

**Committee Date: 1 March 2017**

**Item No: 2**

**Reference: B/16/00955/FUL  
Case Officer: Philip Isbell**

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**Description of Development:** Erection of 1 no. detached dwelling and construction of new vehicular access

**Location:** Lodge Farm, Kersey Road

**Parish:** Lindsey

**Ward:** Lindsey

**Ward Member/s:** Cllr Bryn Hurren

**Site Area:** 0.73ha

**Conservation Area:** N/A

**Listed Building:** N/A

**Received:** 14/07/2016

**Expiry Date:** 24/10/2016

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**Application Type:** FUL - Full Planning Application

**Development Type:** Minor Dwellings

**Environmental Impact Assessment:** Environmental Assessment Not Required

**Applicant:** Mr Stroud and Ms Sturgeon

**Agent:** Beech Architects Ltd

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**DOCUMENTS SUBMITTED FOR CONSIDERATION**

The application is supported by a full suite of documents and plans, including;

- Traffic Survey
- Planning Statement
- Landscape and Visual Impact Assessment
- Design and Access Statement
- Ecological Assessment
- Land Contamination Report
- Heritage Impact Assessment

The application, plans and documents submitted by the Applicant can be viewed online at [\(Please insert link\)](#). 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 refusal of this application. The proposed development is not considered to demonstrate exceptional circumstances such that would meet the test provided by policy CS2 for development in the countryside, and gives rise to harm to adjacent heritage assets such as is not outweighed by the public benefits.

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

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The application is referred to Committee for the following reason:

- **The applicant is an employee of Babergh District Council.**

**The Deputy Monitoring Officer has reviewed the application file and is satisfied that the application has been processed properly and correctly.**

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## **PART TWO – APPLICATION BACKGROUND**

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### **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>REF:</b>     | <b>PROPOSAL:</b>  | <b>DECISION:</b> | <b>DATE:</b> |
|-----------------|---|------------------|--------------|
| B/15/01520/FUL  | Change of use of residential outbuilding and part residential garden area (C3) to mixed use residential and wedding ceremony venue (Sui generis).   | Granted          | 23/12/2015   |
| B/16/00386/AGDW | Notification under Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 - Prior Approval Under Class Q(a & b) Change of use from agricultural building to 2 No. dwellings and for operational development (C3). | Granted          | 03/06/2016   |

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

2. The local and national policies relevant to the application site are listed below and form part of the consideration of your officers. Detailed assessment of specific policies in relation to the recommendation and specific issues highlighted in this case will be carried out within the assessment:

## **NATIONAL PLANNING POLICY FRAMEWORK**

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.

The NPPF is supported by the Planning Practice Guidance (PPG), which assists applicants and decision makers to interpret the NPPF. Both the NPPF and PPG are referred to within this report where relevant to the assessment.

Paragraph 55 is particularly relevant to the determination of this proposal. It states:-

“To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:-

- the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- the exceptional quality or innovative nature of the design of the dwelling.

Such a design should:-

- be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
- reflect the highest standards in architecture;
- significantly enhance its immediate setting; and
- be sensitive to the defining characteristics of the local area.”

## **PLANNING POLICIES**

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

### **Babergh Core Strategy 2014**

- **CS1** - Presumption in favour of sustainable development
- **CS2** – Settlement Pattern
- **CS15** – Implementing Sustainable Development

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

- **CN01** - Design Standards
- **CN06** - Listed Buildings and Their Settings
- **CR04** - Special Landscape Areas

- **CR07** - Landscaping
- **HS28** - Infill Housing Development
- **TP15** - Parking Standards – New Development

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

### **Details of Previous Committee / Resolutions**

3. None

### **Details of member site visit**

4. None

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

5. None

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

6. Below are details of other legislation relevant to the proposed development.

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

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

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### **Summary of Consultations**

7. **Initial Round of Consultation:**

**Lindsey Parish Council:** Detailed comments – attached at Appendix A

**Corporate Manager - Sustainable Environment: Sustainability:** No objection to this proposal, the applicant has clearly demonstrated intention to address sustainability issues. To ensure these intentions are adhered to through the build we suggest conditions are imposed where by the development is built in accordance with the design and access statement and that prior to occupation evidence is submitted to demonstrate the development has been constructed in accordance with the submitted statement.

**Corporate Manager - Sustainable Environment: Land Contamination:** No objection

**Natural England:** No comment

**County Archaeological Service:** Initial comments - In order to establish the full archaeological implications of this area and to confirm the design layout, the application should provide further archaeological assessment of the site. Following receipt of Geophysical Survey – further comments received requiring trial trenched archaeological evaluation, prior to determination.

