous application B/16/01458 was not refused on landscape or heritage grounds.
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The locational context of the village and the proposed development

- 4.24 The site abuts the BUAB and is well linked to existing facilities and services in Capel St Mary through a network of public footpaths. The proposed development will connect with these through Little Tufts and Butchers Lane.
- 4.25 The nearest bus stops are located on Thorney Road within 400m of the development and within 120m of the site access on Little Tufts. Services run regularly on Mondays to Fridays between Ipswich, Capel St Mary, East Bergholt and Colchester, providing sustainable modes of transport to local employment, business and recreational opportunities.
- 4.26 The site is a logical extension to the built up area boundary and the scale and character of development is commensurate with neighbouring development.
- 4.27 The site is in a sustainable location, consistent with the findings of the draft SHELAA which identifies the site as being, in principle, suitable for residential development. The site is considered to be well related to the village, compliant with this part of policy CS11.

Site location and sequential approach to site selection

- 4.28 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 adjacent to the BUAB. However it adjoins the boundary and is considered to be reasonably well related and accessible by walking to the services and facilities of Capel St Mary.
- 4.29 There are no sequentially preferable allocated sites in Capel St Mary, nor are there any sites within the built up area boundary, which would enable a development of commensurate scale.
- 4.30 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.
- 4.31 In the absence of any sites within the BUAB and no requirement to consider other sites outside the BUAB, the proposal accords with this element of Policy CS11.

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

- 4.32 'Locally identified need' or 'local need' is to be construed as the development to meet the needs of the Core Village identified in the application, namely Capel St Mary, *and* the functional cluster of smaller rural settlements which it serves.
 - 4.33 It is important to note that this interpretation of Policy CS11 should not be misconstrued as a justification to restrict proposals for new development in and around Core Villages to meet the needs of that Core Village alone. The Core Strategy expressly contemplates that Core Villages will accommodate the majority of new housing development to meet the needs described in Policy CS3 as 'rural growth', including the development needs of the 'functional cluster' served by that Core Village. Where appropriate, the development needs of a wider catchment area may also be relevant, subject to the particular needs of local rural communities and significant constraints on development in nearby Core and Hinterland Villages (see Core Strategy, paragraph 2.8.5.4)
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- 4.34 The sequential approach of the Strategy for Growth and Development requires new development for 'rural growth', first, to be directed to Core Villages, which are expected to accommodate new development in locations beyond existing BUAB, where appropriate.
- 4.35 In respect of affordable housing need, paragraph 2.8.5 of the Core Strategy advises that Policy CS11 will lead to greater flexibility in the provision of affordable housing, related to need which has to be considered more widely than just within the context of individual settlement but also the other villages within that cluster and in some cases adjoining clusters. This is consistent with the requirements of the NPPF that aims to ensure that the local plan meets the needs for affordable housing in the housing market area.
- 4.36 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. The applicant has provided a Housing Needs Assessment which provides additional evidence to that provided in support of the previous application. The report analyses the housing need of the defined functional cluster, consistent with Policy CS11 and the NPPF. The report references the 2016 Capel Parish Housing Needs Survey and its conclusion that there is a need for 100 dwellings over five years 2016 to 2021. The report considers this number a minimum as this figure is based only on those responding to the survey (46% response rate) and, additionally, the survey may have been biased towards outright owners' respondents. Using demographic projections the report suggests a housing need for between 518 and 653 homes across the cluster and between 222 and 274 homes across the Parish between 2016 and 2036.
- 4.37 Council's Housing Enabling Officer has reviewed the Housing Needs Assessment and offers no objection regarding the affordable housing provision and noting in respect to the open market dwellings:

'This outline application appears to offer a good mix of dwelling types, sizes and tenures and offers circa 80% of the open market dwellings as 2 and 3-bedroom homes. This does reflect the need identified for smaller homes to meet the demand from smaller household units and the need for more affordable open market housing. No detail is provided about the bedroom numbers proposed for the remaining open market dwellings. It can only be assumed that these will be 4 and possibly 5-bedroom homes. An appropriate number of dwellings of this size is acceptable and needed to meet demand from larger households.'

