Committee Report

Committee Date: 26 April 2017

Item No: 1 **Reference: B/16/01365**
Case Officer: Gemma Pannell

Description of Development: Erection of residential development comprising 100 dwellings (including 35 affordable units) with associated vehicular access from Days Road, landscaping, open space, car parking and pedestrian links.

Location: Land North and West of Capel Community Church, Days Green, Capel St Mary

Parish: Capel St Mary
Ward: Mid Samford
Ward Members: Cllr S. Carpendale and Cllr F. Swann

Site Area: 5.69
Conservation Area: Not in Conservation Area
Listed Building: Not Listed

Received: 10/10/2016
Expiry Date: 31/03/2017

Application Type: Full Planning Application
Development Type: Major Residential Dwellings
Environmental Impact Assessment: N/A

Applicant: Hopkins Homes Limited
Agent: Armstrong Rigg Planning

DOCUMENTS SUBMITTED FOR CONSIDERATION

The application, plans and documents submitted by the Applicant can be viewed online. Alternatively, a copy is available to view at the Mid Suffolk and Babergh District Council Offices.

SUMMARY

The proposal has been assessed with regard to adopted development plan policies, the National Planning Policy Framework and all other material considerations. The officers recommend approval of this application. The proposed development represents residential development in a sustainable location. The dwellings will go towards meeting the needs of the district, acknowledging that Babergh District Council cannot demonstrate an up to date 5 year housing land supply.

PART ONE – REASON FOR REFERENCE TO COMMITTEE

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.

PART TWO – APPLICATION BACKGROUND

This section details history, policies, advice provided, other legalisation and events that form the background in terms of both material considerations and procedural background.

History

1. 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/17/00122	Residential development of 100 dwellings (including 35 affordable units) with associated vehicular access from Days Road, landscaping, open space, car parking and pedestrian links (duplicate to application B/16/01365)	Not yet determined.

Details of Previous Committee / Resolutions

2. None

Details of Member site visit

3. Members undertook a visit of the site on Wednesday 5 April 2017, following a request by Cllr Sue Carpendale.

Details of any Pre Application Advice

4. Pre-application advice was given on the merits of the scheme having regard to policy CS11.

PART THREE – ASSESSMENT OF APPLICATION

Consultations

5. The following responses have been received from consultees:

Capel St Mary Parish Council: Recommend Refusal – Need for strategic overview of how Capel is to be developed; review of village infrastructure is required before any development is approved; development should be limited to smaller groups of dwellings intergrated within existing village framework; need for starter homes and bungalows; Days Road is narrow and dangerous with a footpath on one side only; road improvements are required; greater traffic flows through the village; existing problems with parking will be exacerbated; health services unable to cope.

Wenham Magna Parish Meeting: Impact of the proposal on Great Wenham sewage works– the works are just about coping with the current flow with the aid of almost constant attention because of overflow. The proposed development would put almost intolerable strain on the current sewage arrangements.

Corporate Manager – Sustainable Environment (Heritage): The Heritage Team considers that the proposal would cause: Low level, less than substantial harm to the setting and significance of designated heritage assets in proximity to the site because whilst there will be some harm to the setting of a Grade II listed building, impact on the relationship to the Grade II* listed church and other non-designated heritage assets in the vicinity, the cumulative impact will not reach a high level of harm to the significance or setting due to a combination of the distance involved, and the existing topographical features being retained, which have informed the layout and green spaces of the development.

Corporate Manger – Sustainable Environment (Other Issues): Object: Capel Mushrooms, currently do not produce compost itself, but it is brought onto site ready-prepared. This has been the case for the last 2 years. The mixing of compost has previously been associated with significant odour emissions because it was manufactured from chicken manure and required precise controls in order to prevent the compost from becoming 'anaerobic', which is when significant foul odours can be generated. Although odour from the on-site production of compost material is currently not present, Capel Mushrooms the right to revert to produce their own compost again at any time in the future, depending on their business needs.

The current principal source of odour arises from the storage and movement of spent compost. Once the compost is spent, it is brought out of the growing sheds on a weekly basis (24 tonnes per week) and stockpiled. Depending on how long it is left in situ, significant odour can arise when the pile is opened and anaerobic compost is exposed to the air. Significant odour from the stockpile occurs whenever the heap is opened and loaded onto transport. Material would normally be extracted in spring/early summer and autumn in order to meet good practice for the utilisation of nutrients in growing crops. This is the time of year when local residents would be more likely to have their windows open for ventilation, or would wish to enjoy their gardens. The removal of spent compost is undertaken on a commercial basis - a JCB is used to load it onto HGVs. In addition, more frequent opening of the stockpile occurs from smaller-scale transport belonging to local landscapers and amateur gardeners.

The letter submitted by the Applicant states that the sniff-test carried out by their consultants (which took place on just one day), "*was undertaken during the composting period*". I would point out that this statement is at odds with the advice from Capel Mushrooms, which is that they currently do not manufacture their own compost.

The Applicant's letter also cites an appeal decision in which the Inspector considered that the use of a sniff-test was appropriate. The use of sniff-tests as an appropriate assessment tool is not disputed. The appeal case actually involved both a predictive element and sniff-tests. The sniff-tests were *"carried out in a variety of conditions with temperatures ranging from 1 degree C to 25 degrees C and with wind spread across all directions"*. This was not the case with the Applicant's assessment, which took place on one day only, and when the wind was not passing towards the application site from the farm. In addition, the circumstance of the appeal decision was that the prevailing wind blows *away* from the appeal site. In Capel, the prevailing wind passes from Capel Mushrooms across part of the application site. It is therefore my opinion that the two cases are not comparable. The Council's Environmental Protection team has produced substantial evidence of previous complaints which demonstrate that odours do arise from the site to a degree that residents have been compelled to report to the Council.