**County Highway Authority:** The current proposal would not have any severe impact on the highway network

**Historic England:** Recommend refusal – insufficient information to fully assess the impact of the development upon three scheduled monuments or the resulting harm to their significance.

**Suffolk Wildlife Trust:** Recommendations within the ecological survey report are required to be implemented in full, via a planning condition.

**Suffolk Floods –** No comment.

**Suffolk Fire and Rescue –** No objection.

8. **Following the receipt of detailed landscape proposals and landscape and visual assessment, a second round of consultation was carried out which resulted in the following comments:**

**Suffolk County Council (Landscape Officer):** The proposed tower which forms part of this dwelling appears to be a significant issue in terms of landscape and visual effects. Given the scale and massing of the proposal in conjunction with the innovative materials and design, in the absence of appropriate mitigation there may be significant adverse impacts.

This is in direct contrast to much of the proposal, which is very unobtrusive and therefore appropriate to this sensitive location. However, the proposal has sought to minimise harm with detailed planting proposals to ameliorate the visual impacts of the tower on the surrounding landscape and visual receptors.

**Other matters** Although it appears that the applicant is proposing the dwelling as an exception by virtue of innovative design it is not entirely clear how the design proposed, for example in terms of use of materials, takes its cue from, or is rooted in the local characteristics of the environment. For example an exceptional proposal in this location might choose to echo the use of local material, such as the flint of the chapel, but in an entirely new way.

The proposed mitigation is sufficient to reasonably mitigate the impacts of the proposal in terms of landscape and visual effects. It appears likely however, that there will be residual effects on the setting of the monument and that views of the proposal may be available from within the chapel and particularly for visitors when they are leaving the chapel.

The design issues and the significance of impacts on the setting of the SAM are, however, a matter for the relevant external consultees and LPA officers.

Recommendations - In the event that the LPA is minded to make an exception to policy in terms of development in the countryside in this instance, and notwithstanding issues relating to the setting of historic assets or the quality of the design, I suggest that the proposal could be made acceptable in terms of landscape and visual impacts, subject to conditions relating to soft landscaping, external lighting and tree protection.

**Historic England:** It is our view that the proposed development would result in harm. We would recommend the application is withdrawn or decision deferred to allow design scheme changes to be incorporated that would reduce the impact of the development upon the setting of the scheduled monuments and minimise the harm to its significance.

If the Council proposes to determine the scheme in its current form, we would recommend the application is refused unless the Council is fully satisfied that there is clear and convincing justification for the level of harm, that the harm is outweighed by public benefits of the proposal, and that the same benefits could not be delivered through a less harmful scheme.

**Following the above comments, a third round of consultation was undertaken following the receipt of an additional planning statement, heritage statement, updated summary, and revised landscaping scheme, and the following comments were received:**

**Historic England: Detailed advice was provided which is attached as Appendix B)**

## **REPRESENTATIONS**

9. One letter of representation received during first round of consultation which makes the following points:

Not opposed completely to the idea of an eco-dwelling, just the design and position, which is in the direct line of sight from my kitchen window. Even though the plans show much planting of trees, in the winter there will be nothing to shield the awful carbuncle of rusted metal tower-like construction that will be on the mound, from our view. I feel that this part of the design should be removed/changed/lowered so as not to impact on the view from our home.

### **Site and Surroundings**

10. The application site comprises agricultural land to the east of Lodge Farm and lies to the north of The Chapel (Grade I Listed Scheduled Ancient Monument).

### **The Proposal**

11. Planning permission is sought for the erection of a detached dwelling and construction of new vehicular access.

The proposed new dwelling is sat on the north-east of the site with open meadow and native tree planting between the site and the chapel.

The proposed dwelling is partially built into the landscape with a two storey tower above ground, which the architect describes as reflective of an historical siege tower. The tower measures between 6.9m – 10.2m above ground depending on where the ground level is taken from. However, from the natural ground level, it would be about 8.1m above ground.

The dwelling utilises a mix of materials including flint, wood, carbon blockwork, wildflower roof, Chestnut PV glass, Corten and oak cladding.

The application documents can be viewed on line via the planning pages on the District Council's website.

### **Main Considerations**

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

The following are identified as the main considerations in assessing this application

- Planning Policy Framework & Context
- Sustainability of the Development
- Impacts upon Visual Amenity and the Character and Appearance of the Area
- Impact on Heritage Assets
- Residential Amenity
- Highway Safety
- Biodiversity
- Crime & Disorder
- Planning Obligations

### **Planning Policy Framework & Context**

The National Planning Policy Framework (NPPF) contains the Government's planning policies for England and sets out how these are expected to be applied. At the heart of the NPPF is a presumption in favour of sustainable development. National guidance in the NPPF restricts development in the countryside for reasons of sustainability and its intrinsic value as detailed above.