Locally Identified Community Needs

- 4.38 Policy CS11 requires a similar approach to the determination of proposals for development to meet locally identified community needs, recognising the role of Core Villages and the 'functional clusters' they serve. Paragraph 2.8.5.2 of the Core Strategy notes that the 'approach advocated for the management of growth in Core Villages and their hinterlands, has many benefits for the communities'. The benefits that the application of Policy CS11 and other relevant policies should secure include 'Flexibility in the provision of and location of facilities' ... 'to reflect a catchment area pattern which relates to the day to day practice of the people living in the villages' (see item iii) in paragraph 2.8.5.2).
- 4.39 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. Whilst the application is supported by a housing needs assessment, and a Facilities Audit, it is not supported by a community needs assessment per se. This said, the application does identify certain community needs in the context of housing provision, in particular including homes for younger families, smaller houses for 'downsizers' and both market and affordable bungalows.
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These are significant social benefits, together with elements of the proposal such as children's play space and public open spaces areas.

- 4.40 Moreover, the proposal will 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 delivers benefits through CIL that are considered to satisfy this element of Policy CS11.

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

- 4.41 The SPD states, at paragraph 13, that 'cumulative impact should include existing commitments and other proposals in the same village and existing commitments and other proposals in the cluster where they are likely to have a wider impact for example in terms of traffic generation, capacity of schools and health services. The impact on other neighbouring villages and neighbouring local authority areas should also be taken into account'.
- 4.42 As set out in the supporting Planning Statement, the proposed scheme represents a 3.5% increase in the total number of dwellings in the functional cluster including existing commitments, or 7% when considered cumulatively with the approved scheme for 97 dwellings at Days Road, Capel St Mary. These numbers represent incremental growth, consistent with the intention of the 'Strategy for Growth' as outlined at paragraph 2.7.2 of the Core Strategy.
- 4.43 There is no evidence before officers to suggest that the increase in the number of dwellings will result in adverse social, physical or environmental impacts. Many residents and the Parish Council are critical of the strain that will be placed on local services, in particular education, health and highways infrastructure. There is no denying that a 100 dwelling development will generate increased infrastructure demand (albeit significantly less demand than the previously refused 150 dwelling scheme).
- 4.44 However, as per well-established industry practice, CIL contributions will be used to ensure existing infrastructure capacity is enhanced to accommodate additional demand. This approach is consistent with that promoted in Policy CS11 which states (author emphasis):
- 'Proposals for both core and hinterland villages will need to demonstrate that the development can be accommodated without adversely affecting the character of the village and that the services, facilities and infrastructure have the capacity to accommodate it or will be enhanced to accommodate it.'*
- 4.45 So where strain does occur, it will be addressed by the appropriate infrastructure authorities who will be well funded to undertake the necessary works, for example highway improvement works, new/expanded health and/or education facilities. Enhancements will be required and the applicant has not raised objections to date regarding the requested sums. It is therefore concluded that the level of required enhancements will not impact the viability of the proposal and therefore are deliverable.
- 4.46 Additional infrastructure requirements is a consequence of the development, but it is not an adverse social, physical or environmental impact. It must also be noted that none of the infrastructure authorities have objected to the scheme, with all concluding that CIL contributions are to be used to manage future infrastructure demand.
- 4.47 The proposal complies with this element of Policy CS11.
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Policy CS15 Sustainable Development

