

Committee Report

Item No: 2

Reference: B/17/01128

Case Officer: Samantha Summers

Ward: Nayland.

Ward Member/s: Cllr Melanie Barrett.

Description of Development

Full Planning Application - Erection of 5 No residential units, with associated garages, parking, private drive and access

Location

The Bungalow, Harpers Hill, Nayland With Wissington, Colchester CO6 4NT

Parish: Nayland With Wissington

Site Area: 0.3

Conservation Area: No

Listed Building: No

Received: 08/05/2017

Expiry Date: 30/08/2017

Application Type: OUT - Outline Planning Application

Development Type: Minor Dwellings

Environmental Impact Assessment: N/A

Applicant: Arbora Homes

Agent:

DOCUMENTS SUBMITTED FOR CONSIDERATION

This decision refers to drawing number as the defined red line plan with the site shown edged red. Any other drawing showing land edged red whether as part of another document or as a separate plan/drawing has not been accepted or treated as the defined application site for the purposes of this decision.

The plans and documents recorded below are those upon which this decision has been reached:

Application Form - Received 05/05/2017

Site Location Plan 3132-A-0104 P01 - Received 05/05/2017

Block Plan - Proposed 3132-0103 P01 - Received 05/05/2017

Arboricultural Assessment - Received 05/05/2017

Landscape and Visual Impact Assessment - Received 05/05/2017

Ecological Survey/Report - Received 05/06/2017

Land Contamination Assessment - Received 05/05/2017

Transport Assessment - Received 05/05/2017

Design and Access Statement - Received 05/05/2017

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

PART ONE – REASON FOR REFERENCE TO COMMITTEE

The application is referred to committee for the following reason/s:

The Corporate Manager – Growth and Sustainable Planning considers the application to be of a controversial nature having regard to the planning reasoning expressed by the Parish Council and / or the extent and planning substance of comments received from third parties and / or the location, scale and / or nature of the application.

PART TWO – APPLICATION BACKGROUND

History

The planning history relevant to the application site is listed below. A detailed assessment of the planning history including any material Planning Appeals will be carried out as needed in Part Three:

B//89/01456	OUTLINE - ERECTION OF 2 DWELLINGS (EXISTING CHICKEN SHED TO BE DEMOLISHED)	Refused 20/10/1989
B/90/90032	PROPOSED RESIDENTIAL AND INDUSTRIAL DEVELOPMENT	Granted

All Policies Identified as Relevant

The proposal has been assessed with regard to adopted development plan policies, the National Planning Policy Framework and all other material considerations. Highlighted local and national policies are listed below. Detailed assessment of policies in relation to the recommendation and issues highlighted in this case will be carried out within the assessment:

Summary of Policies

NPPF - National Planning Policy Framework

Babergh Core Strategy 2014

CS01 - Applying the presumption in Favour of Sustainable Development in Babergh

CS02 - Settlement Pattern Policy

CS11 - Core and Hinterland Villages

CS15 - Implementing Sustainable Development

Babergh Local Plan Alteration No.2 (2006)

CN01 - Design Standards

CR02 - AONB Landscape

TP15 – Parking Standards

List of other relevant legislation

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

Details of Previous Committee / Resolutions and any member site visit

None

Details of any Pre Application Advice

No pre-application advice was sought for this proposal.

Consultations and Representations

During the course of the application Consultation and Representations from third parties have been received. These are summarised below.

A: Summary of Consultations

Nayland With Wissington Parish Council

Nayland with Wissington Parish Council - Objection on the grounds of impact on neighbours, highway safety, drainage, no footway, ecology, outside of the settlement boundary

SCC - Highways

SCC Highways - conditions required for access point to be constructed in accordance with DM01, required visibility splays, parking to be laid out and retained as submission, details to be agreed for refuse bin storage

Environmental Health - Land Contamination

BMSDC Environmental Health (Contamination) - No objection

Dedham Vale Society

Dedham Vale Society - Objection because outside of the settlement boundary and within an AONB

Dedham Vale And Stour Valley Project

Dedham Vale AONB Officer - limited visibility of the site from public view points and is unlikely to cause a significant effect in visual terms.