Paragraph 55 of the NPPF (set out earlier in the report) sets out criteria for assessing new dwellings in the countryside. It states that, in order to promote sustainable development in rural areas, housing should be located where it would enhance or maintain the vitality of rural communities and advises that Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances. Although the proposal site relates to a small group of existing buildings, Officers do not consider the proposal site relates to an existing settlement and the site is considered to occupy an isolated location in the countryside, remote from established settlements and local services and facilities.

Policy CS2 of the Core Strategy sets out the District's settlement policy and states that most new development will be directed sequentially to the towns/urban areas, Core and Hinterland villages. Para 2.8.6 states (inter alia) that while small groups of dwellings and hamlets will fall within functional clusters, their remoteness and lack of services or facilities mean that such groups are classified as countryside. Furthermore, Policy CS2 states that in the countryside, outside the towns / urban areas, Core and Hinterland Villages (as defined in the policy), development will only be permitted in exceptional circumstances subject to a proven justifiable need.

Policy CS15 of the Core Strategy sets out a range of criteria related to the elements of sustainable development and the principles of good design and which are to be applied to all developments, as appropriate, dependant on the scale and nature of the proposal. It requires that new development should ensure that an appropriate level of services, facilities and infrastructure are available to serve the proposed development (Part (v) and that development should seek to minimise the need to travel by car (Part xviii).

Paragraph 197 of the NPPF states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development, which should be seen as a golden thread that runs through the planning system (see Para. 14). The NPPF and the Core Strategy (Policy CS1) present a presumption in favour of sustainable development. Paragraph 7 of the NPPF sets out that there are three dimensions to sustainable development: economic, social and environmental, and that these roles are mutually dependent and should be jointly sought to achieve sustainable development.

## Paragraph 55 of the NPPF and Policy CS2

The applicants' initial submission in support of their application concluded that the site was not in an isolated location and, therefore, the proposal did not need to meet any of the special circumstances in paragraph 55 of the NPPF. It also provided commentary around consideration of policy CS2 in the context of the wider thrust of the development plan, and the need to consider the presumption in favour of sustainable development as offering support for the proposal.

Subsequent to this submission, the applicants' updated supporting statement identifies that the tests of exceptional circumstances and proven justifiable need set out in policy CS2 are met. These points shall now be considered in more detail here.

The interpretation of policy CS2, and exceptions to that policy, were carefully considered in the judgement in the recent East Bergholt Case and discussed by Mitting J in his judgement. The judgement is therefore a material consideration to the interpretation by the planning authority of both policies CS2 **and** CS11 and is therefore highly relevant in this case insofar as it relates to policy CS2.

Judge Mitting found that for developments outside the built up area boundary, applicants must demonstrate both proven local need and exceptional circumstances if there is to be compliance with Policy CS2.

It is considered that the applicant has not demonstrated a robust case to set out that the application constitutes either exceptional circumstances or that there is a proven justifiable need under the provisions of Policy CS2 and the provisions of paragraph 55 of the NPPF, for the following reasons.

Turning first to the exceptional circumstances test, the applicants have put forward a case that relates to matters of design and sustainability. The NPPF (para 55) sets out that exceptional quality should:

- Be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
- Reflect the highest standards in architecture;
- Significantly enhance its immediate setting: and [added emphasis]
- Be sensitive to the defining characteristics of the area.

The NPPF list of criteria is inclusive. By their very nature, exceptions to policy are unlikely to be commonplace. It would be reasonable to consider that exceptions would not be regularly repeated and the facts and evidence readily distinguishable from day to day cases. It would thus be reasonable to expect exceptions to policy CS2 to clearly stand out on their planning merits from most applications.

This underpins the notion that the development plan provides public confidence and certainty that the decisions of the Local Planning Authority will generally be objective, impartial and consistent in line with policy. Compliance with the development plan therefore acts as a safeguard against arbitrary decision making.

Officers note that in the Parish of Lindsey since 2014 there have been 4 dwellings granted planning permission against Officer recommendation of refusal after Committee consideration. It is understood that these were considered to be exceptions under policy CS2. Clearly they predate the East Bergholt case and the clear interpretation of policy CS2 set out by Mitting J above. Officers consider that the number of permissions granted in the Parish is relevant to the principle that exceptions by their very nature are unlikely to be commonplace.



The applicants identify that the proposed dwelling and associated landscaping and other works are *“clearly out-of-the-ordinary, being both unusual and special given the inherent energy/sustainability, landscape and ecological benefits posed. Furthermore, the form and detailed design of this dwelling, presented by an award-winning RIBA/ARB/AECB-accredited architectural practice, is totally unique”*.