The proposed development would introduce properties within 50m of the boundary of the mushroom farm, closer than the majority of previous complainants. I do not dispute the appropriateness of sniff-tests in assessing odour from the site, however, I remain of the opinion that the current assessment is insufficient to robustly conclude that odour from the mushroom farm is not likely to lead to loss of amenity at the proposed development.

The Applicant's odour assessment should have been undertaken in conjunction with Capel Mushrooms over a much longer period of time in order to take account of **all** sources of odour at the farm (particularly, but not exclusively the opening up of spent compost stockpiles), and varying wind direction. This would have informed the likelihood of loss of amenity on the application site. It would also inform the development layout if it were found that certain parts of the site are at higher risk, given proximity and the prevailing wind direction.

For the above reasons, I would recommend that planning permission should not be granted.

Even if it could be established that current operations at Capel Mushrooms would not give rise to a loss of amenity to future occupants of the proposed dwellings, I do not believe that the Council could reasonably prohibit the business from reverting back to producing their own compost on the site should they choose to do so. As previously advised, when Capel Mushrooms did manufacture compost they were employing all reasonably practicable measures to mitigate odour emissions – and this was the only reason that complaints to the Council reduced after 2011 i.e. because the Council repeatedly advised residents that there was no action that the Council could take to improve the situation for them. It is obviously the LPA's decision whether or not to grant permission for this application, but if it does give approval, it should do so in the full knowledge that:

(i) The approval could fetter the right of Capel Mushrooms to undertake their production operations in the manner they choose – particularly the option to revert back to producing their own compost, which they have until recently, done for many years;

(ii) If Capel Mushrooms choose to revert back to producing their own compost, then the historical evidence indicates that future occupants of the application site (being closer to the farm than existing dwellings and directly in line with the prevailing wind from the farm) would be very likely to experience significant levels of odour; and

(iii) The Council would be unable to take action to abate any significant odours, provided that Capel Mushrooms employed all reasonably practicable measures to mitigate odour emissions – as they previously did when they produced their own compost.

Corporate Manager – Sustainable Environment (Land Contamination): No objection – it is concluded that the site poses a very low risk in terms of contamination receptors.

Corporate Manager – Sustainable Environment (Sustainability): No objection, subject to condition requiring implementation of the approved sustainability statement.

Corporate Manager – Public Realm (Arboricultural Officer): No objection in principle to this application subject to it being undertaken in accordance with the protection measures indicated in the accompanying arboricultural report. Whilst a small number of trees and hedging are proposed for removal these are generally of limited amenity value and/or poor condition and their loss will have a negligible impact on the appearance and character of the local area.

Professional Lead – Housing Enabling: Not yet received. Any comments received will be reported via the addendum paper.

Natural England: No comments to make on this application

Anglian Water: No objection – the foul drainage from this development

Highways England: No objection

Suffolk Wildlife Trust: No objection – subject to condition requiring mitigation for stag beetles.

Lead Flood Authority: No objection – subject to conditions

County Rights of Way Officer: No objection. As a result of anticipated increased use of public rights of way in the vicinity of the development, Suffolk County Council have submitted a contribution request (CIL) for improvements to the network.

County Archaeological Service: No objection – subject to conditions

County Fire and Rescue Service: No objection – condition requiring fire hydrants to be installed.

County Development Contributions Manager: Detailed comments in relation to the requirements for CIL. With regard to Education it is noted that SCC will have surplus places available at the catchment primary school and sixth form to accommodate all of the pupils arising from this scheme. However there will be no surplus places at secondary school level and a CIL contribution will be sought towards this.

County Highway Authority: Recommends conditions*.*

NHS England: No objection. Although based on planning formula Constable Country Rural Medical Practice shows a small level of capacity, due to limitations in terms of physical access to all floors of the premises, the practice is unable to reach its full capacity potential; therefore the practice is unable to accommodate proposed growth as a result of this development. The proposed development would give rise to a need for improved physical access at the practice to achieve greater space efficiency and thus increasing capacity; a proportion of the cost of which would need to be met by the developer. A developer contribution will be required to mitigate the impacts of this proposal. NHS England calculates the level of contribution required, in this instance to be £36,271 and this sum should be secured through CIL.

Place Services (providing Landscape and Ecology Advice to BMSDC): Detailed comments reproduced in relevant assessment on landscape and ecology within report below.

Representations

6. Summary of neighbour and other representations

At the time of preparing this report, 86 letters of representation (including 18 duplicate letters) have been received in conjunction with the application making the following summarised objections:

- Design not in keeping with rural area
- Extra traffic
- Pressure on parking
- Increased pressure on surgery
- Other land in Capel more suitable
- Brownfield sites in Ipswich should be developed first
- Increased noise pollution
- Increased house prices locally therefore will not be affordable
- New build should only be in village envelope
- Development should be small scale
- Views of community are overruled, as in other villages nearby
- Needs of local people should come before profits
- 78 houses already under construction in Holbrook
- Dove Close was supposed to be a tranquil location

- Increased traffic in Pound Lane
- Junction with A12 is insufficient and not robust
- Increase traffic near to school
- Wrong location for development
- Existing parking problems in the vicinity of Dental Practice
- Excessive number of houses
- What additional funding will there be for schools, roads and health care
- A new village should be considered on land at Raydon airfield
- Loss of rural outlook
- Days Road is too narrow
- Baberghs Housing Strategy is uncoordinated and confused
- Development should be limited to 20
- Additional electricity wires should be underground
- Is there are an overall housing plan for Capel
- Empty buildings and homes should be used before building new ones
- Overlooking
- Impact on wildlife
- Loss of agricultural land
- Sheltered housing residents will be disturbed by noise and dust
- Not compliant with policies CS11, CS15, CS19 or CS20
- Drainage concerns – soil has poor infiltration rates
- Increased surface water runoff
- Loss of privacy
- Proposal is a breach of human rights – We are entitled to peacefully enjoy our homes
- Increased HGV movements through the village

1 letter of representation has been received in conjunction with the application making the following comments in support:

- Without developments such as this – young people have to live in towns such as Ipswich where they don't ideally want to live.
- There is a need for more 2 bedroom first homes for young couples

The Site and Surroundings

7. The application site extends to 5.11 hectares of agricultural land located outside but abutting the built up area boundary of Capel St Mary, to the north west of the village. A public right of way bisects the site running in a north-south direction and there is a public footpath running along the southern boundary.

