

Objection to application for Land East of Constable Country Medical Centre, East Bergholt.

On behalf of East Bergholt Parish Council

Prepared by Mr Ben Redsell LLB(Hons)

Checked by Mr Steve Miller DipTP MRTPI

LPA Reference: B/15/01092

Table of Contents

Introduction	2
Executive Summary	2
Legal Considerations.....	4
<i>Suffolk Coastal v Hopkins Homes</i>	5
<i>East Bergholt PC v Babergh DC</i>	6
Policy Issues	8
Core Strategy.....	8
East Bergholt Neighbourhood Plan	9
National Planning Policy Framework	13

Introduction

Planning Direct have been appointed as advisers to East Bergholt Parish Council and produce this objection on behalf of the Parish Council, for consideration by Babergh District Council in relation to B/15/01092, a 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).

This Objection should be read alongside that for B/15/00673, Land at Moores Lane, which explores many of the same issues around CS2, CS11, and CS15, and which also considers these two large applications contrary to the East Bergholt Neighbourhood Plan and the National Planning Policy Framework, both of which must be given full weight by decision takers on the Babergh Planning Committee.

Executive Summary

In many ways this application is easier for the Committee to refuse than Land at Moores Lane. The site is considered to be within the setting of the Area of Outstanding Natural Beauty. The NPPF says that the AONB should be given the highest level of protection, and not even the applicant is arguing that the NPPF should be ignored.

In a recent appeal decision¹ (a material consideration in planning), an Inspector found that, despite a lack of 5-year supply of housing land, a development of 140 residential dwellings was inappropriate in a location that affected the setting of the Suffolk Coasts and Heaths AONB. Having determined that the relevant Local Planning Authority couldn't demonstrate a 5-year supply, the Inspector none-the-less refused permission because of the impact on the character and appearance of the area in proximity to the AONB.

¹ Land off Dukes Park, Martlesham – APP/J3530/W/16/3165730

The decision is an important precedent for the Committee to follow, in that it was a similar application for a large development that would be readily observed from within the AONB and would therefore be harmful.

As noted by the Dedham Vale AONB and Stour Valley Project response to the application, decision takers are required to have regard to Paragraphs 115 and 116 of the NPPF which give the highest status of protection for the landscape and scenic beauty of the AONB.

“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.”

In the appeal mentioned above, the Inspector found that the proposal would therefore not be sustainable, by virtue of the environmental impact; further he found that because the residents of the proposed development would be likely to rely principally on the use of private motor vehicles, this would also be likely to be environmentally damaging. Thus, in light of the need for all three streams of sustainability to be available, the development was not considered sustainable in terms of Paragraph 14 of the NPPF and therefore Paragraph 14 did not apply.

There is ample evidence before the Committee that this application is not environmentally sustainable. The development of 75 dwellings, which would be principally reliant on the private motor car, would not be sustainable and would therefore not engage Paragraph 14.

If the Committee disagrees and considers that 75 dwellings can be environmentally sustainable, then the Committee should still refuse planning permission on the grounds that this site is protected by policies within the Framework. The Supreme Court decision made clear that development should go ahead unless *“specific policies in the Framework, such as those described in footnote 9 to the paragraph, indicate that development should be restricted. From the terms of footnote 9 it is reasonably clear that the reference to ‘specific*

policies in the Framework' cannot mean only policies originating in the Framework itself. It must also mean the development plan policies to which the Framework refers.²

This makes clear that footnote 9 of Paragraph 14 NPPF allows any policies which protect the AONB to be given full weight in the planning balance. Further, it reminds decision-takers to consider the paragraphs within the NPPF that protect the AONB.

This application will cause harm to the setting of the AONB. AONBs are given the highest protection by the NPPF and within Babergh's development plan, and where harm is caused it should be considered very carefully. It is entirely within the gift of the decision-takers on the Committee to refuse this application on grounds of conflict with the development plan (CS2, CS11, CS15 of Babergh's Core Strategy, as well as policy EB1, EB2, EB4, EB5, EB6, EB8, EB9, EB10, EB14, EB17, and EB22 in the East Bergholt Neighbourhood Plan.) as well as on the grounds that it is not environmentally sustainable, and that the application of footnote 9 to Paragraph 14 provides for the protection of the AONB and the setting of the AONB, which would be harmed if the application was granted.