Furthermore, they identify that the proposal would operate to an almost off-grid status, could move to be wholly self-sufficient in terms of energy need, would support the vitality of local services and would utilise glazing that has not been used in any residential development elsewhere. To this end, the applicants contend that the proposal is truly unique and exceptional.

Officers do not consider that these measures are such that warrant exceptional circumstances. It is noted that the applicants have proposed various lifestyle and travel choices to mitigate issues of the remoteness of the site location. Whilst it is beneficial that the individuals living in the house might support services in Lindsey and the surrounding settlements, given that the site is remote from the village [which has limited service provision], it is likely that anyone living in the house would be heavily reliant upon car journeys to access these services. This would be contrary to Paragraph 17 of the NPPF which supports the transition to a low carbon future; seeks to reduce pollution; and says that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling (as identified in recent Appeal Decision APP/D3505/W/16/3152019 and Appeal Decision APP/D3505/W/16/3151571). A further recent appeal decision sets out that whilst a site may not be isolated from other established built development, if there is a limited opportunity for travel by sustainable modes, as in this case, the opportunities for supporting local services would be limited.

It would also not be appropriate or reasonable to overcome the issues concerning the sustainability of the location by utilising the planning system to impose lifestyle and personal transportation choices, such as the installation and use of electric charging vehicles. The inappropriateness of imposing such choices is acknowledged in the planning application submission and such mitigation options are not material to the consideration of the application.

To this end, whilst the environmental credentials of the proposal are acknowledged and recognised, they do not warrant exceptional circumstances that would justify support for the proposal in line with the requirements of policy CS2.

As noted above Policy CS2 also requires an exception to be backed by a “proven justifiable need” even if the foregoing exception exists. Your Officers consider that this element of the CS2 requirement should be considered on three limbs:

[i] There must be evidence which proves there is a need which the making an exception to policy CS2 will address. In your Officers view anecdotal information or unverified opinion would not normally be sufficient to constitute proof so as to make an exception to development plan policy.

[ii] An exception should be within the range of justifiable planning exceptions to countryside protection policy. Normally a justifiable exception would be one which is reasonable and consistent with well-established planning principles. These typically would include dwellings for agriculture or forestry workers or to meet the essential need of a rural worker. Other justifiable exceptions are described within paragraphs 54 and 55 of the NPPF where development would secure the future of heritage assets, re-use redundant or disused buildings and lead to an enhancement of the immediate setting or the exceptional or innovative nature of the design of the dwelling in question.

[iii] The question of “need” has been well rehearsed elsewhere. Need is distinct from “demand” or personal preference and the latter would not satisfy this element of the requirement for an exception to policy CS2

In terms of meeting a ‘proven justifiable need’ the applicant’s case, as set out in the Planning Statement, is one of individual circumstances and personal preference which are not, in these circumstances, material planning considerations of sufficient weight to amount to a justifiable need. The evidence behind them is also considered to be subjective and limited.

To conclude it is the consideration of policy CS2 in this case which requires greatest attention. In particular the circumstances in which an exception may be considered to accord with the development plan obliges the planning authority to consider carefully the exceptional circumstance **and** the proven justifiable need which exists to allow for the delivery of new development in the countryside which would otherwise be controlled.

In short, the application site is located in the countryside and it is not considered that the proposal demonstrates exceptional circumstances or proven justifiable need to warrant granting permission here. On that basis the proposal is considered to be unacceptable in principle, contrary to paragraphs 17 and 55 the NPPF, and contrary to Core Strategy Policy CS2.

### **Impact on environmental & sustainability of project characteristics**

The proposal includes a variety of environmental and sustainability measures. These include various recycled materials, a green roof, photo-voltaic glass and natural insulation products. These materials combine to provide building materials that are natural, in some cases local, and which contribute to reducing the impact of the proposal. The use of recycled flint and carbon blockwork have positive sustainability impacts, as does the use of wildflower roof, reducing the need for the use of other materials. The use of Chestnut PV glass again offers good benefits.

The use of Corten is energy intensive initially, although it has a long life span. Wood cladding would be more environmentally sensitive, however the use of this material is not considered to result in harm to warrant refusal in this regard.

The use of sheepswool and wood fibre insulation offer a natural product which is considered to offer further sustainability benefits.

The high performance windows proposed offer excellent performance insulation with a U value cited as 0.6, compared to double glazing at 1.4.

In the light of the benefits offered by the materials as a method to off-set harm as a result of the development these are considered to offer some benefits and a condition to ensure that the materials are those used would be considered reasonable and necessary.

Various other energy efficiency and sustainability measures form part of this proposal, including a wastewater heat recovery system, reed bed foul water management, low water appliances and fittings. These all contribute towards a proposal which would have a reduced dependence on fossil fuels and contribute to the mitigation of climate change with a sustainable approach, which is not only in respect of energy but to water and resource efficiency, as to be considered to comply with core Strategy Policy CS13 and CS15. The use of these materials and systems could be reasonably controlled by condition to ensure that the benefits proposed are delivered by the development.