8. The site is bordered to the east by Days Road and the Capel Community Church, by existing residential development to the south and by extensive mature woodland and hedgerows to the north.

9. The site lies entirely within Flood Zone 1, classified as having a low probability of flooding. It is not within a Conservation Area and there are no Tree Preservation Orders within the site.

The Proposal

10. Full planning permission is sought for the provision of 100 dwellings including 35 no. affordable dwellings.

11. The size and tenure of the properties is set out in the table below:

PRIVATE – 65 units:

Number of units	Number of bedrooms	% of total
19	2 Bed	29%
27	3 Bed	42%
16	4 Bed	24%
3	5 Bed	5%

AFFORDABLE – 35 units

Number of units	Number of bedrooms	% of total
8	1 Bed	23%
20	2 Bed	57%
7	3 Bed	20%

12. The application also includes the provision of vehicular access of Days Road, with a series of footpaths linking to the existing public rights of way.

13. The existing woodland and boundary trees will be retained with additional planting across the site.

14. The provision of 1.8 hectares of public open space, including an ecological mitigation area and Local Area of Play (LAP).

15. Across the site will be 247 no. car parking spaces, including garages, car ports and off road spaces, including visitors spaces.

NATIONAL PLANNING POLICY FRAMEWORK

16. 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.

PLANNING POLICIES

17. 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 Applying the Presumption in favour of sustainable development in Babergh
- 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
- CS16 Affordable Homes
- CS21 Infrastructure Provision

NEIGHBOURHOOD PLAN/SUPPLEMENTARY PLANNING DOCUMENTS/AREA ACTION PLAN

18. None

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

Main Considerations

19. 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.

The Principle Of Development

20. 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 in the Core Strategy.

21. Paragraph 47 of the NPPF requires LPAs to identify a 5 year supply of specific deliverable housing sites. 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.

22. Babergh District Council does not have this housing land supply at this time and as such the relevant policies set out above are not considered to be up to date. Indeed paragraph 14 of the NPPF states in this respect:

"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"

23. 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."

24. The proposal is to develop 100 new dwellings which would not only add to the supply of housing in the district but includes an element of affordable housing which would provide additional housing in that respect as well, such that the proposal can be considered to fall within the social dimension of sustainable development.

25. The application site is well connected in highway terms, connecting the village to the nearby settlements of Ipswich and Colchester and the site is considered to have a good level of public transport accessibility.

26. Furthermore with regards to the economic strand the proposal would provide a development of reasonable size to support the local economy both in terms of construction and in respect of residents using local services.

27. In the light of all of the above the proposal is considered to be sustainable development within all three identified strands such that there is a presumption in favour of this proposal, in accordance with the NPPF.

28. Policy CS3 of the Core Strategy identities 1050 homes for rural areas, this quantum of development is unallocated at present (in either district development plan documents or Neighbourhood Plans) so there is a reliance at present on windfall sites to deliver this growth.

29. Development in core 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.

Consideration against policy CS11 and the adopted SPD

30. Policy CS2 (Settlement Pattern Policy) identifies Long Melford as Core Village, which will act as a focus for development within its functional cluster. Policy CS2 identifies the 10 larger rural villages, which form the centre or core of a 'functional cluster' of smaller settlements (see Core Strategy, paragraph 2.1.1.5).

31. 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*
6. *cumulative impact of development in the area in respect of social, physical and environmental Impacts.*

32. 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 Village, as identified in the 2006 Local Plan Saved Policies.

33. The accompanying 'Rural Development & 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, means that it is a material consideration when planning applications are determined.

34. The proper interpretation of development plan policy is a matter of law and, in principle, policy statements should be interpreted objectively in accordance with the language used, read as always in its proper context; however, statements of policy should not be construed as if they were statutory or contractual provisions (see *Tesco Stores Ltd v Dundee City Council* [2012] UKSC 13).

35. Accordingly, the correct meaning of Policy CS11 requires an objective interpretation of the policy text considered in the context of relevant development plan policies and the wider context of national planning policy in force when the Core Strategy was adopted in February 2014. As the SPD was not adopted until August 2014, the proper interpretation of Policy CS11 cannot be influenced by the guidance within the SPD.

36. However, to the extent that it is consistent with the proper interpretation of Policy CS11, the planning guidance within the SPD will be relevant to the Council's application of Policy CS11 when determining planning applications. In this respect, under the subheading 'Scale of Proposal in Relation to Existing Settlement', paragraph 12 of the SPD states (so far as relevant) that:
"12. … The size and scale of any proposal should be proportionate to the settlement in which it is located. Because each village is different it is not possible to prescribe standard proportions of development that would be acceptable. A judgment will need to be made on the basis of the size and character of the village, the services and facilities that are available and their capacity to accommodate further development
…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."