- 4.48 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. Many of the criterion within policy CS15 are covered within the individual sections of this report including, for example, landscape impacts, biodiversity and minimising car use 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.
- 4.49 As a Core Village, Capel St Mary is recognised as providing service and facilities for its own residents and for those that live in small villages and rural settlements in the surrounding hinterland. The village offers a very good range of amenities to its resident population.
- 4.50 Policy CS15 seeks to minimise the need to travel by car using alternative means and improving air quality. Capel St Mary is well connected with the surrounding settlements via the local highway and public rights of way network. It benefits from a regular bus service six days a week between to Colchester and Ipswich. Capel St Mary is only a short distance from Manningtree and Ipswich, both of which have a railway station with onward connections to destinations including London Liverpool Street. Therefore residents in Capel St Mary have access to a number of 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.
- 4.51 It is acknowledged that there will be a high proportion of car travel from Capel St Mary, as people travel out of the village to work, however it is also important to take into consideration the provision of and accessibility of public transport in Capel St Mary, which provides a credible alternative mode of transport for a variety of activities including employment, retail and recreation.
- 4.52 The socio-economic profile of Capel St Mary highlights the village's important role as an economic asset for the Babergh District. It is an attractive place to a variety of people. However, the evidence provided in the applicant's sustainability assessment, is that there is a need to balance housing stock and growth in the future such that new housing development adds variety and choice to the local housing market and address a wide range of housing needs.
- 4.53 The scheme 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 Capel St Mary, underpinning social capacity, providing affordable housing and widening the housing mix overall.
- 4.54 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 Policy CS15 criteria:
- 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 within Flood Zone 1, 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).
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- During construction, methods will be employed to minimise waste (criterion xiv of CS15).
- The proposed dwellings will 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).
- Highway (criterion xix of CS15) and biodiversity (criterion vii of CS15) considerations are considered below.

5. Site Access, Parking and Highway Safety Considerations

- 5.1 Paragraph 32 of the NPPF confirms that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. This is interpreted as referring to matters of highway capacity and congestion, as opposed to matters of highway safety. The courts have held that paragraph 32 should not be interpreted to mean that anything other than a severe impact on highway safety would be acceptable (*Mayowa-Emmanuel v Royal Borough of Greenwich [2015] EWHC 4076 (Admin)*).
- 5.2 The proposed site access from Little Tufts will comprise a minimum 5.5m carriageway with 2.0m footway on both sides; visibility splays in accordance with Manual for Streets for 30mph speed limit. Junction capacity analysis demonstrates that the proposed development can be accommodated on the local highway network with the junctions operation below the maximum ratio to flow capacity.
- 5.3 The highway network is operating within its capacity and has adequate residual capacity to deal with the increase in flows associated with this development. The proposed access is designed to meet the highway requirements of Highways Authority and there will be no detriment to safety and minimal effect on capacity on the highway network, noting the Highways Authority raise no objection to the scheme subject to conditions. There is ample scope to achieve policy compliant parking arrangements.
- 5.4 The scheme offers acceptable highway safety outcomes, compliant with saved policy TP15 of the Local Plan, and criteria xviii and xix of Policy CS15. There are no grounds to refuse the application on highway safety matters.
- 5.5 The previous application B/16/01458 was not refused on highway safety grounds.

6. Trees, Ecology, Biodiversity and Protected Species

- 6.1 An updated Phase 1 Habitat Survey and an associated protected species report supports the application. Place Services (Ecology) raise no objection and suggested conditions are supported by officers.
 - 6.2 Natural England raise a holding objection based on an absence of assessment regarding the impact on Stour and Orwell Estuaries SPA and Ramsar site – however this has now been submitted and assessed by Place Services. Natural England wish to ensure mitigation methods are considered and secured. Natural England advise that likely mitigation measures will include a combination of ‘on-site’ informal open space provision and promotion and ‘off-site’ visitor access management measures. The range of potential impacts on the Stour and Orwell Estuaries Special Protection Area (SPA) /Ramsar and various mitigation measures have been considered and assessed. The Recreation Avoidance and Mitigation Strategy (RAMS) package includes a proportionate financial contribution towards visitor management measures for the Stour & Orwell Estuaries SPA, secured by a s106, to ensure that implementation of the package of mitigation measures avoids a likely
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significant effect on the Stour and Orwell Estuaries SPA/Ramsar. This therefore demonstrates Babergh DC's compliance with the Conservation of Habitats and Species Regulations 2010.

- 6.3 The proposal responds adequately to criterion vii of Policy CS15.
- 6.4 As noted in the supporting Planning Statement, the aim of the development is to preserve all trees possible and in good health so that they continue to provide an arboricultural, amenity and landscape value in the medium to long term. There are no trees of significance that are proposed to be removed as part of the scheme. Tree impacts can be adequately mitigated and the conclusions in the submitted arboricultural report are supported and can be conditioned as necessary.
- 6.5 The previous application was not refused on biodiversity grounds.