Natural England

Natural England - we advise that interim contributions should be sought from residential development within the 13 km ZOIs. It must be ensured that those developments which need to contribute to the RAMS are captured and appropriate funding collected to ensure that its delivery remains viable. If this does not occur in the interim period then the per house tariff in the adopted RAMS will need to be increased to ensure the RAMs is adequately funded.

B: Representations

26 letters of objection have been received including one from a neighbouring Parish Council in Essex, Little Horkesley.

The objections relate to:

- the design and layout
- impact on ecology
- impact on the Conservation Area
- access/highway safety
- impact on the landscape/AONB
- Loss of open space
- increased traffic
- drainage
- inadequate public transport
- increased pollution/light pollution
- loss of light
- loss of privacy/overlooking
- strain on local services
- concern over trees
- development out of character
- unsustainable
- concerns over the large blue area to the north of the site
- conflicts with the Local Plan/outside settlement boundary

PART THREE – ASSESSMENT OF APPLICATION

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

1. The Site and Surroundings

1.1. The application site forms a grassed area within the grounds of The Bungalow. To the north is a large open field, to the east is the settlement of Nayland, to the south is a County Council Wildlife Site and to the west is The Bungalow.

1.2. To the rear (north) of The Bungalow are a group of business units granted planning permission under B/90/90032 (Proposed residential and industrial development). The business use is low key and includes a design and printing company.

1.3. The application site is elevated from the housing development of The Westerings and The Bungalow. There is mature hedging forming the boundaries and is well screened from public view points. A large Oak tree stands at the entrance to the site in the south eastern corner. This tree is not currently protected and does not form part of the group TPO to the west of the site.

1.4. The application site is not within the Conservation Area of Nayland with Wissington but does fall within the Dedham Vale Area of Outstanding Natural Beauty. The site also falls within the 13km protection zone for Stour and Orwell Estuaries.

2. The Proposal

2.1. This application is for outline planning permission for the erection of five residential units, garages, parking, private drive and access. All other matters are reserved. The application submission shows only illustrative layout drawings.

2.2. The illustrative layout drawings show three detached, two storey dwellings and a pair of semi-detached single storey dwellings.

2.3. Plots 1, 4 and 5 show a single detached garage with two parking spaces for each property and Plots 2 and 3 have double garages with two parking spaces.

2.4. The scale of the dwellings is not specified at this outline stage. Scale, appearance, landscaping and final layout will form part of a reserved matters application.

2.5. Each dwelling is shown to have private amenity space which is considered to be sufficient for the dwelling.

2.6. Plots 4 and 5 back directly onto existing dwellings in The Westerings. The application site is elevated from these properties and careful consideration will need to be given to window positions and also the scale of the buildings at reserved matters stage. It is anticipated that a 1.8m high fence would mitigate any overlooking issues if the proposed properties are single storey. The rear gardens are shown to be 10m to the boundary which would give a back to back distance of 15m as currently shown. However, there is space for the pair of semis to be pulled forward in the plot to further increase the back to back distance.

2.7. External materials have not been identified at this stage and would form part of a reserved matters application.

2.8. The site area is 0.38 hectares.

3. National Planning Policy Framework

3.1. 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.

4. Core Strategy

- 4.1. CS1- Presumption in Favour of Sustainable Development
- CS2- Settlement Pattern Policy
- CS3- Strategy for Growth and Development
- CS11- Core and Hinterland Villages
- CS15- Sustainable Development in Babergh

5. Supplementary Planning Documents

- 5.1. Suffolk parking Standards 2015
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6. Saved Policies in the Local Plans

- 6.1. CN01- Design Standards
- CR02 - AONB Landscape
- TP15- Parking Standards

7. The Principle of Development

7.1. 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.

7.2. 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.

7.3. The precise meaning of 'relevant policies for the supply of housing' has been the subject of much case law, with inconsistent results. However last month, 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.

7.4. 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...'

7.5. The Council published the Ipswich and Waveney Housing Market Areas Strategic Housing Market Assessment (SHMA) in May 2017 which is significant 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.

7.6. A summary of the [BDC] Council's 5 year land supply position is:

- i. Core Strategy based supply for 2017 to 2022 = 4.1 years
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ii. SHMA based supply for 2017 to 2022 = 3.1 years

7.7. The NPPF requires that development be sustainable and that adverse impacts do not outweigh the benefits to be acceptable in principle. Paragraph 7 of the NPPF sets out three dimensions for sustainable development, economic, social and environmental:

"an economic role - contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure:

a social role - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and

an environmental role - contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy."