37. As it relates to proposals *"for development for Core Villages"*, the matters to be addressed to the satisfaction of the local planning authority listed within Policy CS11 do not include the 'proportionality' of a proposal to the settlement in which it is located. As such, the guidance on the 'proportionality' of a proposal in paragraph 12 of the SPD is not directly relevant to the proper interpretation or application of Policy CS11. Put simply, Policy CS11 does not require the size and scale of a proposal for development for a core village to be proportionate to the settlement in which it is to be located. The matters listed in Policy CS11, which proposals for development for Core Villages must address, are now considered in turn.

<u>The landscape, environmental and heritage characteristics of the village</u>

Impact on Landscape

38. In terms of the likely visual effect on the surrounding landscape, the proposals will inevitably have an impact, but this will be generally limited to the northwest boundary edge of Capel St Mary where the proposals border the existing settlement boundary. The character of the site will change significantly as part of this proposal; however the proposed landscape mitigations included as part of the application will provide some measures to help reduce these effects in the longer term.

39. The majority of the site falls within the Ancient Plateau Claylands character area which is dominated by arable farmland subdivided by an irregular sinuous field pattern, and scattered with woodland. Within this character area settlement is scattered widely throughout this landscape, with parishes tending to have multiple built clusters of various sizes: large groups often elongated; outlying groups often based on green side settlement; and wayside settlements and farmsteads. These historic patterns within parishes are easily lost to infill and ribbon development and should be used to inform any emerging development proposal.

40. The proposals utilise the existing screening planting belt to the North of the site, which helps to screen the majority of the site from the north. Views to the site from both Days Road and the existing residential development are restricted to short range views, mainly due to the topography of the landscape and the existing vegetation that surrounds the site.

41. The key areas where the proposals may impact on the existing landscape are focused on the spaces directly fronting Days Road and the residential areas directly abutting the site boundary. In these areas, the treatment of the existing landscape and planting needs to be carefully managed, especially the gateway entrance of the site.

42. The site is well enclosed visually by existing mature vegetation which includes an area of plantation woodland within the northern portion of the application site boundary. Views into the site are therefore broadly confined to a localised area around the immediate vicinity of the site with visibility from further afield limited to locations to the north east of the site and from slightly more distant locations to the west.

43. The strong visual containment of the site also indicates that potential impacts upon local landscape character will be limited and largely confined to the site area itself. The development framework aims to minimise the effect on the existing landscape features by retaining all existing hedgerows and mature trees.

Impact on Heritage

44. 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.

45. 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.

46. The Government's planning policies for Conserving and enhancing the historic environment are contained within Paragraphs 126 to 141 of the National Planning Policy Framework (NPPF). The NPPF defines the setting of a heritage asset as,

47. "The surroundings in which the heritage asset is experienced - Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance, or may be neutral"

48. In order to assist local authorities and other parties concerned with the implementation of historic environment policy and the assessment of setting issues Historic England have produced good practice advice notes. Advice Note 3 - The Setting of Heritage Assets (2015) sets out a staged approach to assist decision-making.

Impact on Listed Buildings

49. 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'.*

50. The Heritage considerations here relate to the potential impact on the setting of Grade II listed Ladysmead to the south east and Grade II* listed St Marys Church to the south, as well as two C19th cottages to the south west corner and a historic farmstead group to the north in the wider context as non-designated heritage assets.

51. Ladysmead stands to the south east of the proposed development site and is a Grade II listed C17th property with a C20th century cross wing addition. This is the closest heritage asset to the site, bordering the eastern boundary where the site narrows to a tapered point in the south eastern corner. Historic OS maps dating from 1882-1883 detail the distinction between the immediate curtilage of Ladysmead and the historic field pattern, illustrated in much the same way as today. Whilst the site provides a pleasant outlook from the listed building and certainly positively contributes to the setting in its wider sense, the overall impact of the development on this designated heritage asset would cause harm at the lower end of the range, of less than substantial harm. The encroachment of the proposed development on the currently open space would have some visual impact on the listed building, affecting the views and intervisibility from the site, in particular from the footpath running to the south of the listed building and the proposal site. However, the site layout has addressed this point by maintaining a green area to this south eastern point, mitigating direct impact on the setting of the listed building and on balance would not cause high level harm to the setting or significance of Ladysmead.

52. The Grade II* listed Church of St Mary to the south is the second designated heritage asset whose setting may potentially be impacted by the proposed development. Views of the church tower from the site are minimal, with an existing footpath extending south towards the church providing the only real direct tangible link. Views are obscured by the modern residential development to the south of the site. As such, there would be limited impact and no harm to the setting of the church by the additional proposed dwellings; already compromised by the development separating the church and the site.

53. To the south west corner but outside of the site are two attractive C19th cottages. Whilst not listed, they could be considered non-designated heritage assets as buildings of historic and architectural interest. The proposed residential development would have some impact on the setting of these cottages in terms of proximity and visual appreciation when approaching from the west, as the road rises up to the level plateau of the site and would therefore be viewed in the same space as the cottages. However, the development would cause no harm to their setting; the open space areas provided to the south west draws the line of development away from these cottages and reduces the impact to negligible.

54. Brook Farm complex to the north of Days Road and north west of the site is an additional group of buildings considered to be non-designated heritage assets. The site consists of a historic farmhouse and converted smithy buildings with interesting architectural details such as monk bond and some English garden wall bond detailing in the brickwork. The tiled roof of the farmhouse can be seen to the north west from within the development site. As the site gently slopes away to this corner, the roof appears low in the horizon but still evident. With this gradient and differing level of the topography bordering the site, there may be some potential impact on Brook Farm and its setting with the introduction of modern residential development appearing high in the landscape. However the ecological mitigation area and retained woodland screen will partially alleviate the visual impact and provide some softening of the development, causing no harm to significance and immediate setting of these buildings.