7. Land Contamination

- 7.1 The application is supported by a Phase 1 Contamination Assessment. Environmental Health raise no objection and the standard unexpected contamination condition is recommended. Land contamination was not a previous reasons for refusal. The proposal complies with criterion vii of Policy CS15 insofar as it relates to land contamination.

8. Impact on Residential Amenity

- 8.1 Paragraph 17 of the NPPF sets out a number of core planning principles as to underpin decision-taking, including, seeking to secure a good standard of amenity for all existing and future occupants of land and buildings.
- 8.2 Residential amenity impacts, particularly from noise associated with traffic using Little Tufts, was a previous reason for refusal. The revised scheme proposes 50 less dwellings than the original proposal and will result in substantially fewer traffic movements, albeit there will be many more movements than is currently experienced in the existing cul de sac arrangement, an inevitable outcome when a no through road becomes a through road. This matter has been carefully considered by Council's Environmental Health Officer who concludes in respect to traffic noise:

'The ambient noise climate at the existing dwellings on Little Tufts is noted as being dominated by traffic noise from the A12, which varies with time of day. The daytime noise level is approximately 53dB and the night-time level 51dB. The impact of increased traffic passing along Little Tufts has been calculated at each existing dwelling. These are based on the 'worse case' scenario of the new development (of 80 movements per hour as estimated during peak times), compared to an average ambient level (which is predicted to be 5dB lower than levels currently observed at the properties during peak times on the A12).

This calculation finds that at worse case, the likely change will be +2.5dB. A change of 3dB is likely to be just perceptible and thus is ranked as resulting in a 'minor' short term impact and a 'negligible' long term impact. Outside of peak times the impact will be lower. I am therefore satisfied that noise from the impact of traffic travelling along Little Tufts is unlikely to result in significant loss of residential amenity.'

- 8.3 The Environmental Health Officer has also assessed the noise impact of the A12 on the future occupants of the development. Internal noise attenuation measures are considered necessary and these can be adequately dealt with by planning condition.
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- 8.4 The western interface is a sensitive one in residential amenity terms given the proximity of neighbouring dwellings (the eastern interface less so given the extensive depth of lots). There is ample scope however to ensure development is sited and designed in manner that respects and safeguards existing residential amenity levels. The proposal can be readily accommodated in a way that will not result in losses of privacy, sunlight or daylight access for neighbouring residents.
- 8.5 A condition limiting construction working hours is recommended to safeguard residential amenity levels.

Loss of High Grade Agricultural Land

9. Paragraph 112 of the NPPF states that *“Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.”* The definition of best and most versatile agricultural land is classified as Grade 1, 2 and 3a.
- 9.1 Overall the site falls within the category of Best and Most Versatile (BMV) Agricultural Land for the purposes of the NPPF. However, it is understood that much of Acton and its surroundings benefit from agricultural land of an equivalent quality
- 9.2 While, paragraph 112 of the NPPF indicates that account be taken of the economic and other benefits of BMV land, and where significant development of agricultural land is necessary, advises that LPA's should seek to use areas of poorer quality. It does not however impose a bar on the development of such land and does not define what might comprise 'significant'.
- 9.3 A number of recent appeal decisions which have considered this point, all of which like the situation here were determined against the background of a deficient 5YHLS. Two of the decisions relate to sites of equivalent size to the application site at around 5ha, while a further SoS decision is considerably larger at 10.4ha. None were considered 'significant' for the purposes of the NPPF, with the Weston appeal decision noting the need to consult DEFRA on applications which involve the loss of 20ha of BMV land, and that the loss of 5.21 ha would not be considered significant in that context.
- 9.4 While some negative weight was applied to the localised harm arising from the loss of some BMV land in these cases, it was clearly not sufficient to significantly and demonstrably outweigh the benefits of securing new housing in authorities unable to demonstrate a 5YHLS.
- 9.5 The loss of the site, which comprises 5.56 ha, is not considered significant within this context, given the land is at the lost grading for best and most versatile agricultural land. As a result there would only be a minor adverse economic and environmental impact resulting from the loss of this land which would not weigh heavily in the balance when considered against the benefits detailed elsewhere in this report; most notably the provision of 100 dwellings and their contribution towards the district housing supply.