The proposal also includes a scheme for rainwater harvesting to provide water for the property, again reducing the impact of the proposal with regards to the environment. The use of rainwater from the site not only reduces the consumption of water from the property but reduces the run-off of water from the site and associated risk of flooding. The hard surfacing on the site is also designed to limit water run-off, such that the proposal is not considered to risk harm by reason of off-site flooding and would comply with Core Strategy Policy CS15 in this regard.

The wider site is also designed to provide opportunities for wildlife, with the green roof, wildlife pond and planting of trees and hedging, with native species as well as various habitat enhancements such as bat and bird boxes. As the existing site is agricultural land the proposal would introduce a variety of habitats that are not currently available to support the biodiversity of the site. As such the proposal would comply with Core Strategy Policy CS14, having particular regards to the preamble in respect of habitat connectivity and creation. This could be appropriately secured by condition.

As part of the measures of sustainability proposed the applicant states that they would be agreeable to a condition to only operate low-emission vehicles, however this is not considered to be enforceable to be a realistic means of providing carbon or sustainability benefits. It could only relate to the property, not to traffic generated by visitors or deliveries or cars registered to other properties and used to access the site, and would not be considered reasonable or directly related to the development. In addition, the practicality of enforcing this would be extremely difficult as to render it un-enforceable. Furthermore, the sustainability (or otherwise) of the site is much wider than the limited benefits this may offer, were it to be an enforceable option. Notwithstanding this the overall package of measures put forward with regards to environmental and sustainability is considered to help minimise dependence on fossil fuels to comply with Core Strategy Policy CS13.

A relatively comprehensive package of sustainability measures is proposed for the site. Some of the measures, such as FSC certified wood and use of low water appliances are normal and measures of air-tightness common to meet building regulations. It is hard to conclude that there are features which make this project truly outstanding or innovative in this regard. However, subject to conditions to ensure the implementation of the materials and proposed measures of water, energy and resource efficiency the proposal would be considered to support the environmental role of sustainable development and have regards to moving towards a low carbon future as required by the NPPF as well as Core Strategy Policy CS13, requiring that all new development minimise dependence on fossil fuels and make the fullest contribution to mitigation of climate change though adopting a sustainable approach to energy use.

### **Foul and Surface Water Drainage**

Surface water drainage is dealt with by means of the proposed permeable hard surfaces and the collection of rainwater, including from the green roof and tower. It is then proposed to be used in the wildlife pond and rainwater tank. The water can then be used for WC's, washing machine and outside tap.

This system for collecting and holding water on the site is such that this site, outside flood zones, is not considered to demonstrably increase the risk of surface water or fluvial flooding elsewhere as to consider refusal in this respect.

With regards to foul water drainage the proposal includes a reed bed system, making use of the natural fall of the site from West to East. This system utilises a sediment tank and filters before water enters the reed bed for natural filtering, following which water will flow back into the site water system. This would be subject to Environment Agency permit or exemption as appropriate and is not considered to be unacceptable to warrant refusal in this respect.

## **Impacts upon Visual Amenity and the Character and Appearance of the Area**

Policy CN01 of the Local Plan requires all new development to be of an appropriate scale, form and design, with regard to the scale, form and nature of adjacent development and the local environment.

In addition, Policy CS15 of the Core Strategy requires, inter alia, that new development should respect the landscape, heritage assets and historic views and make a positive contribution to the local character, shape and scale of the area

Whilst the lower part of the dwelling is generally well integrated into the landscape, the proposed tower section, through its scale and use of materials, is a prominent and incongruous feature. This view is shared by the specialist consultees on both design and heritage matters, with the latter to the extent that the upper part of the building has an adverse impact on the setting of the nearby heritage assets (see below).

Delivering quality design is also a core aim of the NPPF which states (at paragraph 56) that good design is a key aspect of sustainable development and is indivisible from good planning.

The design of the proposals appears to have been developed around a major paradox; a building which responds to (and respects) the surrounding landscape, ecology and landform, but also includes a 'landmark tower' which has been purposely designed to stand out in what is a sensitive setting in both landscape and heritage terms. The justification for the elevated section of the dwelling is stated as "mimicking windmills and water towers", which again in such a sensitive setting creates a major conflict within the immediate site and surroundings. NPPF para. 55 states that proposals should "be sensitive to the defining characteristics of the local area", the proposals by their own admission seek to create new landmark.