The application raises the risk of increased pressure for recreation on the AONB and the nearby Stour and Orwell estuary. The Dedham Vale AONB and Stour Valley Project raises significant concerns relating to the proposals impact through traffic, increased pressure for recreation, and highlights the potential for a cumulative impact, when set against other developments proposed within this cluster, including in the nearby village of Brantham.

There are a number of other issues contained within the consultation responses and in the inadequate consideration of these concerns by the officers contributes to the flawed suggestion that the application must be recommended for approval.

This report therefore recommends to the Council's Planning Committee that it rejects the planning application.

Legal Considerations

Councillors will naturally be concerned to make sure that their decision is legally watertight, following previous decisions of this committee which were later overturned by the courts.

The starting point for the consideration of any planning application is Section 38(6) Planning and Compulsory Purchase Act 2004, which states that planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. This requirement is confirmed at various points in the NPPF, including paragraphs 11, 150, and 196. The NPPF is confirmed as a material consideration both in plan making and decision taking.

The Development Plan for East Bergholt includes the Babergh Core Strategy, Saved Policies from the Babergh Local Plan: Alteration No. 2 (2006), and the adopted East Bergholt Neighbourhood Plan.

² Paragraph 61, Lord Carnwarth's speech, *Suffolk Coastal v Hopkins Homes* decision.

Material considerations that are relevant to the application include, but are not limited to, the National Planning Policy Framework (2012), National Planning Practice Guidance (2014), the Rural Development and Core Strategy CS11 SPD, Babergh District Council – Affordable Housing SPD (2015), Suffolk Guidance for Parking (2014), Manual for Streets, CABI Building for Life 12.

Councillors will also be aware of two court cases that have a direct impact on the decision before them, namely the Supreme Court decision in *Suffolk Coastal v Hopkins Homes* and the High Court decision in *East Bergholt PC v Babergh DC*, both referred to above.

Suffolk Coastal v Hopkins Homes

The decision of the Supreme Court in this case is of the highest importance to Local Planning Authorities faced with the circumstance of a failure by them to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing ("the 5-year housing supply").

The Supreme Court determined that only policies for the supply of housing – number of houses required, and where they can be built – should be considered out-of-date for the operation of Paragraph 49. This is known as the 'narrow application', as is set out below.

In that scenario, a local planning authority must adopt the approach set out at paragraph 49 of the NPPF, which has the effect of bringing into play the "tilted balance" required of a decision maker under paragraph 14 NPPF (and importantly footnote 9 thereof).

The following passages from the speech of Lord Carnwath are relevant to the interpretation of the "tilted balance" obligation:

"54... since the primary purpose of paragraph 49 is simply to act as a trigger to the operation of the "tilted balance" under paragraph 14, it is important to understand how that is intended to work in practice... the balance is tilted in favour of the grant of permission, except where the benefits are 'significantly and demonstrably' outweighed by the adverse effects, or where 'specific policies' indicate otherwise"

"56... Restrictive policies in the development plan (specific or not) are relevant, but their weight will need to be judged against the needs for development of different kinds..."

"57. It is true that other groups of policies, positive or restrictive, may interact with housing policies, and so affect their operation. But that does not make them policies for the supply of housing in the ordinary sense of that expression"

"58... other categories of policies, for example those for employment land, or transport, may also be found to be out-of-date for other reasons, so as to trigger the paragraph 14 presumption. The only difference is that in those cases there is no equivalent test to that of the five-year supply for housing. In neither case is there any reason to treat the shortfall in the

particular policies as rendering out-of-date other parts of the plan which serve a different purpose”.