7.8. In light of all of the above, this report will consider the proposal against the three strands of sustainable development, and also give due consideration to the provisions and weight of the policies within the development plan, in the context of the authority not being able to demonstrate a 5 year land supply.

8. Sustainability Assessment of Proposal

8.1. National guidance in the NPPF restricts development in the countryside for reasons of sustainability and for protection of its intrinsic value. The NPPF advises that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Paragraph 55 of the NPPF sets out criteria for assessing new dwellings in the countryside and states that LPAs should avoid new isolated homes in the countryside unless there are special circumstances such as:-

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

8.2. Paragraph 55 does not indicate that any new home in the countryside which is not isolated should necessarily be accepted. Nor does it define or limit the meaning of "isolated". It is the view of officers that this term does not merely relate to the existence or absence of nearby dwellings, but must be read in the context of the broad overall aim of paragraph 55, which is to promote sustainable development in rural areas by locating housing where it will enhance or maintain the vitality of rural communities and where it has good access to facilities and services.

8.3. Policy CS2 of the Core Strategy sets out the District's settlement policy and states that most new development will be directed sequentially to the towns/urban areas, Core and Hinterland villages. Para. 2.8.6 states (inter alia) that while small groups of dwellings and hamlets will fall within functional clusters, their remoteness and lack of services or facilities mean that such groups are classified as countryside.

8.4. Policy CS2 states that in the countryside, outside the towns / urban areas, Core and Hinterland Villages (as defined in the policy), development will only be permitted in exceptional circumstances subject to a proven justifiable need.

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

8.6. Nayland is classed as a Core Village and although the application site is outside of the defined settlement boundary, it abuts the boundary and forms an infill plot between existing development.

8.7. The site is well located in terms of facilities within the village which include a doctors surgery, school, shops and pubs. There is no footpath along the section of road to Harpers Hill, but once at the edge of the settlement there is a footpath that leads to the village centre. It is considered that residents of the proposed development would not need to use a motor vehicle to access the services within the village. There is also a two hourly bus service to access larger towns in the area.

8.8. As noted in 8.2 (above) Paragraph 55 does not indicate that any new home in the countryside which is not isolated should necessarily be accepted. Nor does it define or limit the meaning of "isolated". This term does not merely relate to the existence or absence of nearby dwellings, but must be read in the context of the broad overall aim of paragraph 55, which is to promote sustainable development in rural areas by locating housing where it will enhance or maintain the vitality of rural communities and where it has good access to facilities and services.

8.9. There are dwellings in close proximity to the application site and therefore considered that the site relates well to the existing settlement and it is not an isolated location in the countryside or remote from established settlements and local services and facilities.

8.10. The Core Strategy offers greater flexibility through planning policy (CS11) to support rural development on land which has a close functional relationship to the existing settlement.

9. Site Access, Parking and Highway Safety Considerations

9.1. Access from the public highways would be use the existing layout which is a loop road to this part of Nayland. The access to the site itself would be in the south-western corner of the site with one service road for all five properties.

9.2. SCC Highways have not raised any objection to the proposal but have recommended conditions relevant to the site as detailed above.

9.3. The application site is elevated from the lane. Objections have been raised concerning drainage. There is a possibility that surface water may discharge onto the lane and therefore a condition requiring details of how the surface water will be dealt with would be beneficial.

10. Design and Layout [Impact on Street Scene]

10.1. The illustrative layout, although not forming a fixed part of this application, clearly shows how the five dwellings can be accommodated on the site. Further details would be forthcoming in a reserved matters application.

11. Landscape Impact

11.1. Section 11A(2) of the National Parks and Access to the Countryside Act 1949 and Section 85 of the Countryside and Rights of Way Act 2000 requires that 'in exercising or performing any functions in relation to, or so as to affect, land in ... Areas of Outstanding Natural Beauty, relevant authorities 'shall have regard' to their purposes'. The statutory purpose of an AONB designation is to conserve and enhance the natural beauty of the area.

