

Committee Report

Committee Date:

Item No: 3

Reference: B/16/01092/OUT
Case Officer: Gemma Pannell

Description of Development: Outline - (all matters reserved) Mixed-use development including up to 75 dwellings, a pre-school and a neighbourhood hub, comprising a swimming pool, office space and a local shop, public open space, and associated infrastructure and landscaping as amended by drawings received on 11 November 2016 (omission of school land).

Location: Land east of Constable Country Medical Centre, Heath Road

Parish: East Bergholt

Ward: Dodnash

Ward Member/s: Cllr John Hinton, Cllr Stephen Williams

Site Area: 9.2 hectares

Conservation Area: Not in Conservation Area

Listed Building: Not Listed

Received: 31/01/2017

Expiry Date: 02/05/2017

Application Type: Planning Permission

Development Type: Smallscale Major Development

Environmental Impact Assessment: N/A

Applicant: Hills Building Group

Agent: Phase 2 Planning and Development Limited

SUMMARY

The proposal has been assessed with regard to section 38 (6) of the Planning and Compulsory Purchase Act 2004, which requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan policies, the National Planning Policy Framework and all other material considerations have therefore been fully considered.

Officers recommend approval of this application. As explained in this report, whilst the proposed development is considered not to be in strict accordance with development plan policies CS2, CS11 and CS15, the Council does not now have a five year housing land supply and the adverse impacts of the development, including areas of non-conformity with the development plan policies referred to, are not considered to significantly and demonstrably outweigh the benefits of the development. The proposed development is considered to be sustainable development within all three identified strands (economic, environmental and social) of the NPPF and there is a presumption in favour of this proposal in accordance with the NPPF.

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 of 15 or over 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. There is no history directly related to the application site which is relevant to the consideration of this application.

Details of Previous Committee / Resolutions

2. None.

Details of Member site visit

3. Members undertook a visit of the site on 26th July 2017.

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 is a summary of the consultations carried out in respect of this application;

East Bergholt Parish Council

First response received 8th September 2016 -

Recommend refusal on grounds based in the East Bergholt Neighbourhood Plan Housing Policy:

- EB1 supports a minimum of 86 new homes within the EBNP Period 2015 -2030
- EB1/333 states a preferred size of 15 units

- EB1/3331 states increments of up to 15 units spread over the life of the plan will be supported by the Community.
- Large developments do not integrate well into the Community as pointed out in EB1/3331
- EB2 reinforces EB1 but only supports more than 15 units under exceptional circumstances to meet the proven housing needs of the Community
- Large developments do not integrate well into a Community as pointed out in EB1
- EB2/4 states any development would be of an acceptable size and scale that contributes to the character of the village and the 'Sense of Place'
- This proposed application is not only contrary to the EBNP but goes against the spirit of the plan and its aims for the plan period Brantham, one of our hinterland villages has 600 new dwellings planned over the period to 2030 which more than covers Babergh's requirements for a core village and its hinterland. It is also contrary to Babergh policy CS11's 'local need' defined by Core and hinterland villages in the context of 154 already approved, a further 81 is out of scale.

Second response received 9 December 2016 -

Recommend refusal - Cannot support because the number of dwellings does not comply with the East Bergholt Neighbourhood Plan (EBNP).EB2, which says "housing development of up to 15 homes that is well designed and integrated into the village will be preferred. Developments of 15 or more dwellings will be supported where they deliver exceptional benefits to meet the housing needs of the community including affordable and low cost housing.....". The accumulating number of houses being approved are greater than the identified local housing needs of the village. If it met the policies and objectives of the EBNP it would be looked at more favourably.

Further response received 15 May 2017 –

Previous objections still stand.

Local Highway Authority:

First response received 14 November 2016 -

Notice is hereby given that the County Council as Highway Authority objects to the proposal because the red line of the site does not agree with or overlap the recorded highway boundary. Therefore, parts of the accesses are outside of the site and highway and cannot be secured in the interests of highway safety. In addition, the proposal requires the provision of a pedestrian crossing and bus stops on Heath Road but no assurance is provided showing that an acceptable arrangement is feasible within the highway or land within the application sites. Therefore, safe access for all to the sites is not demonstrated contrary to NPPF Para. 32.

Second response received 5 December 2016 -

Notice is hereby given that the County Council as Highway Authority objects to the proposal because the red line of the site does not agree with or overlap the recorded highway boundary. Therefore, parts of the accesses are outside of the site and highway and cannot be secured in the interests of highway safety. In addition, the proposal requires the provision of a pedestrian crossing and bus stops on Heath Road but no assurance is provided showing that an acceptable arrangement is feasible within the highway or land within the application sites. Therefore, safe access for all to the sites is not demonstrated contrary to NPPF Para. 32.

Further response received 19 January 2017 -

No objections – subject to compliance with suggested conditions relating to: Access design; Surface water disposal; Estate road details; Estate roads to be completed to at least Binder course level before occupation; Turning and parking areas; Highways condition survey; Construction management strategy; Travel Plan; and Highway improvements and financial contributions to be secured by way of S106

Highways England

Offer no objections.

SCC - Public Rights of Way

Public Footpath 38 is recorded adjacent to the proposed development area.- No objection to this proposal

SCC- Archaeology

Initial response received 23 August 2016 -

The site of the proposed development has high potential for the discovery of important hitherto unknown heritage assets of archaeological interest in view of its large size and location close to a number of sites recorded in the County Historic Environment Record. It is situated to the east of the historic settlement core of East Bergholt (EBG 044) and scatters of multi-period finds have been recorded in the vicinity. However, the site has not been the subject of previous systematic investigation.

Given the potential, lack of previous investigation and large size of the proposed development area, I would recommend that, in order to establish the full archaeological implications of this area and the suitability of the site for the development, the applicant should be required to provide for an archaeological evaluation of the site before a Development Brief is prepared, to allow for preservation in situ of any sites of national importance that might be defined prior to determination of the application.

The proposed development area cannot be assessed or approved in our view until a full archaeological evaluation has been undertaken, and the results of this work will enable us to accurately quantify the archaeological resource (both in quality and extent).

This is in accordance with paragraphs 128 and 129 of the National Planning Policy Framework. A geophysical survey should be undertaken in the first instance, followed by a trial trenched evaluation. Decisions on the suitability of the site, and also the need for, and scope of, any further mitigation work should there be any below-ground archaeological finds of significance, will be based upon the results of the evaluation. The results of the evaluation must be presented in the application, along with a detailed strategy for further investigation. The results should inform the development to ensure preservation in situ of any previously unknown nationally important archaeological remains within the development area.

Further information required - Development area cannot be assessed or approved until a full archaeological evaluation has been undertaken - Recommend archaeological evaluation of site prior to determination to allow for preservation *in situ* of any sites of national importance that might be defined prior to determination of the application.

Further response received 16 November 2016 -

Response mirrors that received above.

Place Services – Landscape

No objections – subject to further detail being provided at reserved matters stage.

Place Services - Ecology

The mitigation and enhancement measures identified in the Ecological Assessment (EcoPlanning UK, Feb 2016) and (ADAS, Oct 2016) should be secured and implemented in full. This is necessary to conserve and enhance Protected and Priority Species particularly bats. Impacts will be minimised such that the proposal is acceptable subject to the above conditions based on BS42020:2013. In terms of biodiversity net gain, the reasonable enhancements proposed will contribute to this aim. Submission for approval and implementation of the details below should be a condition of any planning consent.

Suffolk Wildlife Trust

The requirements in the bat survey should be carried out in full.

Dedham Vale AONB and Stour Valley Project

Initial response received 20 September 2016 -

The site is within close proximity to the boundary of the Dedham Vale Area of Outstanding Natural Beauty (AONB) and is considered to be within the setting of the AONB. The AONB Partnership Position Statement in response to development within the setting of the AONB (attached) should be referred to. The submitted LVIA will also need to be tested against the recently published guidance 'Natural Beauty & Special Qualities of the Dedham Vale AONB' (also attached). This has been supplied to the applicant and I anticipate a revised LVIA to be submitted which takes a view on how the development proposal may impact on the characteristics which define the AONB and which are described in detail in the guidance. Until the amendments have been made I will not be in a position to provide further comment, as we will need to see that consideration has been given to the potential effect of the development on the Natural Beauty and Special Qualities of the AONB.

We are very aware that the emerging East Bergholt Neighbourhood Plan is well advanced and would expect that it is given due consideration in the process of determining this application. In addition, please refer to the Dedham Vale AONB & Stour Valley Management Plan 2016-2021. We seek clarification of the extent of land in the ownership of the applicant. Does this include the field to the south (as shown in the Ecological Assessment report), or only the 2 fields bounding Heath Road? We consider that the proposal, for major development within close proximity of the setting of the AONB with a direct visual, social and environmental connection with the AONB, should also be outward looking in its scope to address the AONB priority to 'conserve and enhance natural beauty'. This is particularly relevant in terms of the land immediately to the south of the development site, and on the approaches and frontage of the proposed development site on Heath Road. We note that the Ecological Assessment makes reference to the fact that the site falls within the zone of influence for nearby designated sites (SSSI, RAMSAR, SPA), but goes no further to identify what these impacts may be. I would recommend advice is sought from Natural England on this matter as the need for mitigation will need to be considered.

Further response received 18 May 2017 -

We refer to previous comments submitted in respect of the above proposal dated 20th September 2016 and offer the following additional comments:

The site is located within close proximity of the Dedham Vale Area of Outstanding Natural Beauty (AONB). Views of the proposed development would be clearly visible from within the AONB, in particular from publically accessible viewpoints along public rights of way or the highway. We have considered how the development relates to the local landscape character and the potential impacts that a development of this scale could have on the special qualities of this nationally designated AONB. Given the location of the development, the Local Planning Authority should refer to national and local policies which relate to the AONB, together with the statutory AONB Management Plan, the published report detailing the Natural Beauty & Special Qualities of the AONB and the AONB Partnership's Position Statement in relation to development within the setting of the AONB when determining this application.