Furthermore, the Design and Access Statement suggest that the proposals will become, "a new generation of Suffolk landscape mini tower", suggesting that this new typology is appropriate to the Suffolk countryside. However, there is no tradition of tower houses in East Anglia and It is therefore difficult to accept this unfounded concept as justification for the proposal. The reference to concrete 20th Century water towers, (as human intervention within the landscape) to a building design which emulates the form of an historical siege tower is, at best, extremely tenuous.

The proposed use of corten cladding is also alien to the Suffolk landscape and has not been justified enough in terms of its 'truly innovative or outstanding' qualities (NPPF para.55) for the use in such a sensitive setting. Furthermore, as set out earlier, the use of glazing that has not been used in residential builds previously, whilst having positive sustainability/efficiency effects, is also not considered to be so innovative or outstanding so as to warrant being treated as meeting the definition of special circumstances set out in paragraph 55 of the NPPF.

Whilst the case made by the applicants is understood, in that it is a combination of the specific elements of this project which make it exceptional, for reasons already set out this is not a view shared by your officers.

The orientation section of the Design and Access Statement (page 12) suggests that the 'tower is more of a statement and provides a more outward looking intent'. From this it seems clear that the proposed building has been designed to create a 'landmark', but in the conclusion of the Landscape Visual Assessment (para 6.1.6) the report indicates that: "Implementation of the proposed landscape scheme will strengthen and reinforce the existing vegetation to further restrict views of the proposal. The section of hedge opposite Chapel House will be planted with a mix of native species including a proportion of holly to provide a greater degree of screening to the tower throughout the year; reducing the visual effects of the scheme to negligible over time."

It therefore remains unclear whether it is the intention to visually screen the proposals using landscape or celebrate the development as part of the 'land of mini towers' concept. Overall then, the application lacks clear reasons for the design choices it has made in regards to form, massing and materials; principally the consideration to design a dwelling that is harmonious with the landscape which is subsequently topped with a large landmark metal clad tower. Furthermore, notwithstanding the aspirations of the designer and client, the design does not display sufficient excellence to satisfy the prudent requirements of NPPF para 55.

In summary, the 'tower' section of the dwelling is considered to be an incongruous and alien feature which fails to preserve the landscape setting or reinforce local distinctiveness, and for these reasons the application should be refused.

### **Impact on Heritage Assets**

With reference to the overall treatment of the submitted application, the Council embraces its statutory duties and responsibilities towards the setting of designated heritage assets; notably Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires the Local Planning Authority to 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."

The proposed development falls within the setting of three designated heritage assets, St James' Chapel (Scheduled Monument), Lindsey Castle (Scheduled Monument) and Chapel Farmhouse (Grade II Listed Building). Scheduled Monuments are designated heritage assets of national significance as per para 132 of the NPPF.

Following recent legal judgments and related *obiter dicta* it is understood that whilst the assessment of likely harm to designated heritage assets is a matter for its own planning judgement, the Local Planning Authority is required to give any such harm considerable importance and weight.

The National Planning Policy Framework (NPPF thereafter, 2012) sets out the Government's national planning policy for the conservation of the historic environment and builds upon the 1990 Act referred to above. Paragraphs 132-134 state *inter alia* that when considering the impact of works on the significance of a designated heritage asset, great weight should be given to the asset's conservation; any harm requires clear and convincing justification. Where works will lead to harm to significance, Local Planning Authorities should refuse consent unless it can be demonstrated that the harm is necessary to achieve public benefits that outweigh that harm.

Saved Policy CN06 of Babergh Local Plan Alteration No. 2 (2006) requires *inter alia* that alterations or new work within the setting of a listed building is, *inter alia*, justified in terms of preserving the special character of the building, would make use of appropriate materials and would cause the minimum possible impact to the heritage asset.

In accordance with the NPPF due weight must be given to the policies contained within the development plan according to their degree of consistency with the NPPF. Policy CN06 of the Local Plan is considered to be consistent with the NPPF and so is afforded significant weight.

The applicant has submitted a 'Setting Analysis' with the application, and the conclusion of that report (paragraph 5.4) advises that the settings of these designated heritage assets are: *'significant and multi-faceted and in any scheme of development within their setting great care must be taken to ensure the importance of these assets is preserved'*.

However, the report also states (paragraph 4.31) that: *'The proposed development will be sensitive, subtle and quite unobtrusive in the landscape, which has to a great degree informed the scope of this report, and the depth of its analysis'*.

As noted earlier in this report, the proposed scheme, which includes a 'landmark tower' cannot be considered subtle and unobtrusive in the landscape. Indeed, the advice received from both Historic England and the Council's heritage advisor disagree with the conclusions of both reports submitted by the applicant. It is clear that the proposed development would have an impact on the setting of the three designated heritage assets, and that this impact would result in harm to the significance of the heritage assets in line with Paragraph 132. This harm would be **'less than substantial'** (paragraph 134 of the NPPF) and would result from visual impacts, changes in the historic character of the assets surroundings and other effects such as 'light spill'. The 'landmark tower', with its metal cladding and glazing, will become a dominant feature in the landscape intruding upon the way in which the heritage assets are experienced, and competing with them.