PART FOUR – CONCLUSION

10. Planning Balance and Conclusion

- 10.1 Council cannot demonstrate a five year housing supply. Local policies relating to the supply of housing, including Policy CS2, CS11 and CS15, must be considered not up-to-date in accordance with the NPPF. Where policies cannot be considered up-to-date, the NPPF (paragraph 14) cites
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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.

- 10.2 Officers conclude that specific policies do not indicate development should be restricted. Therefore, the proposal should proceed to be determined in accordance with the presumption in favour of sustainable development.
 - 10.3 The scheme is a revision of an earlier proposal that was refused by the Planning Committee. The applicant has sought to address the reasons for refusal principally by reducing the proposed density by 50 dwellings, from 150 to 100 dwellings.
 - 10.4 Environmental harm will be limited. Landscape impacts will be less than moderate, the development is well related to the village and the revised scale of development is not disproportionate to the scale of the village. The scale of the site is such it can readily accommodate the proposed 100 dwellings.
 - 10.5 The revised housing mix responds appropriately to locally identified need, including more homes for younger families, smaller houses for 'downsizers' and both market and affordable bungalows. This is an improvement upon the previously refused scheme.
 - 10.6 The proposed vehicle access arrangement remains as per the original proposal. The original proposal was not refused on highway grounds nor should the current proposal given the absence of objection from the Highway Authority. Measures to improve the existing local road conditions can be managed by planning condition or through s278 and/or CIL contributions.
 - 10.7 The previous application was refused, amongst other reasons, because of the demand it would generate on local infrastructure, particularly health and education, and the inability of that infrastructure to cope with the anticipated demand. A reduction by 50 dwellings substantially reduces infrastructure demand. Infrastructure enhancements will still be required and these can and should be addressed by CIL contributions, consistent with local policy, the NPPF and standard industry practice.
 - 10.8 Reducing the scale of development by a third, the resultant scheme substantially reduces traffic generation which in turn provides an appropriate residential amenity outcome for neighbouring residents, particularly those on Little Tufts who will experience increased traffic movements.
 - 10.9 To be considered developable, sites should be in a suitable location for housing development and there should be a reasonable prospect that the site is available and could be viably developed at the point envisaged. All of these statements apply to the application site.
 - 10.10 The proposal will result in the loss of Grade 2 agricultural land. The extent of land to be lost is not considered harmful given the vast quantum available across the district.
 - 10.11 The proposal offers significant social and economic benefits that are not outweighed by the harm that would be caused if planning permission was granted. The harm that may arise is largely limited to the landscape and visual impact due to the physical change of the site. The visual impact will be less than moderate given site context and having regard to the mitigation measures proposed.
 - 10.12 The proposed scheme constitutes sustainable development. The planning balance weighs in favour of the proposal. The application is recommended for approval.
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RECOMMENDATION

- (1) Subject to the prior agreement of a Section 106 Planning Obligation on appropriate terms to the satisfaction of the Corporate Manager – Planning for Growth to secure:
 - Affordable housing
 - Provision, management and maintenance of public open space
 - Stour and Orwell Recreational Amenities Contribution (RAMS)

 - (2) That the Corporate Manager – Planning for Growth be authorised to grant Outline Planning Permission subject to conditions including:
 - Standard Time Limit Condition
 - Reserved Matters to be submitted and agreed
 - Approved Plans
 - Sustainability efficiency measures
 - Archaeological work and monitoring
 - Surface water drainage
 - Details of fire hydrants to be submitted
 - As recommend by Highways
 - As recommended by Environmental Health
 - Details of screen walls and fences to be submitted
 - Construction management plan
 - Detailed hard/soft landscaping to be submitted with reserved matters
 - Implementation of landscaping scheme
 - Secure mitigation and ecology enhancement measures
 - Lighting scheme – biodiversity

 - (3) That in the event of the Planning obligations referred to in Resolution (1) above not being secured that the Corporate Manager – Planning for Growth be authorised to refuse planning permission on appropriate grounds.
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