Specific reference is drawn to paragraphs 115 and 116 of the National Planning Policy Framework which give the highest status of protection for the landscape and scenic beauty of AONBs and National Parks. The Local Planning Authority have a duty to have regard to the statutory purpose of the AONB designation, as defined in section 85 of the Countryside and Rights of Way Act, 2000. This duty also applies to proposals outside the designated area but impacting on its natural beauty, which is of particular relevance to this application. We note that the applicant has submitted a Landscape and Visual Impact Assessment. The permanent loss of open countryside and introduction of built development in this location will have an impact on the landscape character and setting of the village of East Bergholt. The adverse visual impact on the AONB is considered to be contained to the relatively close views of the development as identified in the Assessment, i.e. from Heath Road itself and public rights of way to the south of the site. However, there are more widespread impacts which are more difficult to quantify, including impacts on the special qualities of the AONB, such as tranquillity and how an increase in road traffic, external lighting etc. can affect the integrity of these features. We would recommend that, should the proposal progress to a full application, further work is needed to identify how the development will impact on these qualities and how such impacts could be removed or mitigated. The submitted LVIA appears to make no reference to the published Natural Beauty & Special Qualities of the Dedham Vale AONB. The Local Planning Authority will of course need to determine at this outline stage, whether the proposal will have a significant impact on the purposes of the AONB designation, and the further detail and explanations contained in the aforementioned document should assist in this regard. Particular attention is drawn to the Cultural Heritage section which refers to the significance of the historic pattern of built development within the AONB and the risk to conserving the intactness of such patterns when there is development pressure on the fringes of existing settlements which alter the settlement form and relationship to the landscape. As stated in our previous response, we consider that the proposal, for major development within close proximity of the setting of the AONB with a direct visual, social and environmental connection with the AONB, should also be required to address the AONB priority to 'conserve and enhance natural beauty'. This is particularly relevant in terms of the land immediately to the south of the development site and on the approaches and frontage of the proposed development site on Heath Road. Proposals for landscaping have been put forward and it is essential that these are robust enough to ensure that the quality of landscape character in this particular area is conserved and enhanced. The management of land to the south of the site is considered to be particularly relevant in terms of the quality of the site and its surrounds, particularly the transition between the site and the open countryside. We would welcome further detail on whether this is in the ownership of the applicant.

Potential impacts on nearby designated sites - We support the recommendations as outlined by Natural England and Suffolk County Council in respect of the HRA screening and associated mitigation proposals in relation to the potential for recreational impacts on the Stour and Orwell Estuaries SPA and Ramsar.

We would welcome further discussion on this matter in particular in respect of the delivery of the proposed mitigation. Securing these measures through legal agreement will of course be essential, alongside additional measures to provide for ecological mitigation and enhancement both on and off site.

In conclusion - Significant concerns over the development of this particular site remain in terms of policy compliance (National and Local Policies relating to the AONB, including East Bergholt Neighbourhood Plan). If the Local Planning Authority are minded to grant permission, it would be reasonable to expect that significant public and environmental benefits would be secured and delivered as a result.

Will be in a position to provide further comment in due course on receipt of further information

Natural England

No Objection – Proposal is not likely to have a significant effect on the Stour and Orwell Estuaries SPA, Ramsar site, and SSSI

Anglian Water

No objections raised subject to imposition of condition requiring submission and implementation of foul water strategy – existing treatment works have available capacity

SCC - Flood and Drainage

No objection – subject to compliance with suggested conditions relating to: FRA and Drainage Strategy; Surface Water Drainage Scheme; Sustainable Urban Drainage System; and Construction Surface Water Management Plan

Suffolk Fire and Rescue Service

Recommend that fire hydrants be installed within the development – the number of hydrants required will be determined at the water planning stage – Also recommend consideration is given for the installation of automatic fire sprinkler system(s)

Environmental Protection – Sustainability

No objections – Subject to imposition of conditions requiring: Submission and implementation of an Energy Strategy; Building for life assessment for each style of dwelling proposed and implementation; and BREEAM assessment and implementation

Environmental Protection – Land Contamination

Many thanks for your request for comments on the above application in light of the newly submitted Phase I investigation undertaken by Murray Rix Limited (ref. 15-2510r) dated September 2016. The report provides a comprehensive assessment of the risks posed by previous uses of the site to the future residential development and concludes that the only possible risk at the site arises from the agricultural use of the land and this risk is determined as either low risk or negligible risk. The report concludes that additional investigations into ground conditions are advisable however I believe that given the evidence presented that it would be unjustified to require these by means of condition and that the development has been demonstrated to be suitable for its proposed use and that the additional investigations should be at the discretion of the developer. I am willing to review any additional work that the developer wishes to voluntarily undertake at the site but I think imposing this by means of condition would be unjustified and indefensible.

To conclude, I have no objection to the proposed development from the perspective of land contamination. I would expect that the developer contacts that council in the event of unexpected ground condition being encountered during construction and that they are made aware that the responsibility for the safe development of the site lies with them – these requests are standard requests for all permissions in the district(s).

Strategic Housing

Recommend on-site delivery of 26 affordable units, 3 of which will be identified for Key Workers (connected to East Bergholt Academy in the first instance)

NHS England

No objections should a contribution towards additional primary health care provision be secured.

Dedham Vale Society

Object most strongly to your Council entertaining this outline application at this juncture. At a time when there are two other housing development applications closely affecting this very important village in the Dedham Vale AONB which remain unresolved it seems entirely unreasonable to add a third large housing proposal. Should your Council approve this last, and on the evidence of the other two that must be considered at least a possibility, 229 new dwellings could be added to the village and its character and ethos irretrievably altered for ever.

Furthermore you seemed intent on pushing ahead with this application despite being well aware that the East Bergholt Neighbourhood Plan is the subject of local referendum at the end of this week and may well be approved. You will also be aware that this application runs entirely contrary to the principles of that plan. For the record the Society objects to the proposal itself although it is not actually in the AONB on the simple grounds that it would do further serious damage to East Bergholt which is a most important and iconic village within the AONB. We most strongly urge your Council to delay any consideration of this application at least until:

- The judicial review of the decision to grant permission for the 10 pseudo “Alms House” is determined
- The status of the application for 144 houses at Moores Lane is clarified. We understand that no formal grant of permission has been issued despite the decision of the Planning Committee. You will be aware that it is likely that a judicial review of this decision will also be sought if and when it is promulgated
- The East Bergholt Neighbourhood Plan, if approved by the referendum, comes into force

SCC Obligations Manager

Initial response received 14 September 2016 -

A copy of this response is appended to this report as Appendix 1.

Further response received 14 November 2016 -

The County Council is supportive of the amendments to the planning application to omit the six dwellings on the East Bergholt High School site. However this is on the strict proviso that three key worker units are secured by a Section 106 planning obligation as part of the overall affordable housing requirements. The District Council's housing team are supportive of this proposal after discussions with the applicant, the High School and the County Council.

The CIL implications set out in my letter dated 14 September need to be reported to the decision-taker. Any site specific mitigation will be secured by way of a planning obligation or planning conditions.

East Bergholt Society

First response received 13 September 2016 –

Objects to the application on the grounds that the proposal is not in accordance with the East Bergholt Neighbourhood Plan (EBNP) Policies; fails to take account of the identified needs and desires of the community, as encapsulated within the EBNP; the development is five times larger than identified in the EBNP.

Second response received 11 May 2017 -

(Response to be read in conjunction with applications B/15/00673, B/15/01678 and B/16/01092) – Objects to the application on the grounds that the previous fundamental objections (as above) remain unaltered; the sites which are being reconsidered do not contribute to the shortfall caused by lack of a 5-year land supply; a Ministerial statement dated 12/12/16 states “where communities plan for housing through a neighbourhood plan, these plans should not be deemed out-of-date unless there is a significant lack of land supply for housing in the wider local authority area, therefore there is not a shortfall [of land for housing] and if there were it would not be a reason to overrule the EBNP;” the affordable homes for the functional cluster are provided within a subsequent application in Brantham; East Bergholt is a village and not a town – large scale developments are not appropriate in rural settings; neighbourhood plans should not be overruled; all three applications fail to comply with the NPPF as per the original objections

Representations

6. The following is a summary of neighbour and other representations received;

Forty Nine (49) letters of concern or objection have been received from third party sources, the content of which is summarised below:

- Proposal is not consistent with the East Bergholt Neighbourhood Plan, which is part of the statutory development plan;
- The number of dwellings proposed is five times larger than what the Neighbourhood Plan provides for an individual site;
- Proposal is not in accordance with the Neighbourhood Plan which provides for small pockets of development only;
- The number of dwellings proposed would, in one place, swallow up the majority of the identified need for 86 homes over the Neighbourhood Plan period;
- There is no proven local need for the development and the proposal does not therefore satisfy the requirements of policy CS11;
- Babergh District Council has already approved 159 dwellings in East Bergholt in recent months without giving any weight to the emerging Neighbourhood Plan;
- Would support scheme if were for 26 affordable dwellings alone and not a total of 75 market and affordable;
- There should be no need for the proposal on top of the “Moores Lane” development;
- Scheme would even be excessive even if the “Moores Lane” development does not come forward;
- Proposal would result in an unsustainable amount of growth;
- The local plan provides for something like 1050 houses over the plan period in Core Villages and understand that 600 to 700 are already on course with additional large development approved in the neighbouring Tendring District;

- Proposal is “planning madness” just to bolster BDC income from New Housing bonus and political dogma;
- The proposal site is outside the village envelope and next to the AONB and so should not be approved;
- Scale of proposal is disproportionate to the current size of the village;
- Proposal is too large in scale and would destroy the village’s character;
- Proposal site is on a green field site that can never be reversed;
- Proposal would damage the nature and heritage of the village;
- Proposal would result in the loss of farmland of landscape value;
- Proposal site is prime farmland and should not be built on;
- Landscape is “Constable Country” and should not be built on;
- Object to use of farmland when brownfield sites are available nearby;
- Proposal will increase traffic the village and near the school;
- Adding more traffic will make the issue of speeding worse;
- Existing highway infrastructure is inadequate to safely accommodate proposed number of dwellings and resultant traffic increase;
- The proposed access would be dangerous;
- Proposal will create more commuters on the railway which are already at capacity and will create increased parking problems in and around Manningtree Station;
- Object to the proposed public footpath link route as this would adversely impact the privacy and security of neighbouring properties;
- Proposal would have a detrimental effect on wildlife and the environment;
- There is no need for a swimming pool, office space, local shop or open space and this is a “White Elephant” and a “folly”;
- There is no need for a swimming pool as two have had to close in the village in the past due to under use;
- The village already has a shop and does not need another one – another shop may lose the existing one business and both may have to shut;
- Services in the village are already at bursting point and this proposal would make the situation worse;
- The application does not support increase in sustainable employment, which should be a key element in any sustainable development proposal;
- Should the application be granted it will no doubt give rise to Judicial Review and unnecessary additional burden on taxpayers
- The applicant is understood to have agreed in writing not to sell land for large developments like this