However

“60... On that reading, non-housing policy which may objectively be entirely up-to-date, in the sense of being recently adopted and in itself consistent with the Framework, may have to be treated as notionally ‘out-of-date’ solely for the purpose of the operation of paragraph 14 [NPPF]

“61. There is nothing in the statute which enables the Secretary of State to create such a fiction, nor to distort what would otherwise be the ordinary consideration of the policies in the statutory development plan; nor is there anything in the NPPF which suggests an intention to do so. Such an approach seems particularly inappropriate as applied to fundamental policies like those in relation to the Green Belt or Areas of Outstanding Natural Beauty. No-one would naturally describe a recently approved Green Belt policy in a local plan as ‘out-of-date’, merely because the housing policies in another part of the plan fail to meet the NPPF objectives. Nor does it serve any purpose to do so, given that it is to be brought back into paragraph 14 as a specific policy under footnote 9. It is not ‘out of date’, but the weight to be given to it alongside other material considerations, within the balance set by paragraph 14, remains a matter for the decision-maker in accordance with ordinary principles”.

Additionally, the Parish Council draws to the committee’s attention the following extract from the speech of Lord Gill:

“85. Paragraph 49 merely prescribes how the relevant policies for the supply of housing are to be treated where the planning authority has failed to deliver the supply...The decision-maker should therefore be disposed to grant the application unless the presumption can be displaced. It can be displaced on only two grounds both of which involve a planning judgment that is critically dependant on the facts. The first is that the adverse impacts of a grant of permission, such as encroachment on the greenbelt, will ‘significantly and demonstrably’ outweigh the benefits of the proposal...The second ground is that specific policies in the Framework, such as those described in footnote 9 to the paragraph, indicate that development should be restricted. From the terms of footnote 9 it is reasonably clear that the reference to ‘specific policies in the Framework’ cannot mean only policies originating in the Framework itself. It must also mean the development plan policies to which the Framework refers.”

East Bergholt PC v Babergh DC

This case considered the application of specific elements of the Babergh Core Strategy, which it was determined the Council had misapplied. The outcome of the case provides the proper legal interpretation of the Core Strategy policies which the committee must apply.

*Tesco Stores v Dundee City Council*³ states that the proper interpretation of development plan policy is a matter of law and, in principle, policy statements should be interpreted objectively

³ *Tesco Stores Limited v Dundee City Council* [2012] UKSC 13

in accordance with the language used, read as always in the proper context. Statements of policy should not be construed as if they were statutory or contractual provisions, however,

East Bergholt PC v Babergh DC considered the application of policies CS2 and CS11 in the Babergh Core Strategy, as they were applied by the Council in a planning application in East Bergholt, B/15/01678/FUL Land South of Gatton House.

The Council's local plan core strategy Policy CS2 says that:

Core Villages will act as a focus for development within their functional cluster and, where appropriate, site allocations to meet housing and employment needs will be made in the Site Allocations document.

Significantly, CS2 says that

"in all cases the scale and location of development will depend upon the local housing need... and the views of local communities as expressed in parish... neighbourhood plans."

CS2 goes on to add that

"In the countryside, outside the town/urban areas, Core and Hinterland Villages defined above, development will only be permitted in exceptional circumstances subject to a proven justifiable need."

Meanwhile, Policy CS11 says 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 (or other decision-maker) where relevant and appropriate to the scale and location of the proposal.

The additional matters referred to are: the landscape, environmental and heritage characteristics of the village; the locational context of the village and proposed development; the site location and sequential approach to site selection; locally identifiable housing need – housing and employment and specific local needs such as affordable housing; locally identifiable community needs; and the cumulative impact of development in the area in respect of social, physical and environmental impacts.

As Mr Justice Mitting said, in the East Bergholt case:

"18... only if satisfied that both requirements [Policies CS2 and CS11] are met should planning permission be granted for a development outside the built-up area boundary of a Core Village."

In his judgment, Mr Justice Mitting found:

“23... I am satisfied that for the reasons explained, local housing need in Policy CS11 means housing need in the village and its cluster, and perhaps in areas immediately adjoining it.”

Policy Issues

Core Strategy

The proposals fail to accord with a number of planning policies in relation to the Development Plan. It is for the Committee to determine how much weight should be given to the policies in the Development Plan, but the Written Ministerial Statement, a material consideration in planning terms, indicates that Neighbourhood Plans should be given full weight where a Council can demonstrate more than 3-years housing land supply. Babergh are capable of demonstrating 3.1 years on the SHMA figures, and 4.1 years on the housing requirement in the Core Strategy.