Where it is considered that the proposal would pose less than substantial harm to the setting and wider appreciation of the listed building, the NPPF requires that such harm be balanced against the **public benefits** of the proposal.

The proposal as submitted, for a single private dwelling, is not considered to provide any substantive public benefits that would outweigh the less than substantial harm that has been identified. It is incumbent on the Council to apply the balance required by paragraph 134 of the NPPF, having special regard to the desirability of preserving the setting of the heritage assets as required by s66 of the Listed Buildings Act.

Given the harm that has been identified, and the strict expectation that material public benefits be identified which outweigh that harm, the proposal is considered to be unacceptable and for this reason the application cannot be supported. .

### **Residential Amenity**

One of the core planning principles within paragraph 17 of the NPPF is that Local Planning Authorities should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings, and this is also required by saved policy CN01 of the Local Plan.

As such, consideration needs to be given as to whether the proposal would be likely to give rise to any material harm to the amenity of neighbours by reason of impacts including loss of light, privacy, or outlook, or other potential impacts associated with the proposed development.

In this instance, given the siting and orientation of the dwelling and the relationship between that dwelling and neighbouring properties, it is not considered that the proposal would pose any unacceptable impacts with regard to residential amenity.

The proposal is therefore considered acceptable in this respect.

## **Highway Safety**

The application is supported by a Design and Access Statement which sets out details of traffic surveys carried out in respect of flows along the road outside the site.

These surveys identify that, despite the road being a 60mph limit, eastbound flows for the whole week do not exceed 40mph per day. The road is identified as having 'low flows' and 'characteristics of a residential street' and the access to the development is to be via an existing vehicular access that will be improved in layout and visibility terms.

There is sufficient parking available on the site to meet current adopted parking standards and the Local Highway Authority has raised no objection to the proposal, identifying that the proposal would not have any severe impact on the highway network in terms of vehicle volume or highway safety.

For the above reasons, the proposal is considered to be in accordance with the provisions of paragraph 32 of the NPPF which seeks to ensure that all developments maintain acceptable levels of highway safety for the benefit of highway users.

## **Loss of Agricultural Land**

Paragraph 112 of the NPPF refers to the development of agricultural land, stating that where significant development of agricultural land is demonstrated to be necessary, Local Planning Authorities should use areas of lower quality land.

According to Natural England's Agricultural Land Classification map, the agricultural land within the application site is classified as Grade 2 "Very Good" and therefore constitutes 'best and most versatile agricultural land' as defined in the NPPF.

The Core Strategy has no direct reference to the loss of agricultural land, so the application must be primarily assessed against the test in the NPPF. In the context of the test set out within the NPPF, the development is not considered to be 'significant'<sup>1</sup> so the test is not enacted.

As such, this issue does not weigh against the development.

## **Crime and Disorder**

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.

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<sup>1</sup> The definition of 'significant' was considered at the Tattingstone solar farm public inquiry. 'Significant' is not defined; it is down to the decision maker to consider what is significant. The Inspector in this appeal considered the development would need to be 'large scale' to be 'significant'. Large scale in this context being more than 5MW. The NPPF test is therefore not enacted for the loss of all agricultural land, just where the development/loss would be significant/large scale. As a matter of fact and degree, the loss is not considered significant/large scale in this case being 8.46ha of land.

## **Biodiversity and Protected Species**

In assessing this application due regard has been given to the provisions of the Natural Environment and Rural Communities Act, 2006, in so far as it is applicable to the proposal and the provisions of Conservation of Habitats and Species Regulations, 2010 in relation to protected species.

The application is supported by an Ecological Assessment which identifies a number of enhancements that can be secured through the development of the site to support biodiversity and habitat. There do not appear to be any particular issues that arise from the development in terms of loss of habitat which would give rise to harm to biodiversity and, subject to securing the enhancements proposed, the application is acceptable in biodiversity terms.

## **Planning Obligations**

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.

With regard to the requirements under CIL, the applicant has applied for a "Self-Build" exemption as the dwelling is to be built for them to occupy and they have confirmed they will reside in the property for at least 3 years following its completion. Therefore there will be no payment required under the CIL regulations.

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## **PART FOUR – CONCLUSION**

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### **Planning Balance**

The local planning authority is required to determine applications in accordance with the development plan unless material considerations indicate otherwise. Normally, only if the Local Planning Authority are satisfied that both requirements in CS2 are met, and other development plan policies complied with, should planning permission be granted for a development outside the built up area boundary of a village. This position has been qualified by the judgement made in the East Bergholt case, as referenced elsewhere in this report.