7. In addition, four (4) letters stating no objection or support for the proposal have been received from third party sources, the content of which is summarised below:

- Believe this is the best way forward if expansion is to take place;
- Layout looks to provide many benefits to the local area;
- Layout looks attractive and well thought through
- The housing plan looks very appealing and well laid out with plenty of green areas surrounding the buildings
- Proposal looks to be quite a unique development compared with other more squeezed new developments
- The position is ideal with easy access in and out of the village
- Provision of affordable housing is welcomed
- Would like to live in East Bergholt but cannot at present, there is therefore a need for housing
- Proposal is spread out and offers a wide variety of homes with plenty of open space
- Consider the developer has listened to the majority of what local people want
- Like the idea of homes for teachers, bungalows for the elderly, and small starter homes

The Site and Surroundings

8. The application site is located on the eastern side of East Bergholt, a large village located in close proximity to the A12, 18km to the north-east of Colchester and 16km to the south west of Ipswich.
9. The village is designated as a Core Village in the Babergh Core Strategy and contains a number of services and facilities. These include a primary school, a secondary school, playing fields and a sports centre, four community buildings including a village hall, a filling station, a GP practice, a sports centre, churches, public houses, a pharmacy, a village shop, a post office, a butchers and a bakery and a tea room.
10. The application site is split into two areas; the main area is to the south of Heath Road (B1070), and a smaller parcel is located to the north of the road. The main parcel is agricultural use and is subdivided into two fields, with a field boundary running roughly north-south through the site. To the south of the site there is a small block of spruce planting and to the eastern side of the site there is an existing copse. To the south there is the Dedham Vale Area of Outstanding Natural Beauty (AONB) which is separated from the southern boundary of the site by one field's depth, with a well-used footpath view views looking south over the ANOB. This parcel lies immediately adjacent to the built up area of East Bergholt with rear gardens backing onto the application site. The Constable Country Medical Practice is located immediately adjacent to the site and fronting onto Heath Road. To the south and east the site is surrounded by agricultural land.
11. The parcel to the north of Heath Road falls within the East Bergholt High School site, adjacent to the school's entrance and coach parking area. To the east of this parcel lies a cluster of commercial and residential buildings. The combined site area is 9.2 hectares.

The Proposal

12. This outline application proposes a mixed-use development, comprising four main elements: residential development, a community hub, a pre-school and public open space.
13. The application proposes up to 75 dwellings on the application site, to the south of Heath Road. 35% of the the scheme would be affordable housing.
14. It is proposed that a 'neighbourhood hub' will be provided in the northern corner of the site, adjacent to the existing Medical Centre and the site entrance, opposite the High School on Heath Road. It is anticipated that this will comprise a local shop, a covered swimming pool and some flexible office space.
15. A pre-school is proposed on the western side of the site, adjacent to the proposed car parking area. The car parking will also serve this facility.

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** - Presumption in Favour of Sustainable Development in Babergh
- **CS2** - Settlement Pattern Policy
- **CS3** - Strategy for Growth and Development
- **CS11** - Core and Hinterland Villages
- **CS12** - Sustainable Design and Construction Standards
- **CS13** - Renewable/Low Carbon Energy
- **CS14** - Green Infrastructure
- **CS15** - Sustainable Development in Babergh
- **CS18** - Mix and Types of Dwellings
- **CS19** - Affordable Homes
- **CS21** - Infrastructure Provision

SAVED POLICIES IN THE LOCAL PLAN

18. The 'saved' policies within the Babergh Local Plan, Alteration No.2 (2006) adopted June 2006 should be regarded as a material consideration in planning decisions. The following policies are applicable to this proposal:

- **CN01** - Design Standards
- **HS31** - Public Open Space (Sites of 1.5ha and above)
- **TP15** - Parking Standards
- **CR07** - Landscaping Schemes

THE EAST BERGHOLT NEIGHBOURHOOD PLAN

- **EB1** - Housing Numbers
- **EB2** - Development Size and Location
- **EB3** – Village Heart
- **EB4** – Housing Type, Tenure and Sizes
- **EB5** – Increasing the Choice of Housing Options for Older People
- **EB6** – Landscape and Views
- **EB7** – Local Green Space
- **EB8** - Biodiversity
- **EB9** – Housing and Non-Residential Design
- **EB10** – Preservation of Non-Designated Heritage Assets
- **EB12** – New Developments, Parking
- **EB13** – New Developments, Walking and Cycling
- **EB14** – New Developments, Footpaths, Cycleways and Bridleways
- **EB18** – New Development and Farm Vehicles Access
- **EB22** – Electric Cars
- **EB23** – Sustainable Drainage Systems

SUPPLEMENTARY PLANNING DOCUMENTS

19. The following documents are also considered as material for the purposes of determining planning applications and are applicable to this proposal:

- Rural Development and Core Strategy Policy CS11 SPD
 - Babergh District Council - Affordable Housing, Supplementary Planning Document (2014).
 - Caba at Design Council - Building for Life 12 (3rd Edition, 2015).
 - Department for Transport - Manual for Streets (2014).
 - Suffolk County Council - Suffolk Guidance for Parking (2014), adopted 2015.
20. On the 6 March 2014, a number of Ministerial planning circulars were cancelled by central Government and were replaced by the Government's online Planning Practice Guidance (PPG). The guidance provided is advice the interpretation and application of national planning policy and has been taken into account in reaching the recommendation made on this application.
21. The PPG is an online reference and is available via the following link: www.planningguidance.planningportal.gov.uk.
22. The relevant policies that have been referenced can be viewed online. Please see the notes attached to the schedule.

Main Considerations

23. 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

24. The National Planning Policy Framework (NPPF) requires Councils to identify and update on an annual basis a supply of specific deliverable sites sufficient to provide for five years worth of housing provision against identified requirements (paragraph 47). For sites to be considered deliverable they have to be available, suitable, achievable and viable.
25. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites (as stated in paragraph 49 of the NPPF). Where policies cannot be considered up-to-date, the NPPF (paragraph 14) cites the presumption in favour of sustainable development and states that planning permission should be granted unless i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or ii) specific policies in the NPPF indicate development should be restricted. The presumption in paragraph 14 also applies where a proposal is in accordance with the development plan, where it should be granted permission without delay (unless material considerations indicate otherwise).
26. The precise meaning of 'relevant policies for the supply of housing' has been the subject of much case law, with inconsistent results. However, in May 2017 the Supreme Court gave judgment in a case involving Suffolk Coastal District Council which has clarified the position. The Supreme Court overruled earlier decisions of the High Court and the Court of appeal in this and other cases, ruling that a "narrow" interpretation of this expression is correct; i.e. it means policies identifying the numbers and location of housing, rather than the "wider" definition which adds policies which have the indirect effect of inhibiting the supply of housing, for example, countryside protection policies.

However, the Supreme Court made it clear that the argument over the meaning of this expression is not the real issue. The absence of a five year housing land supply triggers the application of paragraph 14 of the NPPF. In applying the 'tilted balance' required by this paragraph, the Council must decide what weight to attach to all of the relevant development plan policies, whether they are policies for the supply of housing or restrictive 'counterpart' policies such as countryside protection policies.

27. In accordance with National Planning Policy Guidance paragraph 030 (Reference ID: 3-030-20140306) the starting point for calculating the 5 year land supply should be the housing requirement figures in up-to-date adopted Local Plans. It goes on to state that '...considerable weight should be given to the housing requirement figures in adopted Local Plans, which have successfully passed through the examination process, unless significant new evidence comes to light....Where evidence in Local Plans has become outdated and policies in emerging plans are not yet capable of carrying sufficient weight, information provided in the latest full assessment of housing needs should be considered. But the weight given to these assessments should take account of the fact they have not been tested or moderated against relevant constraints...'
28. The Council adopted its Core Strategy in Feb 2014 having been tested and examined as a post-NPPF development plan. The Council published the Ipswich and Waveney Housing Market Areas Strategic Housing Market Assessment (SHMA) in May 2017 which is important new evidence for the emerging Babergh and Mid Suffolk Joint Local Plan. Therefore, the 5 year land supply has been calculated for both the adopted Core Strategy based figures and the new SHMA based figures. For determining relevant planning applications, it will be for the decision taker to consider appropriate weight to be given to these assessments and the relevant policies of the development plan.
29. A summary of the Babergh 5 year land supply position is:
 - Core Strategy based supply for 2017 to 2022 = 4.1 years
 - SHMA based supply for 2017 to 2022 = 3.1 years
30. Policy CS1 is the local reflection of the presumption in favour of sustainable development and is embedded within the development plan. It includes the position that where relevant policies are out-of-date at the time of the decision, the Council will grant planning permission (unless material considerations indicate otherwise), taking into account whether any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF overall, or specific policies in the NPPF indicate that development should be restricted. Since there is not, on any measure, a 5 year land supply, paragraph 49 of the NPPF deems the relevant housing policies of the Core Strategy to be out-of-date, so triggering both the 'tilted balance' in paragraph 14 of the NPPF, and the operation of Policy CS1.
31. The NPPF requires that development should be sustainable, and paragraph 6 of the NPPF sets out guidance on what this means in practice by drawing attention to all of the policies from paragraph 18 to 219 of the NPPF. In some circumstances there is also a presumption in favour of sustainable development which is to be applied as set out in paragraph 14 of the NPPF. This has been discussed above. 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."