It is clear that the *East Bergholt v Babergh* case direct applies to this application. The Council must satisfy itself that building outside the built-up area boundary is necessary in exceptional circumstances, and that it meets a justifiable local need.

The applicants have not demonstrated exceptional circumstances subject to a proven justifiable need to comply with CS2. Specifically, the applicants have not demonstrated local housing need for this development, as required by the policy as a matter of law.

The applicants have further failed to demonstrate that they have given thought to the cumulative impact of development in the area in respect of social, physical and environmental impacts.

The application scores poorly against the criteria in Policy CS15, and therefore it is contrary to CS11.

Unless the committee is sure that the applicants have demonstrated that they have satisfied both CS2 and CS11, then as the Supreme Court decision makes clear, the decision maker must take the failure of the proposed development to meet a local housing need into account. The committee should give proper weight to these policies in the planning balance, as it informs to what extent the relevant locality (for housing supply purposes) will benefit from the development and therefore whether the benefits significantly and demonstrably outweigh the clear adverse impacts of granting permission for East Bergholt village and its immediate environs, or for the wider community in Babergh.

The Officer’s Report makes clear that the Council is clear that the application is contrary to CS2, CS11 and CS15. As the Supreme Court decision makes clear, it is entirely proper for the committee, taking into account the facts of the case and aware of the policy conflict, to refuse to grant planning permission.

East Bergholt Neighbourhood Plan

The proposals are additionally contrary to the East Bergholt Neighbourhood Plan, in that they are contrary to policy EB1, EB2, EB4, EB5, EB6, EB8, EB9, EB10, EB14, EB17, and EB22.

Policy EB1 provides that “A minimum of 86 new homes shall be developed in East Bergholt during the plan period 2015 to 2030.” However, while this application is for fewer than 86 new homes, the supporting text states at 3.3.3 that the preferred development sizes are for just 15 homes. This application is for five times that number. The proposals are therefore contrary to EB1.

Policy EB2 provides a set of criteria against which housing development proposals in East Bergholt can be assessed. Specifically, it states that a development must:

“not have an unacceptable adverse impact on the Dedham Vale AONB, Local Green Spaces, or sites of biodiversity and geodiversity importance.”

“conserve, enhance and respect the Conservation Area, heritage assets and built character of the local area, respecting the density, rhythm, pattern, proportions and height of existing development in the street scene.”

“not have an unacceptable adverse impact on the local highway network.”

“be of an acceptable size and scale that contributes to the character of the village and the ‘Sense of Place’.”

There are other restrictions but these are the most relevant. In addition, the policy 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.”

The Officer’s report assesses that the proposal will not have an unacceptable adverse impact on the Dedham Vale AONB, or on Local Green Spaces, or on sites of biodiversity and geodiversity importance.

However, the Dedham Vale AONB and Stour Valley project make clear that the proposals risk a substantial adverse impact on the setting of the Dedham Vale AONB. They state that:

“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.”

They criticise the application because:

“The submitted LVIA appears to makes (sic) no reference to the published Natural Beauty & Special Qualities of the Dedham Vale AONB.”

They draw the attention of the Committee to the Cultural Heritage section of that document, 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.

They state that:

“...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.”

The Parish Council would ask the committee to determine whether the cumulative nature of the proposals and other approved applications is likely to lead to an increase in pressure on the AONB, the Ramsar sites, and the nearby sites of special scientific interest for leisure use, and whether such pressure could lead to damage. The Parish Council considers that this is an unacceptable adverse impact which has not been properly considered by the Council's officers.

The officers accept in their report that harm is caused to heritage assets. While this is identified as at the low end of the spectrum, there is clearly harm caused to the setting of the nearby listed buildings, including at least two Grade II listed buildings and one Grade II* listed building, which have views leading to the development site.

The Parish Council contend that the proposal does harm to the setting of listed buildings and is therefore contrary to EB2.2. Further that the proposal fails to respect the density, rhythm, pattern, proportions and height of existing developments within the street scene.

While Highways England abdicate any responsibility for one of the most dangerous junctions onto the A12, the committee will be well aware of the dangers of adding extra traffic to a junction which could not be built today as it would not meet modern design minimums.