In these circumstances your Officers consider that the policy principle behind CS2, that development in the countryside be strictly controlled, is a significant development plan objective and that the potential for an exception to develop a further dwelling in the countryside in this locality requires very careful evaluation.

In that context, Officers consider that the proposal is unacceptable in principle, being contrary to paragraphs 17 and 55 of the NPPF and Core Strategy Policy CS2, being located in the countryside and failing to demonstrate both exceptional circumstances and proven justifiable need.



Notwithstanding that the proposal does not comply with the requirements of policy CS2, the proposal also gives rise to harm to the setting of heritage assets. Paragraphs 132-134 state inter alia that when considering the impact of works on the significance of a designated heritage asset, great weight should be given to the asset's conservation; any harm requires clear and convincing justification. Where works will lead to harm to significance, Local Planning Authorities should refuse consent unless it can be demonstrated that the harm is necessary to achieve public benefits that outweigh that harm. The level of harm from the proposed development would be considered 'less than substantial' in the terminology of the NPPF; however it would be at the high end of that scale. The Local Planning Authority is not satisfied that there is a clear and convincing justification for this harm, or that it is outweighed by public benefits, the proposal only providing a single residential dwelling. The proposal is therefore contrary to saved Policy CN06 and paragraphs 132-134 of the NPPF.

Officers have considered whether there are material planning considerations which would direct that the development should be approved contrary to the development plan, but have not identified material considerations of such weight that would justify such a departure. As such, it is considered that there are no grounds to consider a "departure" from the development plan in the circumstances of this case, and to do so would raise the potential question of future consistency of decision making.

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

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 case the applicant has sought to address a number of comments made by statutory consultees which have resulted in amendments to the proposal and/or the submission of additional information. However, the LPA consider that the proposal is unacceptable in principle given the policy conflict which exists and has not, therefore, sought to enter into negotiations to resolve any further matters.

#### **Identification of any Legal Implications**

13. None

#### **Identification of any Equality Implications (The Equalities Act 2012)**

14. None

#### **RECOMMENDATION**

Refuse Planning Permission for the following reasons:

1. The proposed development, including the erection of a detached dwelling and construction of new vehicular access, would be contrary to policy CS2 of the Babergh Local Plan Core Strategy, which states that in the countryside, outside of the towns/urban areas and core and hinterland villages, development will only be permitted in exceptional circumstances subject to proven justifiable need. In this instance the application site is located in the countryside and the applicant has failed to demonstrate exceptional circumstances with a proven justifiable need. The reasons set out in the supporting planning statement to the application do not qualify as material considerations, namely the reasons given relate to the individual's life- style choices, individual circumstances and personal preferences.

In addition, Paragraph 55 of the National Planning Policy Framework is clear that new housing should be located where it will enhance or maintain the vitality of rural communities, and isolated new homes in the countryside should be avoided unless there are special circumstances. In promoting sustainable development in rural areas, the Framework therefore seeks to ensure that new residential development should not be detached from being part of a viable and vibrant rural community, where there would be access to day to day facilities without the need to travel. The proposed development would not accord with paragraphs 17 and 55 of the Framework due to its isolated location in respect of accessibility and sustainable transport.

2. The proposed development would be contrary to Paragraph 55 of the National Planning Policy Framework which states that Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances, including the exceptional quality or innovative nature of the design of the dwelling. The proposal is not considered to be truly outstanding or innovative. The use of corten cladding has not been demonstrated to be sufficient to achieve the required outstanding or innovative standards and nor would it significantly enhance its setting, and the use of a glazing material which has not been used in a residential scenario previously does not, in its own right, bring about such innovation or exceptional quality that would meet the tests of paragraph 55. Furthermore the proposed tower fails to be sensitive to the defining characteristics of the area, rather seeking to create a landmark in the locality.
3. The National Planning Policy Framework sets out the Government's national planning policy for the conservation of the historic environment. Paragraphs 132-134 state inter alia that when considering the impact of works on the significance of a designated heritage asset, great weight should be given to the asset's conservation; any harm requires clear and convincing justification. Where works will lead to harm to significance, Local Planning Authorities should refuse consent unless it can be demonstrated that the harm is necessary to achieve public benefits that outweigh that harm. The level of harm from the proposed development would be considered 'less than substantial' in the terminology of the NPPF; however it would be at the high end of that scale. The Local Planning Authority is not satisfied that there is a clear and convincing justification for this harm, or that it is outweighed by public benefits, the proposal only providing a single residential dwelling. The proposal is therefore contrary to saved Policy CN06 and paragraphs 132-134 of the NPPF.