32. In the light of all of the above, this report will consider the proposal against the policies of the development plan, including the East Bergholt Neighbourhood Plan, to determine whether the proposal is in accordance with the development plan as a whole. If it is not, and there are policy conflicts, they will need to be weighed against other material considerations to see whether a decision which does not accord with the development plan is warranted, in the light of the presumption in favour of sustainable development, and in the context of the authority not being able to demonstrate a 5 year land supply.

Sustainability of the Proposal (including assessment against the development plan and the NPPF)

33. As detailed at paragraph 26 above, in applying the 'tilted balance' required by paragraph 14 of the NPPF, the Council must decide what weight to attach to all the relevant development plan policies, whether they are policies for the supply of housing or restrictive 'counterpart' policies such as countryside protection policies.
34. In that regard, whilst it is for the decision maker to determine the weight that is to be given to these policies, it is your officer's opinion that policies CS2, CS3, CS11 and CS15 provide a framework to consider the sustainability of this site, having regard to the three strands of sustainable development set out in the NPPF. As such, these policies and their requirements are assessed further here.
35. Policy CS2 (Settlement Pattern Policy) identifies East Bergholt as a 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).
36. 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.*
37. 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.
38. 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, and means that it is a material consideration when planning applications are determined.
39. 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).
40. The matters listed in Policy CS11, which proposals for development for Core Villages must address, are now considered in turn.

The landscape, environmental and heritage characteristics of the village

Impact on Landscape

41. Policy EB6 of the EBNP states that;
- “Development proposals shall demonstrate that they:*
- 1. Comply with the policies and guidance relating to the Dedham Vale AONB and its setting;*
 - 2. Where appropriate, satisfy the development tests set out in paragraph 116 of the National Planning Policy Framework;*
 - 3. Respond positively to the special qualities and scenic beauty of the Dedham Vale AONB and its setting;*
 - 4. Have taken full account of the capacity assessment set out in the Landscape Sensitivity and Capacity Assessment (Map 11) ; and*
 - 5. Would not have an unacceptable adverse impact on the landscape setting of the village demonstrated through a Landscape and Visual Impact Assessment”.*
42. In respect of criteria 1-3 of policy EB6, the impact on the AONB is considered in the following sub-section of this report.

43. Map 11 within the EBNP sets out the Landscape Sensitivity and Capacity Assessment. It identifies this area as having Medium Landscape Capacity, where the overall findings of the assessment were “...the countryside within and surrounding the main built-up area of the village comprises rural, intact, high quality landscapes. The majority of the identified parcels of land in the countryside surrounding East Bergholt were found to have only a Low to Medium capacity to accommodate development, based on the assumptions set out in the report. Five parcels were found to have a Medium capacity to accommodate development on that basis and none were found to have a Medium to High or High capacity”.
44. Policy EB6 requires that developments take full account of the Landscape Sensitivity and Capacity Assessment (criterion 4) and that an LVIA should demonstrate that there would not be an unacceptable adverse impact on the landscape setting of the village (criterion 5). Whilst these are separate issues, the fundamental matters at hand are the impacts of development on the landscape, the sensitivity of the landscape to such impacts and the overarching impacts on the AONB. These are therefore considered below. However, it should be noted that the Examiner who examined the Neighbourhood Plan did not accept that this site should be classified as Local Green Space, and removed this proposed designation from the site in the Examination of the Neighbourhood Plan. As such, policy EB7 is not applicable to this scheme.
45. The NPPF emphasises as a core principle (paragraph 17) the need to proactively drive and support sustainable development to deliver homes. It states that both the intrinsic character and beauty of the countryside should be recognised and that pursuing sustainable development involves widening the choice of high quality homes. The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.
46. The Planning Practice Guidance advises that “*The opportunity for high quality hard and soft landscaping design that helps to successfully integrate development into the wider environment should be carefully considered from the outset, to ensure it complements the architecture of the proposals and improves the overall quality of the townscape or landscape*”.
47. The submitted application includes a Landscape Appraisal which references the Landscape Character Assessment, assessment of impacts and effects and proposed mitigations. The submitted Landscape Appraisal is considered to be a thorough report and includes a detailed analysis of the site, the surrounding landscape and how the proposals seek to mitigate the impact of the development over the short, medium and long term. The document includes a building height parameter plan (drg. No. 1950/306 Rev. P1) which includes indicative development parcels. The key principles of the indicative layout are supported including:
- The setback built frontage along Heath Road
 - The central open green corridor
 - The setback southern and eastern boundary
 - The indicative building heights
48. In terms of the likely visual effect on the surrounding landscape, the Council’s Consultant Landscape Specialist has stated that the proposals will inevitably have an impact, but this impact would be generally limited to the northern boundary edge of the site where the proposals front onto the site boundary along Heath Road. The character of the site would change significantly as part of this proposal; however the proposed landscape mitigations included as part of the application would be adequate to suitably reduce these impacts of the development in the longer term, in what is a sensitive landscape setting.

49. Recommendations have been provided by the Consultant Landscape Specialist to further improve the site and limit the impact on the wider area. These recommendations can be conditioned and dealt with as a reserved matter. Overall, it is considered that the proposed information submitted relating to landscape character is acceptable subject to satisfactory information being submitted as part of the reserved matters application. In this regard, the proposal accords with criterion iv) and v) of policy EB6.

Impact on AONB

50. The Dedham Vale AONB is located to the south of the application site. The NPPF seeks to conserve and enhance the natural beauty of the AONB and provides that *"great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads, and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty"*.
51. The AONB Officer has provided detailed comments which raise the following issues;
- Contrary to the statement made in our previous submission, it is noted that the LVIA, offered in 2 parts, did in fact make reference to the Dedham Vale AONB Natural Beauty & Special Qualities document.
 - The detail of the LVIA notes the importance of various approaches to mitigate the potential visual impact of the development. In particular we are concerned with the visibility of the site from Heath Road and from the public right of way to the south of the development site.
 - Given the slope and vertical visibility of the proposed development when viewed from the south, we would question whether single story dwellings may also need to be considered along this boundary. (Reference 5.14 LVIA and viewpoints 13 and 14 in Appendix showing comparisons). The Comparison of Landscape Impact images are useful in demonstrating the likely ridge heights of the dwellings and does show that there is room for further reduction in visual impact from viewpoints 13 and 14 if a reduced ridge height was proposed.
 - We note the proposals to reinforce existing landscape character, enhance connectivity and enhance ecological value and would agree with this approach. The next stage will of course be to further demonstrate the anticipated outcome of this approach in a detailed Landscape Strategy, with full details of the proposed planting.
 - The LVIA makes reference to the arable 'open' field to the south of the site as being important to retain. It is not clear whether this is in the ownership of the applicant. If it is, we would recommend that it is incorporated into the application site, to ensure that it becomes part of the area secured for ongoing future management. If it is not within the applicant's control, there is no security of control of this piece of land which is considered to be crucial to the overall landscape strategy in respect of buffering of the development site along this boundary. This land is also fundamental to the provision of a footpath link from the development site to the existing public right of way to the south. More detail on how this is proposed to be achieved will be required.
 - If the Local Planning Authority are minded to grant outline permission, we would expect that a detailed Landscape Plan is submitted along with specifications of the proposed planting, establishment method and ongoing management arrangements for those areas subject to landscaping. As identified in section 5.4 Mitigation, the applicant notes that 'It is important to demonstrate that the long term control and management of the site is secure'. The means by which this will be secured is unclear at present.

- With reference to the potential impacts on nearby designated sites, we note that measures have been proposed following HRA Assessment. We would support measures being secured through legal agreement to ensure that the proposed development contributes to an agreed strategy to avoid recreational disturbance within the nearby Stour and Orwell Estuaries SPA, Ramsar, SSSI.
 - In addition to this, we would highlight concerns that the proposal is likely to result in further pressures in and around Flatford, East Bergholt and Dedham. The AONB Partnership are actively involved in implementing measures to manage visitor pressures in this particular part of the AONB and would welcome further discussions on these issues with the Local Planning Authority. There are potential opportunities for further off-site enhancements within this locality which have not yet been considered in the submitted documents.
52. These comments need to be taken into account in the light of the provisions of the NPPF, most notably paragraphs 115 and 116 which state;
- “115. Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads.*
- 116. Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:*
- *the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*
 - *the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and*
 - *any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated”.*
53. In the Court of Appeal judgement in *R (on the application of Cherkley Campaign Ltd) v Mole Valley District Council [2014] PLSCS 138*, the judge found that *“I see no good reason for departing from the language of paragraph 116 itself. The paragraph provides that permission should be refused for major developments “in” an AONB or other designated area except where the stated conditions are met: the specific concern of the paragraph is with major developments in a designated area, not with developments outside a designated area, however proximate to the designated area they may be”.*
54. In this instance, the proposal does not fall within the AONB. As such, paragraph 116 is not engaged and, therefore, the proposal complies with criterion ii) of policy EB6 which requires compliance with paragraph 116 of the NPPF.
55. Notwithstanding this, it is necessary to consider the impact of the development on views into and out of the AONB, with particular regard to policies EB06 and CR02 and paragraph 115 of the NPPF. Paragraph 115, Policy CR02 and Policy EB6 bring about different tests in respect of the consideration of development in the AONB.

Paragraph 115 provides that great weight should be given to “*conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty*” whilst policy CR02 requires that “*there is an overriding national need for developments that have a significant impact in the particular location and that there are no alternative sites available*”. Policy EB6 sets out three separate criteria, the first of which seeks compliance with the policies and guidance relating to the Dedham Vale AONB, and the third of which seeks that development proposals “*Respond positively to the special qualities and scenic beauty of the Dedham Vale AONB and its setting*”. The second criteria in policy EB6 requires satisfaction of the tests in paragraph 116 of the NPPF, wherever appropriate. For reasons already set out, paragraph 116 is not engaged in this instance.