The Parish Council are of the opinion that the committee should consider their own knowledge of the area, when assessing whether or not the application will have an unacceptable adverse impact on the local highway network.

The policy requirement that the development would be of an acceptable size and scale that contributes to the character of the village and the “Sense of Place” is clearly not designed to

allow an application that would materially change the size of the village by such a large amount in one go. This is an unacceptably large application that would be devastating to the character of the village and would change East Bergholt irretrievably.

The application proposal is for 75 homes, so it is clearly not compliant with a preference of up to 15 homes. The test is therefore whether or not it delivers exceptional benefits to meet the housing needs of the community.

The Parish Council is not of the opinion that the proposals deliver the housing needs of the community. The applicant has failed to properly identify a local housing need sufficient to justify the development conflict with the 15 homes test.

Policy EB4 provides that residential development should provide a mix of house types, tenures and sizes to support identified housing needs of the Parish and its Hinterland villages. It also provides that Affordable Housing shall be provided in accordance with Babergh Core Strategy and the Babergh Affordable Housing SPG. Finally, it provides that 40% of new dwellings should be one and two bedroom homes.

This application clearly fails on all three counts. The proposal does not support identified housing needs of the Parish and Hinterland villages within the functional cluster. The affordable housing requirement is ambitious for a scheme of this size, and concern is raised that it should not be reduced by a later viability report once the principle of development is established.

Policy EB5 aspires to increase the housing choices for older people by encouraging up to one third of new development to meet the needs of older people. Development of housing that meets the needs of older people will be supported on sites that meet the criteria for EB2, which this proposal does not.

Nor does this proposal meet the needs of housing for older people. There is no commitment that the proposed housing will be built for flexible conversion, meeting the requirements of Building Regulations M4(2) Accessible and Adaptable Dwellings, which are optional but should be a requirement on a substantial proportion of this development.

Policy EB6 requires that the proposals should protect the sensitive landscape and views around East Bergholt. The specifics of the requirement are detailed at Paragraph 41 of the Officer's report before the committee.

It is the Parish Council's view that the impact on the AONB, the SSSI, the SPA and the Ramsar sites will be substantial, both directly and through increased recreational pressure. They consider that the Council should independently assess the impact, and do not consider that due consideration has been given to the increase of recreational pressure.

Elsewhere in the country, Natural England have assessed that for development within 6km of a European site, and large sites (such as this proposal) beyond 6km, it will not be possible to demonstrate no adverse effect on the integrity of European sites and mitigation measures will need to be considered.

It is clear that this site is within 6km of the AONB, the SSSI, the SPA and the Ramsar site. It is also clear that the development proposals have not complied with the policies and guidance relating to the Dedham Vale AONB or its setting.

Policies within the NPPF can and should be given full weight by the Committee in considering this application, even where Paragraph 14 is engaged – the tipped balance is in favour of development except where policies within the NPPF and (by virtue of footnote 9 and the Supreme Court decision) the Development Plan suggest development should be restricted.

The Parish Council do not consider that the developer has taken full account of the capacity assessment set out in the Landscape Sensitivity and Capacity Assessment, which is an appendix to the East Bergholt Neighbourhood Plan and therefore considered part of the Development Plan. The proposals are therefore contrary to Policy EB6(4) and contrary to the Development Plan.

Policy EB8 provides for proposals to protect and enhance biodiversity and geodiversity and reflect the requirements of Paragraphs 109, 117 and 118 of the NPPF.

As previously detailed, the Parish Council does not consider that the proposals avoid potential impacts on the Stour and Orwell Estuary Special Protection Area and Ramsar site. We have detailed our concerns in previous paragraphs and will not repeat it now; however, the Parish Council is therefore of the opinion that the application is contrary to Policy EB8(6).

Policy EB9 provides that proposals must plan for the achievement of high quality and inclusive design reinforcing the locally distinctive and aesthetic qualities of the buildings and landscape in the Parish.