55. Considerations in the proposed layout of the development have broadly addressed these heritage issues, reducing the levels of harm to the lower range, for any of the designated or non-designated heritage assets surrounding the site. The existing woodland area and mature hedgerows to the north contribute to the character of the site. The scheme intends to retain these areas and incorporate them into the layout with an additional "ecological mitigation area" and green spaces which provide a buffer around the extremities of the site and maintain a sense of the historic field boundaries. Additionally the proposed central north-south footpath further reflects the features of the existing pastoral fields, indicative of the field boundary and ditch drainage feature evident now and on the historic OS maps. The existing footpath between the church and the site, within the existing modern development, is an interesting designed feature which provides some glimpsed views of the church tower from the south boundary of the site but more specifically provides a physical connection to the proposal area.

56. In conclusion, the impact of the proposed development on the setting of various heritage assets in the vicinity will be at the lower end in the range of less than substantial harm, with most harm to the setting of Grade II listed Ladysmead in close proximity. On balance, the mitigation in the proposed design and layout of the development reduces any high level harm.

Impact on Archaeological Assets

57. The proposal affects an area of high archaeological potential recorded in the County Historic Environment Record. A roman villa site, also associated with Iron Age features, has been identified to the south east (CSM 002 and 041). Further Roman, prehistoric, Saxon and medieval occupation remains have also been located directly to the east of the proposed development site (CSM 030), with Iron Age and Roman activity also identified during archaeological investigations to the south (CSM 027). A number of Roman cremations have also been recorded to the south of the proposed development area (CSM 010 and 013).

58. Archaeological evaluation within the proposed development area has located a scatter of archaeological features of prehistoric and Roman date. As a result, there is potential to encounter further archaeological remains at this location and the proposed development will involve groundworks which will damage or destroy any surviving archaeology. However, the county archaeologist is satisfied that the impact can be adequately mitigated by the imposition of conditions.

Conclusion (Impact on Heritage)

59. 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. Decision-takers should now make this balancing assessment of harm against public benefits. Unless the public benefits of the scheme are considered to be substantial, they will not outweigh the harm to heritage interests. Decision-takers should also be mindful of the specific legal duties with regard to the settings of listed buildings set out in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The balancing assessment follows at the end of this report.

<u>The locational context of the village and the proposed development</u>

60. 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.

61. 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

62. The site abuts the BUAB and is well contained by both Days Road and the block of woodland to the north northeast of the site which provides a natural physical boundary to the edge of the development. The site is a logical extension to the built up area boundary and the scale and character of development is commensurate with neighbouring development.

<u>Site location and sequential approach to site selection</u>

63. 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.

64. The proposal is well connected to existing facilities within walking distance. The site abuts the settlement boundary and is very well linked to the existing village centre with pedestrian access achievable via Days Road, where the footpath will be extended along the western side, north of the church. Pedestrian access also achieved via the retained Public Right of Way which traverses the site and to Mill Hll via the south western corner of the site.

65. There are no sequentially preferable allocated sites within Long Melford, nor are there any sites within the built up area boundary which would enable a development of commensurate scale.

66. 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.

<u>Locally identified need - housing and employment, and specific local needs such as affordable housing</u>

67. The outcome of R (on the application of East Bergholt PC) v Babergh District Council CO/2375/2016 before Mr Justice Mitting has clarified “Locally Identified Need” within policy CS11 means the needs of the Core Village, its functional cluster[1] and perhaps in areas immediately adjoining it (paragraph 23). It does **not** mean the needs of the wider rural parts of the district, it being agreed by all the parties that it would not in any event apply to urban areas such as Ipswich fringe.

68. The approach to the distribution of new dwellings within Policy CS3 is to be driven by the function of the villages, their role in the community, and the capacity for a particular level of growth which will be guided by many factors and which will result in a different level of development being identified as *"appropriate"* in different settlements, even those within the same category. The approach will also provide for a degree of in-built flexibility within the catchment area.

69. The Core 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.

70. Accordingly, *"locally identified need"* or *"local need"* should 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.

71. 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)

72. Policy CS11 allows flexibility for developments of appropriate scale and form to come forward for Core Villages. The Growth and Development Strategy therefore allows for some rural growth, which has been identified locally as important to sustain the existing rural settlement pattern and existing rural communities in the catchment area. 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.

73. 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 aim to ensure that the local plan meets the needs for affordable housing in the housing market area.

74. 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 submitted a housing needs assessment.

75. 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.

76. The Council's Choice Based Lettings system currently has circa. 1200 applicants registered for affordable housing in Babergh at July 2016. The Council's Choice Based Lettings system currently has 17 applicants registered for affordable housing, who are seeking accommodation in Capel St Mary, and 51 across the cluster as a whole. 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.

77. The development of the site will contribute towards the locally identified need for both affordable housing and market housing. Evidence of local housing need has been established by the parish council's housing need survey which was completed in July 2016.

78. The Capel St Mary Housing Survey Report and Summary (July 2016) identified a need for a total of 91 new households (56 within Capel St Mary, and 35 for those wishing to live or return to Capel St Mary). The applicant assumes that this need is in relation to market housing and notes that it only took into account a 46% return rate and therefore there will be further unmet need housing from both within Capel St Mary and the wider cluster.

79. The development includes a housing mix which would provide an appropriate range of dwellings reflective of market demand and identified need within the area, particularly smaller houses and bungalows. The mix takes into account the research undertaken by both the applicant and the parish.

Locally Identified Community Needs

80. 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).

81. 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. The proposed development will generate contributions towards community infrastructure, to be spent on local services and infrastructure, therefore supporting rural communities, local services and facilities.