56. Whilst the requirements set out within the policies are different, it is apparent that the aims of these policies are to conserve the landscape and scenic beauty of the AONB (paragraph 115), ensure that in instances where there is a significant impact that there is a demonstrable national need and that no alternative sites are available (CR02) and that developments respond positively to the special qualities and scenic beauty of the AONB (EB6). As such, the developments impact on the AONB will now be considered against these provisions.
57. The LVIA submitted with this application is considered to provide a robust assessment of the impacts of this development and it is apparent from the comments made by the AONB Officer that, whilst there are some concerns, there are a number of areas of agreement with regards to the manner in which this development has been proposed. It is also apparent that many of these matters are such that will be fully assessed at the detailed design stage, where the impacts of the proposal in terms of the physical arrangement of buildings, and their scale and appearance, will be able to be considered in more detail.
58. Furthermore, consideration of the comments made by the AONB Officer identifies that there are matters that are controllable by condition that would give some security as to the landscape scheme and its ongoing maintenance. This is considered to be reasonable and is, therefore, proposed as a condition should planning permission be granted.
59. Whilst the proposal is adjacent to the AONB boundary, it is considered that having reviewed the findings of the submitted LVIA in this regard, the response from the AONB Officer and that from the Council’s own Landscape Consultant, the proposal does not have a significant adverse impact (in either landscape or visual terms). As such, the proposal is considered to comply with paragraphs 109 and 115 of the NPPF, and with development plan policies CR02 (Babergh Local Plan) and EB6 (EBNP).

Impact on Environment

60. A Phase 1 Land Contamination Survey was submitted in June 2017 in support of the application. This identifies some potential minor sources of contamination, but no evidence to suggest significant sources of contamination or previous industrial use were uncovered. Based on the foregoing assessment some check sampling and testing of the soils is considered appropriate prior to development, to test the conceptual model and confirm the assumptions made in the survey. In this respect, it is considered that seeking further investigation prior to development can be secured by condition.
61. The Public Rights of Way Officer has been consulted with regards to the scheme due to the proximity of the site to Public Footpath 38. No objections have been received as the scheme would not have an adverse impact on the public footpath.

62. With regards to potential impacts on biodiversity, this is assessed in a separate section of the report.

Impact on Heritage Assets

63. Suffolk County Council Archaeological Service have identified that the site of the proposed development has high potential for the discovery of important heritage assets of archaeological interest in view of its large size and location close to a number of sites recorded in the County Historic Environment Record. It is situated to the east of the historic settlement core of East Bergholt (EBG 044) and scatters of multi-period finds have been recorded in the vicinity. However, the site has not been the subject of previous systematic investigation.
64. The Archaeological Service is satisfied that the impact can be adequately mitigated by the imposition of conditions. The development is therefore considered to be acceptable at this stage where, should permission be granted, the relevant conditions can be imposed.
65. There are no other heritage assets that are considered to be affected by the proposal.
66. For these reasons, it is considered that the proposal complies with the NPPF paragraphs dealing specifically with heritage assets, as well as policies EB10 and CN06.
67. In light of the considerations set out above, it is also considered that the proposal would comply with this element of policy CS11.

The locational context of the village and the proposed development

68. 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.
69. 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".*
70. Furthermore, policy EB2 of the EBNP relates specifically to the size and location of development. This policy provides that:

"Housing development will be supported within or immediately adjacent to the village Built Up Area Boundaries provided that the development:

1. *Would not have an unacceptable adverse impact on the Dedham Vale Area of Outstanding Natural Beauty (Map 9), Local Green Spaces or sites of biodiversity and geodiversity importance;*
2. *Conserves, enhances and respects the Conservation Area (Map 18), heritage assets and built character of the local area, respecting the density, rhythm, pattern, proportions and height of existing development in the street scene;*
3. *Would not have an unacceptable adverse impact on the local highway network;*
4. *Would be of an acceptable size and scale that contributes to the character of the village and the “Sense of Place”; and*
5. *Is within 800 metres of the Village Heart or Focal Points (Map 4).*

Housing development on sites not adjacent to the Built Up Boundaries or outside the 800 metres zones will be supported where they satisfy the special circumstances set out in paragraph 55 of the National Planning Policy Framework.

Rural Exceptions Affordable Housing will be encouraged on sites adjacent to or well related to the Built Up Area Boundaries (Maps 5 & 6) in accordance with Local Plan Policy CS20.

Housing development of up to 15 homes that is well designed and integrated into the village will be preferred. Developments of 15 or more dwellings will be supported where they deliver exceptional benefits to meet the housing needs of the community including affordable and low cost market housing suitable for newly forming households, young families and homes for older people”.

71. Some of the aspects of policy EB2 relate to individual matters that fall within separate sections of this report, such as the impacts on the AONB, impacts on heritage assets, highways impacts and biodiversity. However, elements of policy EB2 relating to the size and scale of the development are relevant to the consideration of this element of CS11 and are, therefore, considered in more detail below.
72. Map 4 within the EBNP shows the areas defined as the Village Heart and the Focal Points. The criterion within EB2 requires that development be located within 800m of the Village Heart or Focal Points. The site lies within the 800m radius of the Focal Point associated with the doctors surgery and the school, and thereby complies with this element of policy EB2.
73. However, such a basic assessment does not provide sufficient consideration of the connectivity of the site and its relationship to the village. The Council’s Rural Development and Core Strategy Policy CS11 Supplementary Planning Document (SPD) identifies (paragraph 15) that the availability of, and access to, local services and facilities is a key consideration in determining whether a proposal is sustainable. East Bergholt is defined as a Core Village, which policy CS2 sets out should act as a focus for development. The range of services and facilities available is also important as this will have a bearing on the size and scale of development that can be accepted i.e. a village with a wide range of services and facilities is more sustainable and can potentially accommodate a greater amount of development.
74. The SPD also identifies that the availability and frequency of public transport is also an important consideration, and references walking distances set out in the Department for Transport Local Transport Note 1/04, which recommends:
 - Desirable - 400 metres
 - Acceptable - 800 metres
 - Preferred Maximum - 1200 metres

75. It notes that these distances should be considered in respect of the inclines experienced, and should be measured along the route taken rather than a straight line. The quality of the footpath connection is also important, where continuous footpath connections should be available.
76. Policy EB13 requires new developments to provide an adequate and safe footpath layout within the development and good pedestrian links to pedestrian routes to the village and nearby countryside. It seeks that schemes should demonstrate cycle friendly road layout and safe connections to the highway. Policy EB14 looks to achieve, where possible, new development to take advantage of any opportunity to enhance and protect existing footpath, cycleway and bridleway networks, create new networks and improve connections between existing and proposed networks. They should also aim to reduce recreational pressure on Stour & Orwell Special Protection Areas.
77. The Manual for Streets identifies that "*Walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes (up to 800m) walking distance of residential areas, which residents may access comfortably on foot*". The application includes an assessment of the distances to the facilities and services in the village, and the Planning Statement concludes that "*the proposal is well connected to facilities being within an 800m walk of most everyday facilities*".
78. The site abuts the BUAB and is well linked to a network of public footpaths. The Doctors Surgery and High School are in close proximity to the site and the village heart is approximately 1km from the site. In this respect, the site is reasonably well linked to the facilities and services in East Bergholt.
79. Furthermore, the site is a logical extension to the built up area boundary and the scale and character of development is commensurate with neighbouring development. It is therefore considered to comply with the aims of this part of policy CS11.

Site location and sequential approach to site selection

80. 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 East Bergholt.
 81. There are no sequentially preferable allocated sites within East Bergholt, nor are there any sites within the built up area boundary which would enable a development of commensurate scale that are available and deliverable.
 82. 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. As such, in the absence of sites within the BUAB and no requirement to consider other sites outside the BUAB, the proposal is considered to be acceptable in terms of this element of policy CS11.
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Locally identified need - housing and employment, and specific local needs such as affordable housing

83. 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 cluster¹ 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.
 84. 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.
 85. 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.
 86. 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 East Bergholt and the functional cluster of smaller rural settlements which it serves.
 87. 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).
 88. 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.
 89. 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.
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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.

90. 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 above, 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.
91. In this case, the Applicant has submitted an “Assessment of Housing and Employment Need” in support of the proposal. This identifies that:
- The proposal delivers market housing equating to 49 units of various size
 - Affordable housing equating to 26 units of various size, and providing rented and shared ownership properties)
 - A total of 33 smaller (1 and 2 bedroom) dwellings are included, equating to 43% of the scheme.
 - 18 bungalows are proposed, making adequate provision for the elderly.
 - A neighbourhood hub is proposed which is expected to include a local shop, covered swimming pool and flexible office space.
 - The affordable housing provision will make a positive contribution to identified and unidentified needs. This provision has the support of the Council’s Housing Department.
 - The provision of key worker housing will be a positive asset, attracting teachers and NHS staff in an area where cost of housing is particularly high.
 - The 49 market dwellings will be available to anyone who wants to buy them, and will contribute to the district’s requirements and the Neighbourhood Plan requirements, both of which are expressed as minimums.
 - The proposal will strongly support the Neighbourhood Plan’s commitments towards providing a mix of house types, sizes and tenures.
 - The proposals accord with NP policy. providing 33 smaller dwellings, which meets that minimum requirements of at least 40% of new dwellings being one and two bedroom homes (policy EB4).
 - The provision of 18 bungalows for the elderly of mixed tenure will also contribute towards meeting need.
 - The proposals will also generate local employment which will provide opportunities for residents who want to work locally.
92. Whilst this is submitted as an assessment of need, it does not robustly consider a variety of evidence sources and is considered to be substandard in terms of identifying local need, particularly with regards to market housing. However, the housing needs of the village are also considered within the EBNP. Appendix D4 and D5 of the Neighbourhood Plan provide the Executive Summary of the Community Action Suffolk Housing Needs Survey and the Housing Options paper respectively. These papers lead to the conclusions reached within the Housing chapter of the EBNP, most notably around policies EB1-EB5 and the supporting text.