Contrary to the applicants' contention, as summarised by the Officer's Report in Paragraph 219, that the proposals are traditional and draw on 'Suffolk style' houses, this is a matter of deep contention for residents of the parish. It is the Parish Council's opinion that this housing estate, if approved, will be an unattractive development, entirely lacking in relationship to the village, appearing like so many modern housing estates. The Parish Council contends that, if Councillors allow this application, the development is built, and councillors return to the site in five years' time, they will realise that they could well be in any modern housing estate anywhere in the country. There is no local focus whatsoever, there are no features that reflect the local building pattern. The Parish Council is not against modern building for its own sake, and nor does it want to impose a design style. Nor does the Parish Council reject the idea of modern takes on traditional forms. The Parish Council does not want to see a pastiche of local styles. However, these proposals do not help blend the proposals into the village or into the landscape.

Rather the proposed development will forever be recognised as unwanted development on the outskirts of the village, unrelated to the heart and soul of the home of John Constable, but instead a dormitory stuck on the side of this ancient community. It will be an act of monstrous vandalism for the members of the committee to approve this application.

Policy EB10 provides for the protection of non-designated heritage assets. The Officer's Report acknowledges that harm is caused to heritage assets, but does not appear to have considered the harm caused to non-designated heritage assets.

Equally the Parish Council is concerned that there could well be unrecorded below ground heritage assets that will be lost if this development is allowed to proceed. As the Suffolk County Council Archaeological Service note, Policy EB10 Preservation of Non-Designated Historic Assets is relevant to the application. In their response of 21st April 2017, they say: "Further archaeological survey work is required on site to fully assess the impact."

Policy EB14 provides for new developments to "aim to reduce recreational pressure on Stour & Orwell Special Protection Areas." It is clear that there has been no proposals made by the applicant to reduce such pressure, a concern raised by both Natural England and the Dedham Vale AONB and dismissed by the Officer's Report. The Committee should recall that what is lost cannot be replaced. The Parish Council consider that this application is contrary to EB14.

Policy EB17 is very clear. New development not connected with agriculture should avoid the loss of best and most versatile agricultural land. The proposed site is Grade II agricultural land (Paragraph 10 of the Officer's Report). The phrase "best and most versatile agricultural land" is given specific legal meaning by Annex 2 of the NPPF, which defines "Best and most versatile agricultural land" as being land in grades 1, 2 and 3a of the Agricultural Land Classification.

It is therefore clear that this is land which development not connected with agriculture should avoid. There has been no sequential test provided to indicate that lower grade land is not available, and therefore the proposals are contrary to EB17.

Policy EB22 provides for the promotion of sustainable transport solutions for East Bergholt. Councillors should require that the development provide the infrastructure to allow for electric car charging points; considering the announcement by the Government in relation to the banning of the sale of new petrol or diesel driven cars by 2040, this will soon become a substantial issue for residents in rural locations, and it would seem prudent to install the infrastructure before the development takes place, rather than trying to retrofit it.

National Planning Policy Framework

The NPPF is a material consideration in a planning decision. The Officer's Report suggests that the application is to be considered under the tipped balance in Paragraph 14 of the NPPF.

Paragraph 14 of the NPPF states that at the heart of the NPPF 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.

Clearly, the application before the committee does not accord with the development plan. The Officer's Report claims that policies CS2, CS11 and CS15 are relevant policies which are out-of-date and therefore permission should be granted unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

The assessment of whether they do significantly and demonstrably outweigh the benefits is to be done against the policies in the Framework taken as a whole. Lord Carnwarth's speech in the Supreme Court case makes clear that this should include policies in the Development Plan.

The committee must also assess whether specific policies in the Framework indicate that development should be restricted.

While specific policies in the Development Plan, namely CS2, CS11, CS15 of the Core Strategy and EB1, EB2, EB4, EB5, EB6, EB8, EB9, EB10, EB14, EB17 and EB22 of the East Bergholt Neighbourhood Plan, are clearly indicating development should be restricted, the Officer's Report still recommends that the committee considers whether adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

However, the Parish Council is of the opinion that the application is also specifically restricted by the NPPF itself.

The proposals do not accord with Paragraph 17, the Core Planning Principles, which state that planning should be genuinely plan led, empowering local people to shape their communities. In this case, the Officer's Report sets aside the East Bergholt Neighbourhood Plan, despite the Written Ministerial Statement indicating that where a council can demonstrate a 3-year supply, they should give full weight to the Neighbourhood Plan.