82. During the applicants' public exhibition, prior to submission of the application, visitors were asked to comment on whether there were any community/local facilities missing or which could be approved in Capel St Mary. The applicant's have provided a list of these responses. However, have concluded that they will be providing a local area of play on the site and that 15% of their CIL liability will be directed to the Parish Council who can use it for local projects. They have no considered there would be a need for any other community facilities to be provided on site.

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

83. The SPD identifies, 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"*.

84. In terms of existing commitments and other proposals in the relevant cluster, as defined in Map 4 of the Core Strategy, which are considered likely to have a wider impact for example in terms of traffic generation, capacity of schools and health services.

85. The technical advice received from highways, Anglian Water and the lead flood officer demonstrate that the development can be accommodated within the village and that the services, facilities and infrastructure have the capacity to accommodate the level of development proposed.

86. It is therefore considered that given the responses from statutory consultees and the scale of development proposed, the cumulative impact of the 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 on the basis that the level of growth proposed remains similar to that already experienced in the cluster over the last five years.

Sustainability Assessment Of Proposal

87. 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.

88. 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 benefits from a Primary School, Doctors Surgery, Pharmacy, Village Hall, Pub, Convenience Store, bakery, Post Office and three churches.

89. 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 leisure and recreation.

90. The socio-economic profile of Capel St Mary highlights the villages 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.

91. 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 Capel St Mary, underpinning social capacity, providing affordable housing and widening the housing mix overall.

Site Access, Parking And Highway Safety Considerations

92. Access to the development is proposed off of Days Road. The existing carriageway width in Days Road is less than 5.0m, narrowing further north of the site.

93. A traffic count of the existing highway network was carried out the centre of Capel St Mary by the applicant, this established an average 214 two way just east of Thorney Road, during the AM peak mid-week, with an average of 287 two way near the Post Office in the same period.

94. The development layout has been designed to accord with Manual for Streets and the SCC Design Guide. The highway network within the development layout will provide a footway to the main access road to both sides and a footway within the highway on shared surfaces roads. The detailed design of the roads will be offered to Suffolk County Council under S38 agreement of the Highways Act 1980.

95. The site access will be taken directly from Days Road. The access will provide a visibility splay of 70m on a 2.4m set back. As part of the application the highway access will be widened to 5.0m, with public footway provided to Days Green junction to provide a continuous path from Thorney Road.

96. The development will provide a total parking provision of 247 no. spaces in the form of garages, carports and parking spaces.

97. In conclusion, 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 Suffolk County Council and there will be no detriment to safety and minimal effect on capacity on the highway network.

Design And Layout and impact on residential amenity.

98. The layout and design of the development has been informed by the sites constraints and opportunities taking account of its location at the edge of the settlement. The design includes a central load with a network of minor roads and footpaths leading off from this. The layout incorporates open space, including an area to the frontage of the site and a linear green corridor framing the retained public right of way which bisects the site. The layout also includes the retention of the northern woodland.

99. The layout provides a low density scheme with a mix of dwelling types and sizes. The dwellings are limited to two storey in height with single storey dwellings provided to the site boundaries to mitigate impact on the amenities of neighbouring properties.

100. The built forms face the road but is set back from the road a varying degrees and orientations, with a range spacing between them, which creates interest, legibility and local identity. Overlooking and overshadowing are limited by site levels, and window distances.

Environmental Impacts - Trees

101. The trees on the site comprise predominantly early mature to mature trees which are distributed around the peripheries of the site presenting low to moderate arboricultural value. The layout has allowed for the retention of most trees screening the site, resulting in the loss of one section of a tree group to facilitate the proposal and link the two parcels of land together. In addition, two groups of trees and two individual trees will be impacted by the installation of a footway and drainage along the southern boundary of the site.

102. The layout also include for new structured tree planting, which will improve and strengthen the current tree stock. The Arboricultural Officer has no objection to the proposal and is satisfied that the development will not result in the loss of any significant trees.

Environmental Impacts - Land Contamination

103. There is no objection to the application on grounds of land contamination.

Environmental Impacts - Odour

104. The Capel Organic Mushroom Farm (COMF) is located approximately 15m west of the Site. In the past the farm has processed compost on site for use in mushroom growing. Mushroom growing at COMF occurs in eight-week cycles on a rotational basis to ensure constant yield production. During the first three weeks of the cycle, compost is produced by mixing wet straw and chicken manure out in the open. Composting has the potential to cause odour nuisance due to the production of ammonia during the initial stages of the process. This compost production has not taken place for the last two years.

105. Sensitive receptors located downwind of an emission source are potentially at risk of odour nuisance. Depending on wind direction, odorous emissions have the potential to be carried from COMF towards the Proposed Development. The greatest potential for nuisance to occur within the Site is when the wind is blowing from the west or north-west, across the mushroom farm towards the Proposed Development.

106. The processes at Capel Mushrooms are completely normal for this type of farm, and odour will be apparent on some occasions depending on a variety of factors. This can lead to significant loss of amenity at nearby properties.

107. Since 1999, the Environmental Protection team has received 120 complaints of odour from the mushroom farm. This resulted in an extensive report being carried out in 2003 by an independent environmental consultant which suggested improvements on-site which were carried out by the company.

108. Under the provisions of the Environmental Protection Act 1990, the Council is required to investigate complaints alleging an odour nuisance. If satisfied that the odour is causing a Statutory Nuisance (as defined in the law) the Council must serve an Abatement Notice on the business responsible for the problem. An Abatement Notice would formally require steps to be taken to ensure the nuisance is abated within a period of time and/or to prevent any further occurrence or recurrence.