93. Policy EB1 of the EBNP identifies that there shall be a minimum of 86 new homes developed over the Plan Period. In this respect, it is noted that there is an evidenced need to provide a minimum of 86 new homes within the Plan Period and that this is the expectation of the community through its adopted plan. There can be no doubt that this development exceeds this expectation and that there is strong feeling within the community that this proposal provides a quantum of development that is unnecessary, in excess of evidenced need and harmful to the village in terms of the integration of new residents and their effects on the current community.
94. The EBNP Housing Needs Survey identifies that it is important for new housing to provide an appropriate mix of housing size, type and tenure, where there is potential on the site. This is mirrored in policy CS18, which requires that residential development that provides for the needs of the District's population, particularly the needs of older people will be supported where such local needs exist, and at a scale appropriate to the size of the development. The mix, type and size of the housing development will be expected to reflect established needs in the Babergh district (see also Policy CS15).
95. Policy EB2 states that *"Housing development of up to 15 homes that is well designed and integrated into the village will be preferred. Developments of 15 or more dwellings will be supported where they deliver exceptional benefits to meet the housing needs of the community including affordable and low cost market housing suitable for newly forming households, young families and homes for older people"*. Policy CS19 of the Core Strategy requires affordable housing to be provided at 35%.
96. Policy EB4 of the EBNP seeks that at least 40% of new housing should be one or two bedroomed properties. As can be seen from this table, the scheme provides 48% of the development as one or two bedroom properties, and thereby complies with policy EB4 of the EBNP.
97. Policy EB5 of the EBNP also seeks upto one third of new housing to be designed to meet the needs of older people.
98. The development proposed is in accordance with Core Strategy Policy CS19 and makes provision for 35% of homes to be affordable equating to 26 affordable dwellings in this scheme. Furthermore, a number of one bedroom properties and bungalows, which would assist in providing properties for those groups of people identified in policies EB2 and EB5, are provided. Therefore, the proposal is considered to accord with policies CS18, EB4 and EB5.
99. Furthermore, whilst the quantum of development, in the terms of a simple assessment of numbers, does not exceed the amount of development identified as a minimum to be delivered across the Neighbourhood Plan period (policy EB1 requires a minimum of 86 dwellings), the extent to which the applicant has demonstrated that the development meets local needs in the terms understood to be required by policy CS11 is not considered to be robust. As such, it cannot be concluded that the proposal meets locally identified need and, therefore, the proposal does not comply with this element of policy CS11.

Locally Identified Community Needs

100. 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.

101. 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).
102. 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. The Planning Statement submitted with the application identifies that pre-application discussions identified that there is local demand for a small retail unit on this site, and that the proposed office space could be used as meeting room/s by home workers. It was also identified that a covered swimming pool would be a useful facility for the schools and the community.
103. In this respect, whilst the community needs cannot be considered to have been robustly considered, the proposal does make provision for community facilities based on pre-application discussions and community engagement and, therefore, the proposal is considered to accord with this element of policy CS11.

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

104. 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*".
105. Concerns have been raised that East Bergholt would suffer cumulative impacts – on the school, traffic congestion and the character of the settlement overall from too much rapid growth. The impact on the school is not considered a problem if mitigation, as set out in the responses from SCC, is provided. The LHA has raised no objection in terms of congestion and traffic generated from the development is not considered to have an adverse cumulative impact.
106. The character of the village being changed by extensive incremental growth is an important issue. The historic level of growth is similar to some other Core Villages and the Strategic Planning Team have concluded that the growth is not disproportionate given the villages status as a Core Village. 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.
107. Therefore, whilst, concerns have also been raised that there has already been a high level of development in the village historically, there is no specified cap on the size of development that can come forward under Policy CS11, especially in Core Villages such as East Bergholt, which are to act as a focus for development in the functional cluster. Therefore, the scale of development in itself cannot be objectionable per se; it is only whether the scale proposed has any adverse impacts.

108. There are no known physical or social infrastructure capacity issues which cannot be addressed. Suffolk County Council and NHS England have confirmed there is sufficient capacity within the local medical and educational services and they would be able to make bid for CIL funding to address infrastructure issues in the local area. However, it is noted that there are a number of representations made that identify that the amount of development proposed is in excess of that set out within policy EB1 of the EBNP. This proposal, in isolation, would not exceed the minimum threshold set by policy EB1, albeit that policy EB1 provides that threshold across the entirety of the Plan Period. However, Officers acknowledge that there is a significant amount of development proposed for East Bergholt at the current time, and that this would bring with it some pressures in terms of integration and the social effects on the village.
109. This leaves the issue of the cumulative impact on other nearby villages and neighbouring authority areas. There is an allocation at Brantham (within the East Bergholt functional cluster) which is the subject of a grant of planning permission, and the cumulative impacts upon the village of Brantham resulting from both this development and that on the aforementioned allocated site have been considered in terms of the traffic implications (see 'Highway Safety' section below) and the impacts upon the SPA. The result of these considerations is that there would not be severe highway impacts on the A137 from traffic resulting from this and committed development, and that the possible impacts on the SPA from occupants of the proposed development can be mitigated subject to securing a contribution which will enable such mitigation to be carried out. A more detailed assessment of these positions is set out within the relevant sections of this report.
110. 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. The proposal therefore complies with this element of policy CS11.
111. As such, the cumulative impacts of the proposal are considered to be in accordance with the requirements of policy CS11.

Summary of Assessment Against Policy CS11

112. For the reasons set out above, the development proposal has addressed most of the matters identified in Policy CS11, with the exception of locally identified need, to the satisfaction of the local planning authority. As such, the proposal cannot be said to fully comply with policy CS11.

Consideration Against Other Development Plan Policies

113. As noted, there is no 5 year land supply, and as a result the policies for the supply of housing in the Core Strategy are, in line with paragraph 49 of the NPPF, deemed to be out-of-date for as long as this remains the case. This brings into play Policy CS1 (as well as paragraph 14 of the NPPF). The presumption in favour of sustainable development applies, unless it is excluded by either the consequence of applying the 'tilted balance' or the operation of restrictive policies in the NPPF. The 'tilted balance' is capable of affecting the weight to be given to other Core Strategy policies, although the weight they should be given remains a matter for planning judgment.

114. 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. The above appraisal provides, therefore, only part of the consideration of the sustainability of the site and only part of the consideration of the development plan as a whole. As such, this report will now consider the provisions of the EBNP and other relevant development plan policies, and also consider, in light of the entirety of this assessment, the three strands of sustainable development set out in the NPPF.
115. Policy CS2 requires that sites outside of a Core Village (or other defined settlement) form part of the countryside and Policy CS2 limits development in the countryside so that it will only be permitted in exceptional circumstances subject to a proven justifiable need. The application site is outside of the defined Core Village and so needs to satisfy these tests to comply with Policy CS2.
116. Policy CS2 forms part of a suite of policies within the Core Strategy. As set out at paragraph 22 of this report, the Core Strategy was adopted post-NPPF and, therefore, was examined and tested against the provisions of the NPPF. It can be seen that the aims of the Core Strategy, coupled with the development of a site allocations document referenced within it, would deliver the housing needs of the district through a planned approach to the delivery of housing. The approach set out within policy CS2 was, therefore, deliberately restrictive of development in the countryside, aiming to direct development sequentially to the towns/urban areas, and to the Core Villages and Hinterland Villages.
117. However, the Council cannot now demonstrate a supply of specific deliverable sites sufficient to provide five years worth of housing against the housing requirements, as required by paragraph 47 of the NPPF. In the light of this, the weight that should be given to policy CS2 needs to be considered in the context of paragraph 14 of the NPPF. This is because at least some of the policies in the Core Strategy are relevant policies for the supply of housing (such as policy CS3 which includes the number and distribution of new homes). Those policies are currently out-of-date, whilst the shortfall endures, and so Policy CS1 and paragraph 14 of the NPPF are engaged.
118. Policy CS2 forms part of a suite of policies to control the distribution of new housing, and can be afforded weight, since it contributes to ensuring that development is sustainably located and unsustainable locations are avoided. This planning objective remains important and is consistent with the NPPF's objective of promoting sustainable development, by limiting development in less sustainable locations with a limited range of services to meet the needs of new residents in a sustainable manner. However, in the absence of a five-year supply and with a substantial shortfall of almost a year (at best) or almost 2 years (at worst) indicating that it is appropriate to give significant weight to the provision of housing as to address the housing shortfall, Officers are of the view that this policy should be afforded limited weight.
119. Policy CS15 is a long, wide-ranging, criteria based policy, setting out how the Council will seek to implement sustainable development. It contains a total of 19 criteria, covering matters such as landscape impact, job creation, minimising energy and waste and promoting healthy living and accessibility. Many of the criterion within policy CS15 are covered within the individual sections of this report including, for example, landscape impacts, sustainable drainage, biodiversity and minimising car use and it is not, therefore, necessary to run through each and every one of those criteria in this section of the report. What follows is, therefore, an overarching summary of the key points. Where those issues relate directly to development plan policies, including those in the EBNP, they will be referenced directly also.

120. As a Core Village, East Bergholt 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. These facilities include a primary school, a secondary school, playing fields and a sports centre, four community buildings including a village hall, a filling station, a GP practice, a sports centre, churches, public houses, a pharmacy, a village shop, a post office, a butchers and a bakery and a tea room.
121. Policy CS15 seeks to minimise the need to travel by car using alternative means and improving air quality. East Bergholt 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 to Colchester and Ipswich. East Bergholt 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 East Bergholt 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.
122. It is acknowledged, however, that there will be a high proportion of car travel from East Bergholt, as people travel out of the village to work, however it is also important to take into consideration both the provision of and accessibility of public transport in East Bergholt as discussed, which provides a credible alternative mode of transport for a variety of activities including employment, retail and leisure and recreation (criterion xviii of CS15). Policies EB13 and EB14 are particularly relevant to this consideration requiring (respectively) that *“New developments should provide an adequate and safe footpath layout within the development and good pedestrian links to pedestrian routes to the village and nearby countryside. Schemes should demonstrate cycle friendly road layout and safe connections to the highway”* and that *“Where possible, new development should take advantage of any opportunity to enhance and protect existing footpath, cycleway and bridleway networks, create new networks and improve connections between existing and proposed networks. They should also aim to reduce recreational pressure on Stour & Orwell Special Protection Areas”*.
123. These matters have been considered in some detail within the earlier assessment of the proposal against policy CS11, where it has been concluded that the proposal complies with policy EB2 in terms of its proximity to the Focal Point identified in the EBNP, and is also compliant with the walkable distances set out in Manual for Streets and in the CS11 SPD. Furthermore, the nearest bus stops to the site are located on Heath Road within 350m (4.5 minute walk) from the proposed site access. These stops are served by 3 regular bus routes and 6 school bus services, and provide up to 18 bus services per day Monday – Friday between Colchester and Ipswich. A full bus timetable has been submitted by the applicant. The submitted Planning Statement states that the proposed development will fund the implementation of two new bus stops with shelters and timetable information on Heath Road near the site access location for eastbound and westbound bus services. It is therefore considered that the development is well related to public transport.
124. The Planning Statement submitted with the application draws attention to the location of the Donkey Path to the south of the site, which leads into the village and would give access to the facilities in the village to those wishing to walk.