Paragraph 17 also provides that planning should take account of the different roles and characters of different areas, promoting the vitality of our main urban areas, protecting Green Belts around them, [which mirror the Local Green Spaces in protection] and recognising the intrinsic character and beauty of the countryside.

Paragraph 17 requires planning to encourage the effective use of land by reusing land that has been previously developed, which this application does not.

Paragraph 56 of the NPPF requires that great importance is attached to the design of the built environment. Good design is seen as a key aspect of sustainable development. Committee members will recall that the presumption in favour is only in favour of sustainable development, so bad design is fatal to an application.

Paragraph 61 provides that planning decisions should address the connections between people and places and the integration of new development into the natural, built and historic

environment. This application will be a pimple on the outskirts of East Bergholt, entirely separate and not at all integrated into the built and historic environment.

Paragraph 64 provides that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. This proposal fails to take those opportunities and should be refused.

There is no evidence that the applicants have taken into account the views of the local community, as required by Paragraph 66 NPPF. Had they done so, the application would not be in breach of quite so many of the policies contained in the East Bergholt Neighbourhood Plan, the embodiment of the views of the local community.

Paragraph 76 of the NPPF provides for the designation of land as Local Green Spaces. Paragraph 77 limits the areas that the designation can be used, while Paragraph 78 provides that "local policy for managing development within a Local Green Space should be consistent with policy for Green Belts".

As identified earlier, the proposal is immediately opposite an attractive Local Green Space, which was so designated following an Inspector's examination of the Neighbourhood Plan. This area is given the protection of the Green Belt. Babergh currently has no Green Belt policies, and so must rely on Chapter 9 of the NPPF to assess the impact.

Specifically, Paragraph 87 NPPF provides that inappropriate development is, by definition, harmful to the Green Belt [and therefore Local Green Spaces] and should not be approved except in very special circumstances.

Paragraph 89 NPPF provides that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt [and therefore Local Green Spaces]. There are limited exceptions within the Paragraph, none of which apply to this application.

It is therefore clear that harm will be caused to the Local Green Spaces, by virtue of inappropriate development immediately adjacent to the site, which effects the setting of the Local Green Space.

Inappropriate development such as housing should always be refused unless Very Special Circumstances are available. There are no Very Special Circumstances proposed by the applicant and therefore the Council should refuse the application.

Paragraph 112 provides that Local Planning Authorities should take into account the economic and other benefits of the best and most versatile agricultural land, defined as Grade 1, 2 and 3a land in the Agricultural Land Classifications. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to higher quality. No sequential testing was undertaken and it is not clear that the Council Officer's Report has even considered this issue.

Paragraph 115 provides that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty which have the highest status of protection in

relation to landscape and scenic beauty. While not within the AONB, at a mere 300m from the AONB this application will clearly have an adverse impact, which will include greater pressure for recreational use.

The Parish Council considers that Paragraph 118 has not been properly followed and that the Council has not properly assessed the development proposals against the principles so espoused.

The Parish Council is concerned that harm is identified towards heritage assets, but that this has been dismissed by the Local Planning Authority. Paragraph 134 and 135 provide that a balanced judgment be provided; given the use of the tipped balance from Paragraph 14, this also weighs against approval.

Consideration should also be given by members to the harm to the cultural heritage of the home of John Constable and the tourist draw of Dedham Vale as “Constable Country”.

The applicant’s review of local housing needs does not accord with Paragraph 159 of the NPPF and should be set aside. While it could be a material consideration, it should be afforded very limited weight, especially against the policies within the Neighbourhood Plan, which must be afforded full weight under the Written Ministerial Statement.

The application is contrary to the principles of Paragraph 169 and Paragraph 170 of the NPPF. The recommendation for approval is contrary to Paragraph 196 of the NPPF which requires planning decisions to be plan-led.

This application is entirely without merit, and while it will solve a problem for Babergh District Council in terms of their 5-year housing land supply, it will create an unwanted development that is poorly related to East Bergholt. It should be refused by the Committee and they are invited to do so.