109. Before taking action under the above legislation in respect of Statutory Nuisance, the Council have to be mindful that the recipient of such action would have a right of appeal if they could prove that the 'Best Practicable Means' have been used to prevent or counteract the effect of the nuisance. Even if a Statutory Nuisance is proven in a Court prosecution, a defendant would have the same legal defence if they could prove they used or are using the 'Best Practicable Means'. The consultant confirmed that Capel Mushrooms have been demonstrating best practicable means in controlling odours from the different sources on site.

110. Since the report was produced, the Secretary of State for the Department of the Environment, Food and Rural Affairs has published specific guidance relating to businesses involved in the manufacture of mushroom substrate. This guidance details the standards that such businesses are expected to achieve and the techniques/technology by which they should achieve them. Capel Mushrooms was inspected by Environmental Health in October 2011, at which time the business was found to be fully compliant with the Secretary of State's guidance and standards. The Council is unable to require more stringent odour abatement measures than those specified in the national guidance and therefore it would be unlikely that any remedial action could be taken in the event of complaint in order to safeguard residential amenity. Environmental Health are concerned that any complaints would have the potential to fetter the operation of the existing business.

111. The frequency of odour complaints being made in the local area have reduced considerably over the past 10 years from 12 complaints in 2006 to no complaints in 2012 and just one in 2013. The EA H4 Odour Guidance sets out the recommendation that an odour concentration should not be exceeded for more than 2% of the year at any sensitive receptor, equivalent to 175 hours per year, or seven days. The BDC complaints data provided indicate that the last time seven or more odour complaints were received was in 2007; in 2007, none of the addresses complained on seven separate occasions. This indicates that the odour experienced at existing properties is unlikely to constitute a nuisance (due to the infrequent nature of incidents).

112. The Council's Environmental Health Officer has expressed concern at the adequacy of the applicants assessment and advised that if planning permission is granted then this could fetter the right of Capel Mushrooms to undertake their production operations in the manner they choose – particularly the option to revert back to producing their own compost which they have, until recently, done for many years. The Local Planning Authority would be unable to prevent the farm undertaking their own production operations. This is a site with a lawful use and, therefore, the grant of planning permission would not affect this use.

113. If Capel Mushrooms revert back to producing their own compost, then the historical evidence indicates that future occupants of the application site (being closer to the farm than existing dwellings and directly in line with the prevailing wind from the farm) would be very likely to experience significant levels of odour; and the Council would be unable to take action to abate any significant odours, provided that Capel Mushrooms employed all reasonably practicable measures to mitigate odour emissions – as they previously did when they produced their own compost. Whilst this risk cannot be excluded your officers consider that it requires more detailed evaluation by the applicant in order for your officers to be content that the risk to the amenity of future occupiers has been sufficiently evaluated.

114. A good standard of amenity for all future occupants of land and buildings is one of the 12 planning principles in the NPPF. Moreover paragraph 109 of the National Planning Policy Framework states that the planning system will prevent new development from being put at unacceptable risk from being adversely affected by unacceptable levels of air pollution. Whilst the development will be in close proximity to Capel Mushroom Farm, it is considered that there are a number of existing dwellings in close proximity to the farm and the proposed development will result in development being closer than that which already exists.

115. The applicants consultant has however suggested some means of mitigating the harm and this could include provision of sealed glazing and advising potential buyers of the potential for odour emissions. The mitigation measures proposed, namely informing potential residents of the proximity to a working farm, will ensure that there is an awareness of future odours at certain times of the year. In the particular circumstances the applicant has been invited to undertake further work and has indicated they are doing so. A verbal update will be given at your meeting.

116. There is clear public benefit in securing new homes, and the evident reduction in complaint level and the change in operating practice are credible factors in favour of granting permission in all the circumstances. Taken in the round there is a measure of risk from the potential reversion to past operating practice but this is sufficiently low that your Officers are on balance content to recommend a delegated authority to reasonably address this single issue matter.

Biodiversity And Protected Species

117. The majority of the site is of low biodiversity value, however some of the field boundary habitats on site have the potential to be of value to protected species as well as being of general biodiversity value themselves. The development is likely to result in impacts on important ecological features including Protected and Priority species however it can be made acceptable with mitigation secured to minimise the impacts will be minimised. The applicant's ecologist states that the development is unlikely to have any impacts on the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site.

118. As the development lies outside the trigger distance of 8km driving distance from the European Site, it is not necessary for the LPA to prepare a Habitats Regulations Assessment screening report. However it should be noted that the emerging Recreational Avoidance and Mitigation Strategy (RAMS) being prepared for Babergh DC, Ipswich BC and Suffolk Coastal DC, will be using zones of influence for new residential development. This will result in the need for developer contributions to the RAMS once adopted to offset in-combination impacts for this type of development in this location.

119. The ecology report considers that there is no habitat suitable for stag beetles (a UK and Suffolk Priority species), this is since arable land does not provide a suitable habitat, however where hedgerow will be lost to create the site access on the eastern side this may provide a suitable habitat and therefore a planning condition is required to ensure appropriate mitigation for this species.

Planning Obligations / CIL

120. The development is likely to contribute in the region of £815,000 through CIL contributions, of which 15% would be payable to Capel St Mary Parish Council.

121. In accordance with the Community Infrastructure Levy Regulations, 2010, the obligations recommended to be secured by way of a planning obligation deed are (a) necessary to make the Development acceptable in planning terms (b) directly related to the Development and (c) fairly and reasonably relate in scale and kind to the Development. Affordable housing will be secured by Section 106, as will the travel plan requirements set out by the County Highway Authority.

Details Of Financial Benefits / Implications (S155 Housing and Planning Act 2016)

122. Granting this development will result in the following financial benefits:

- New Homes Bonus
- Council Tax
- CIL

These are not material to the planning decision.