125. The socio-economic profile of East Bergholt highlights the village's important role as an economic asset for the Babergh District. It is an attractive place to a variety of people, and plays an important role in the tourism and heritage of the local area. However, there is a need to balance housing stock and growth in the future to ensure that new housing development adds variety and choice to the local housing market and address a wide range of housing needs.
126. 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 East Bergholt, underpinning social capacity, providing affordable housing and widening the housing mix overall.
127. This report has already considered the landscape setting of the site and surroundings and heritage assets (criterion i of CS15), and the connectivity and access to services (criteria xviii and iv of CS15) and the following issues are also noted in respect of criteria within policy CS15:
- The proposal would provide work for local contractors during the construction period, thereby providing economic gain through local spend within the community. The creation of the neighbourhood hub and pre-school would also provide employment (criterion iii of CS15).
 - The proposed development would support local services and facilities, and enhance and protect the vitality of this rural community (criterion v of CS15).
 - The application site is situated within Flood Zone 1, where a residential use is appropriate due to the extremely low risk of flooding. It is therefore considered that the application site is sequentially appropriate for this development (criterion xi of CS15).
 - The proposal will deliver a mix of dwelling sizes, including those suitable for older people (criterion vi of CS15)
 - The development will meet the relevant sustainable design and construction standards (criterion viii of CS15).
 - During construction, methods will be employed to minimise waste. (criterion xiv of CS15).
 - The development will seek to minimise external paving and provide water butts. Surface water run-off from the development will be conveyed to above ground storage features (criterion xii of CS15).
 - The proposed dwellings will be constructed as a minimum to meet the requirements of Part L of the Building Regulations, which requires a high level of energy efficiency (criterion xv of CS15)
128. Furthermore, the associated highway issues (criterion xix of CS15), environmental aspects related to sustainable drainage (criteria x and xii of CS15), renewable energy and reduction of carbon (criteria viii and xv of CS15) and the biodiversity aspects (criterion vii of CS15) will be considered within the specific sections of this report which follow.

Site Access, Parking and Highway Safety Considerations

129. The site is located to the north and south of Heath Road which is east-west in orientation and provides access to East Bergholt and the A12 to the west and Manningtree via Cattawade to the east. There is a speed limit change on Heath Road at the site frontage around 40m west of the junction with Putticks Lane; to the west and through East Bergholt the speed limit is 30mph; whilst to the east Heath Road is subject to the national speed limit of 60mph.

130. The proposed main part of the development will be accessed from Heath Road via a new priority junction arrangement located west of the speed limit change. The 6 dwellings on the northern parcel of land will be accessed from the existing junction which currently serves the bus lay-by opposite the Medical Centre. The Local Highway Authority has assessed the submitted information relating to highway visibility and safety and is satisfied that the indicative information is acceptable at this stage.
131. In terms of car parking, as the development is at the outline stage, indicative car parking plans have been submitted. At this stage, it appears that car parking levels would be adequate for a mixed use development of this size. Numbers, layout and sizes of car parking and turning areas would be assessed fully at the reserved matters stage. The LHA offers no objections to car parking issues at this stage.
132. A transport assessment has been submitted in support of the application. It demonstrates that a cumulative assessment in terms of traffic generation has been undertaken including local committed development, and potential development sites outlined within the SHLAA document. The assessments undertaken show the traffic impact of the proposed development will be low, with all junctions in the surrounding area continuing to operate as existing. Highways England have also been consulted with regards to the scheme and offer no objections to the scheme.
133. In conclusion, it is considered that 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 the indicative parking is considered acceptable.
134. In light of the above, the proposal is considered to be acceptable in highway safety terms. Sufficient parking is provided on site in accordance with the Parking Standards. The proposal therefore accords with the provisions of policy EB12 of the EBNP and saved policy TP15.
135. The Local Highway Authority are satisfied that the development is acceptable and will not lead to an adverse impact on highway safety. As such, and in light of the connectivity aspects also having been found to have been acceptable, the proposal accords with criteria xviii and xix of policy CS15.

Impact On Residential Amenity

136. One of the core principles as set out in Paragraph 17 of the NPPF is that planning should always seek to secure high quality design and good standards of amenity for all existing occupants of land and building.
137. As this application is an outline application with all matters reserved, it is not possible to fully assess the impact of the proposal on the residents of adjacent dwellings. However, Indicative layouts and proposed roof heights have been provided as part of the submission. At this stage, due to the size of the site and the proposed indicative layout, it is clear that the development could be designed to ensure that the residential amenity of the neighbouring properties is protected.
138. When full plans and elevations are submitted as part of the reserved matters application the full impacts on the amenity of the neighbouring properties will be assessed. This would include a full assessment of separation distances between habitable room windows, impacts on light and overbearing impacts and an assessment of the potential for the loss of privacy.

Loss of Agricultural Land

139. 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.
140. Policy EB17 of the EBNP identifies that “*new development not connected with agriculture should avoid the loss of best and most versatile agricultural land*”. Whilst not inconsistent with the NPPF, this policy is phrased slightly differently and provides a differing level of protection to the best and most versatile agricultural land.
141. Natural England advises that the best and most versatile agricultural land should be protected, and the agricultural land within the application site is classified as such due to the Agricultural Land Classification (ALC) data. East Bergholt is surrounded by best and most versatile agricultural land so any development here, particularly outside the built-up area of the village, which is in principle permitted by policy EB2, would erode this natural resource.
142. The Core Strategy makes no direct reference to the loss of agricultural land, so the application must be primarily assessed against the test in the NPPF and that in the EBNP. In the context of the test set out within the NPPF, the development is not considered to be ‘significant’² so the test is not enacted. With regards to the EBNP, policy EB17 must be read in conjunction with policy EB2, which does not preclude development outside the built-up area of the village where there would, in nearly every case, be a loss of best and most versatile agricultural land. In such an instance, where there is conflict between policies, it is pertinent to rely on the test set out in the NPPF in considering this issue.
143. As such, this issue does not weigh against the development.

Design and Layout

144. The application is made in outline form with a number of plans that provide some indication of the manner in which the site would be developed. The indicative masterplan identifies, amongst other things, a predominantly green frontage to Heath Road with a central open space area, play space, pedestrian link to the Donkey Path and attenuation basins.
145. A single access point would be formed towards the middle of the site frontage and internal roads would form a loop around the open space with the neighbourhood hub formed off a spine road to the western edge of the site.
146. Whilst this is only an indicative plan, it is considered that this masterplan, along with the supporting parameter and height plans, demonstrate how the site could be developed in a manner that would be of appropriate design and layout relative to existing built development and the surrounding countryside. In this regard, whilst the detailed design of the proposal will need careful consideration, the principles of the design and layout are considered to be in accordance with policy EB9 and policy CN01, and to accord with criterion ii) of policy CS15.

² *The definition of ‘significant’ was considered at the Tattlingstone 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.*

Land Contamination

147. The applicant has submitted an assessment of the potential contamination risks on this site, which has been assessed by the Council's Contaminated Land Officer. It is considered that the assessment made is sufficient to identify that there would be no unacceptable risks from contamination.
148. As such, the proposal is considered to comply with criterion vii of policy CS15 insofar as it relates to land contamination.

Biodiversity and Protected Species

149. 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 protection of ecology is both a core principle of the NPPF and Core Strategy. Policy CS15, in particular, requires new development to safeguard ecology.
150. Policy EB8 of the EBNP requires that developments should protect and enhance biodiversity and geodiversity to reflect the requirements of paragraphs 109, 117 and 118 of the National Planning Policy Framework. It sets out particular criteria that should be complied with, including protecting and enhancing internationally, nationally and locally designated sites, protected species and ancient or species-rich hedgerows, grasslands and woodlands, preserving ecological networks, and the migration or transit of flora and fauna; and promoting the preservation, restoration and re-creation of wildlife priority habitats and the protection and recovery of priority species.
151. An ecological assessment for on-site ecology has been prepared in relation to the application site by Eco-Planning UK, which included a badger survey and a bat tree roost assessment. The badger assessment concludes there is no active badger sett of any type in or adjacent to any part of the survey site/ proposed development area.
152. A subsequent Bat Report has been provided by ADAS. This concludes that the main portion of the site, which is comprised of arable land, offers minimal foraging habitat for bats and as such there is the opportunity for the development to have a positive impact upon bat species. If the site is constructed, the new ponds and landscape planting (including trees and shrubs) have the potential to offer a benefit to bat species. The landscaping elements, including gardens, are around the periphery of the site which is where the largest numbers of bats have been recorded. Lighting will be focused on the residential areas in the centre of the site and as such these landscaping areas will be darker than the rest of the site. As such, these areas will be suitable for bat species and it is considered that overall, the foraging and commuting habitat for bats species will be increased on site.
153. The report makes a number of recommendations which can be summarised as follows:
 - Final pre-fell inspection from a suitably qualified ecologist (SQE) and felling of the Ash tree through a soft fell methodology.
 - Maintain the central hedgerow insofar as is possible. Do not illuminate this feature and limit the width of any breaks in the hedges. Do not illuminate the road where it bisects the hedgerow.
 - Create a professional lighting strategy which considers ecology, particularly ensuring that boundary features and those with value to bats are not illuminated.