PART FOUR – CONCLUSION

Planning Balance and Assessment

123. In consideration of the contribution towards the Council's housing targets (that has now become more acute due to the accepted lack of five year housing land supply since the Original Report was published), provision of affordable housing and economic and infrastructure benefits, it is now considered that these material considerations would none the less outweigh any conflict with the development plan and justify approval.

Further, and in any event, the Council does not have a five year housing land supply and considers therefore that limited weight should be attached to policies CS2 and CS11. Whilst it is considered that these policies are broadly complied with, any conflicts with these policies (whether in relation to proving *"exceptional circumstances"* or compliance with the limbs of policy CS11 including evidence of sequential preference, locally identifiable need or community needs) should be afforded limited weight.

It is considered that the adverse impacts from the proposed development (including the identified harm to heritage assets or otherwise) and the potential impact from odour, subject to the further evaluation described above, do not significantly and demonstrably outweigh the benefits of the development explained in this report, including the sustainability of the proposal. Whilst the restrictions in footnote 9 of the NPPF include impacts on heritage assets, for the reasons explained above none of these policies indicate that development should be restricted.

The application is therefore recommended for approval.

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

124. 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 problems and has sought to resolve these wherever possible.

Identification of any Legal Implications of the decision

125. 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 2012
- 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 Corporate Manager - Growth and Sustainable Planning to grant planning permission, [a] 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
- Travel Plan Requirements

[b] further evaluation of the potential odour risk issues and mitigation to the satisfaction of the Corporate Manager – Growth & Sustainable Planning and [c] that such permission be subject to conditions including:-

1) Standard Time Limit Condition.

2) The development shall be implemented in accordance with all aspects of the approved sustainability statement including the minimum 10% reduction in CO2 emissions and shall not commence above ground level until full Design Stage calculations under the National Calculation Method have been submitted to and approved in writing by the Local Planning Authority demonstrating that the development is capable of achieving the required standard in accordance with the approved sustainability strategy and any subsequent approved revisions. Should the development be subject to revised or new regulations such as (but not limited to) Part L building regulations, the 10% reduction in CO2 emissions will be calculated once the building is fully compliant with the regulation. In these circumstances a revised sustainability statement may be required.

   Suitable evidence of implementation as per the sustainability strategy will be required, for example manufacturers literature confirming energy rating, site specific purchase orders, water consumption calculations, BRE Green Guide ratings, as built photographs etc

3) No development shall take place within the area indicated until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority.

4) No building shall be occupied until the site investigation and post investigation assessment has been completed.

5) The strategy for the disposal of surface water which is included in the FRA (dated September 2016, ref: IP14_029_12) and addendum A (dated December 2016 ref IP14_029_12) shall be implemented as approved in writing by the local planning authority. The strategy shall thereafter be managed and maintained in accordance with the approved strategy.

6) The 50th dwelling hereby permitted shall not be occupied until details of all Sustainable Urban Drainage System components and piped networks have been submitted, in an approved form, to and approved in writing by the Local Planning Authority for inclusion on the Lead Local Flood Authority's Flood Risk Asset Register.

7) No development shall commence until details of a construction surface water management plan detailing how surface water and storm water will be managed on the site during construction is submitted to and agreed in writing by the local planning authority. The construction surface water management plan shall be implemented and thereafter managed and maintained in accordance with the approved plan.

8) All ecological mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Extended Phase 1 Survey report (SES, Sept 2016), Phase 2 ecological surveys and assessment (SES, Sept 2016) and addendum letter for bats (SES, Oct 2016), as already submitted with the planning application and agreed with the local planning authority prior to determination.

9) Prior to occupation, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority.

10) Details of fire hydrants to be submitted and agreed in writing.

11) Tree Protection

12) Details of Materials

13) Before the development is commenced, details of the estate roads and footpaths, (including layout, levels, gradients, surfacing and means of surface water drainage), shall be submitted to and approved in writing by the Local Planning Authority. Reason: To ensure that roads/footways are constructed to an acceptable standard.

14) No dwelling shall be occupied until the carriageways and footways serving that dwelling have been constructed to at least Binder course level or better in accordance with the approved details except with the written agreement of the Local Planning Authority. Reason: To ensure that satisfactory access is provided for the safety of residents and the public.

15) The new estate road junction(s) with Days Road inclusive of cleared land within the sight splays to this junction must be formed prior to any other works commencing or delivery of any other materials. Reason: To ensure a safe access to the site is provided before other works and to facilitate off street parking for site workers in the interests of highway safety.

16) The use shall not commence until the area(s) within the site shown on Drawing Number CAP1/002 as submitted for the purposes of manoeuvring and parking of vehicles has been provided and thereafter that area(s) shall be retained and used for no other purposes. Reason: To ensure that sufficient space for the on site parking of vehicles is provided and maintained in order to ensure the provision of adequate on-site space for the parking and manoeuvring of vehicles where on-street parking and manoeuvring would be detrimental to highway safety to users of the highway.

17) Before the access is first used visibility splays shall be provided as shown on Drawing No. IP14_029_012_SK001 Revision C as submitted with an X dimension of 2.4m and a Y dimension of 90m and thereafter retained in the specified form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays. Reason: To ensure vehicles exiting the drive would have sufficient visibility to enter the public highway safely and vehicles on the public highway would have sufficient warning of a vehicle emerging in order to take avoiding action.

18) Before any of the hereby approved dwellings are first occupied Days Road and Brook lane are to be improved in accordance with details generally as shown on submitted drawings numbered IP14_029_012_SK001/C and SK004 and in accordance with design and construction details which shall first have been submitted to and approved in writing by the LPA. Reason: To ensure that the existing roads and footways are of sufficient width to allow safe passage of vehicles and pedestrians.