- Plant the site with native species and those with wildlife value and create ponds on site.
 - Erect 10 bat boxes around the site on retained trees.
154. The central hedgerow and associated individual trees provide reasonable connectivity for bat dispersal / foraging to suitable habitats to the south of the proposed development area. The report recommends the retention and enhancement of this linear hedgerow habitat and the bat roost assessment identifies that only one tree, an ash has medium potential for bat roosting.
155. The recommendations in respect of bats and the layout of the development will need to be considered in more detail at the reserved matters stage, if this outline application is permitted. However, the proposal is considered to be able to ensure that there is no detriment to wildlife and, through suitable mitigation and enhancements, may well deliver benefits in this regard.
156. A Habitats Regulations Screening Report was submitted to the Council from the applicant in October. On 6 January 2016, the Council issued a Habitats Regulations Assessment (HRA) Screening Report in relation to the potential impacts resulting from the development on the Stour and Orwell Estuaries Ramsar Site and SPA, which is located approximately 2.7km from the site.
157. The HRA Screening Report identifies a package of mitigation measures that would be necessary to avoid a likely significant effect on the Stour and Orwell Estuaries SPA. These measures include:
- Supplying a user-friendly SPA Information Pack to all new residents.
 - All new residents to be offered an opportunity to receiving mailings from Suffolk Coast & Heaths AONB.
 - Signage by the footpath entrances to the SPA is needed. Discs will be fitted to footpath waymarking signs to advise entry to the SPA. This is to increase people's awareness of the need to protect the important habitats within the SPA, the need to keep dogs under control and prevent disturbance to the important wintering bird populations.
 - Monitoring of visitor disturbance to the SPA is required by Babergh District Council under their Core Strategy. The data will be used to decide how best to approach protection of the SPA in the following year, and in the future. This report will be used to inform Natural England and Babergh District Council and all relevant stakeholders of any changes that may be necessary to protect the SPA in future years. Monitoring must be undertaken over a three-year period and include a review of its effectiveness.
158. Securing this mitigation would need to form part of the Section 106 agreement and, in this regard, a contribution of £10,750 is sought. The Senior Ecologist at SCC has confirmed that this would make the development acceptable in planning terms, and that the mitigation would avoid a likely significant effect on the Stour and Orwell Estuaries SPA.
159. As such, it has therefore been demonstrated that compliance with the Conservation of Habitats and Species Regulations 2010 would be achieved.
160. In terms of policy EB8, the proposal does not meet all of the criteria listed within the policy. However, the application has provided sufficient detail in support of the ecological elements of the proposal and includes enhancements (as set out within the conclusion to the Ecological Assessment) which are to be secured by condition.

As such, whilst the proposal does not accord fully with policy EB8, the application makes sufficient provision for ecology on the site so as to be able to be supported in this regard.

Summary of Assessment Against Policy CS15

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

Planning Obligations / CIL

162. The application is liable for CIL and therefore Suffolk County Council have outlined that they would be making a bid for CIL money to mitigate the impact of the development on education and libraries.
163. The application, if approved, would require the completion of a S106 agreement to secure the required number of affordable dwellings, the SPA mitigation, delivery of the travel plan and the footway widening scheme.
164. 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.

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

165. 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

166. This application brings about a number of issues which require careful attention in reaching a decision upon this proposal. What follows, therefore, is a balancing of those issues in light of the assessment carried out within the preceding paragraphs of this report.
167. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990, applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

The consideration is, therefore, whether the development accords with the development plan and, if not, whether there are material considerations that would indicate a decision should be taken contrary to the development plan.

168. The development plan includes the Babergh Core Strategy (2014), saved policies in the Babergh Local Plan (2006) and East Bergholt has recently completed a Neighbourhood Plan (made on 20th September 2016) which also forms part of the development plan. As such, the policies contained within the Neighbourhood Plan must be given due weight in making a decision on this application. It is, therefore, one of the main considerations in determining any planning applications submitted in East Bergholt, unless material considerations indicate otherwise.
169. In light of this application relating to a proposal for new housing, a further important consideration in determining this application is that Babergh does not currently have a five-year supply of deliverable housing sites. Paragraph 47 of the NPPF requires LPAs to identify a 5 year supply of specific deliverable housing sites. Paragraph 49 of the NPPF states that *'relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites'*.

170. Paragraph 14 of the NPPF states:

"At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

For decision-taking this means:

- *approving development proposals that accord with the development plan without delay; and*
- *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*

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

171. As such, the effect of paragraphs 47, 49 and 14 are that:

- the local authority should be able to identify a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements;
- that where such a supply cannot be demonstrated, policies for the supply of housing should not be considered up-to-date, and;
- where policies are not up-to-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole or where specific policies in this Framework indicate development should be restricted. Policy CS1 sets out a similar approach where relevant Core Strategy policies are out-of-date

172. As set out at paragraph 26 above, the Supreme Court in May 2017 has clarified the position with regards to ‘policies for the supply of housing’ and how that is to be considered. Officers note that the judgement makes it clear that the meaning of that expression is not the real issue, and that the absence of a five year housing land supply triggers the application of paragraph 14 of the NPPF, and that in applying the ‘tilted balance’ required by this paragraph, it is necessary to consider the weight to attach to all of the relevant development plan policies.
173. Officers acknowledge that applying the requirements of paragraphs 14 and 49 of the NPPF is likely to cause tension with regards to the recently made Neighbourhood Plan. In this respect, the Planning Practice Guidance, which provides up-to-date direction on the proper interpretation and application of national planning policy, provides clarification around this point. In relation to the weighting to be applied to policies within a neighbourhood plan relevant to the supply of housing where a Council cannot demonstrate that it has a 5-year land supply, para. 83 states the following:
- “In such instances paragraph 49 of the Framework is clear that “relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5-year supply of deliverable housing sites.” Paragraph 49 applies to policies in the statutory development plan documents which have been adopted or approved in relation to a local planning authority area. It also applies to policies in made neighbourhood plans.*
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- In this situation, when assessing the adverse impacts of the proposal against the policies in the Framework as a whole, decision makers should include within their assessment those policies in the Framework that deal with neighbourhood planning.*
- This includes paragraphs 183–185 of the Framework; and paragraph 198 which states that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted”.*
174. It is considered that policy CS3, along with policies EB1 and EB2 of the EBNP, are policies for the supply of housing. It is, therefore, considered that paragraph 14 of the NPPF is engaged with regards to this proposal. So, too, is policy CS1.
175. However, prior to considering the presumption in favour of sustainable development identified by paragraph 14, it is necessary to consider whether there are specific policies in the Framework that indicate development should be restricted. The footnote to this part of the NPPF identifies, amongst other things, policies relating to land designated as an Area of Outstanding Natural Beauty and designated heritage assets, as being those which may indicate development should be refused.
176. This report has not found that there is harm to heritage assets, and has concluded that paragraph 116 of the Framework is not engaged in this instance due to the proposal not being within the AONB. Having assessed the proposal against the specific policies in the Framework, it is not considered that there are specific policies that indicate development should be restricted. As such, paragraph 14 is engaged.
177. 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), the provision of affordable housing and economic, social and infrastructure benefits which arise from the development, it is considered that the proposal would make a significant contribution to the Council’s housing land supply.

178. In this respect, where paragraph 14 of the NPPF provides a presumption in favour of sustainable development, it is necessary to consider whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in this Framework indicate development should be restricted. It is not considered that the adverse impacts identified, which are commented upon below in terms of conflict with development plan policies, are such that would outweigh the benefits delivered by this development.
179. In any event, as the Council does not have a five year housing land supply, it is considered therefore that limited weight should be attached to policies CS2, CS11, CS15, EB1 and EB2. Whilst it is considered that the proposal does not strictly comply with these policies, any conflicts with these policies (whether in relation to proving “exceptional circumstances” or compliance with the limbs of policy CS11 including (locally identifiable need) should be afforded limited weight.
180. Therefore, whilst the proposal is not in accordance with the development plan as a whole, it is considered that the adverse impacts from the proposed development (including the identified harm to heritage assets or otherwise) do not significantly and demonstrably outweigh the benefits of the development explained in this report, even where policies in the Neighbourhood Plan are given greater weight due to their recent examination and development by the community.
181. As such, the proposal is considered to be sustainable development, in accordance with the three dimensions of sustainable development set out in the NPPF, and a recommendation of approval is therefore made. Whilst such a decision would not be in accordance with the development plan, viewed as a whole, it is an outcome that is envisaged by policy CS1 where the ‘tilted balance’ and the presumption in favour of sustainable development are engaged.

Identification of any Legal Implications of the decision

182. The application has been considered in respect of the current development plan policies and relevant planning legislation. Other legislation including the following have been considered in respect of the proposed development.
- Human Rights Act 1998
 - The Equalities Act 2010
 - Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990
 - Natural Environment and Rural Communities (NERC) Act 2006 (any rural site)
 - The Conservation of Habitats and Species Regulations 2010
 - Localism Act
 - Consideration has been given to the provisions of Section 17 of the Crime and Disorder Act, 1998, in the assessment of this application but the proposal does not raise any significant issues.

Statement Required by Article 35 Of The Town and Country Planning (Development Management Procedure) Order 2015

183. 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.

RECOMMENDATION

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

- Affordable Housing
- Travel Plan Requirements
- HRA mitigation

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

- 1) Standard Time Limit Condition.
- 2) Reserved Matters to be submitted and agreed
- 3) Approved Plans
- 4) Sustainability
- 5) As required by the Local Highway Authority
- 6) Detailed scheme of landscaping, landscape planting, and boundary treatment plan to be provided at reserved matters,
- 7) Fire Hydrants
- 8) Submission and implementation of Energy Strategy
- 9) Submission and implementation of Building for Life Assessment for each style of dwelling proposed
- 10) Submission and implementation of BREEAM assessment
- 11) Submission of foul water strategy prior to commencement and implementation of agreed strategy prior to occupation
- 12) Submission of updated FRA and drainage strategy with reserved matters and implementation as approved
- 13) Submission of surface water drainage scheme with reserved matters and implementation as approved
- 14) Submission and implementation of sustainable urban drainage system prior to occupation
- 15) Submission and implementation of construction surface water management plan prior to commencement
- 16) Archaeological evaluation and implementation of agreed programme of archaeological works prior to commencement
- 17) Submission of Phase I investigation Land Contamination Report
- 18) Construction Management Plan
- 19) Implementation of Recommendations of Ecological Surveys