11.2. Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. Furthermore paragraph 115 of the NPPF states 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. In *Bayliss v SSCLG* [2014] 1 P & CR 22, the Court of Appeal addressed the significance of the words "great weight" in paragraph 115. Recognising that the actual impact of a particular proposal on an AONB may vary from trivial or substantial to major, the Court of Appeal stated (at paragraph 18) that:-

a. "...The decision maker is entitled to attach different weights to this factor depending on the degree of harmful impact anticipated. Indeed, in my view, it could be irrational to do otherwise. The adjective 'great' in the term 'great weight', therefore, does not take one very far. Here the inspector found that the impact on the adjacent parts, and I stress the fact that this was the adjacent part, of the AONB would be limited."

11.3. Paragraph 116 of the NPPF and the PPG states that 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 must include an assessment of the need for the development, the cost of and scope for development elsewhere outside the designated area and any detrimental effect on the environment and landscape and the extent to which it can be moderated.

11.4. Whether a proposed development in these designated areas should be treated as a major development, to which the policy in paragraph 116 of the NPPF applies, will be a matter for the relevant decision taker, taking into account the proposal in question and the local context. The NPPF is clear that great weight should be given to conserving landscape and scenic beauty in these designated areas irrespective of whether the policy in paragraph 116 is applicable.

11.5. Saved policy CR02 of the Babergh Local Plan states; "The landscape of the Dedham Vale and the Suffolk Coast and Heaths Areas of Outstanding Natural Beauty will be safeguarded through the strict control of development. Unless there is an overriding national need for development having a significant impact in the particular location and no alternative site is available, such developments will not be allowed. Due regard will be given to the provisions contained within the Dedham Vale and Stour Valley, and the Suffolk Coast and Heaths Management Strategies".

11.6. Officers have considered the size and scale of the development proposed and do not consider that the development should be treated as major development, to which the policy in paragraph 116 of the NPPF would apply.

11.7. On this basis paragraph 116 is not engaged in this application circumstance. As such, consideration turns to the provisions of paragraph 115 and the development plan policies CR02 and EB6, as follows.

11.8. Paragraph 115 and Policy CR02 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".

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) and 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). As such, the developments impact on the AONB will now be considered against these provisions.

11.9. Development within an AONB is expected to be within a defined settlement boundary. However, in terms of location, the site forms an infill plot between the residential properties within the existing settlement boundary and a small business park which has buildings larger than domestic scale. The site abuts the settlement boundary and, although elevated from the existing dwelling, is well screened by mature hedging from public view points other than within the site itself or along the immediate frontage where adjacent developments are also visible. The proposal is considered to impact on the AONB and the further enhancement to the existing hedging and careful design and use of materials to the proposed dwellings is considered to result in a natural extension to the village where that limited harm would be entirely mitigated such that the development would not give rise to harm.

11.10. It is agreed that any development of land within the land edged blue, which is a significant area, would be harmful to the AONB as it is visible from public footpaths. However, this is not proposed as part of this application in any event.

12. Environmental Impacts - Trees, Ecology and Land Contamination

12.1. A land contamination report accompanied the application which the Environmental Protection team have found to be satisfactory.

12.2. There is a large Oak tree at the entrance to the site. This tree is not protected as it is not within a Conservation Area and does not form part of the TPO group listing to the west of the site. This is an important tree in the streetscene. The illustrative plans show that the tree is to be retained and that the proposed development will not be beneath the canopy of the tree. Comments from the Tree Officer are to be received and an update will be given on this point during the Committee meeting.

12.3. As the development site lies within the Zone of Influence identified by Natural England for the Stour & Orwell Estuary SSSI of 13km (within which residents of new housing are likely to regularly visit relevant designated sites for recreation), the proposal for 5 no. dwellings will trigger a proportionate financial contribution towards visitor management measures for the Stour & Orwell Estuaries SPA/Ramsar. With this mitigation provided, the proposal is unlikely to have a significant effect on any European site, and can be screened out from any requirement for further assessment.

12.4. The proportionate financial contributions need to be in line with those currently being proposed in the emerging Recreational disturbance Avoidance and Mitigation Strategy (RAMS), so for guidance the estimate is 5 x approx. £168 = approx. £850.

13. Heritage Issues [Including The Impact On The Character And Appearance Of The Conservation Area And On The Setting Of Neighbouring Listed Buildings]

13.1. The site is not within a Conservation Area and will not impact the setting of any Heritage Asset.

14. Impact on Residential Amenity

14.1. As discussed above, the back to back distances of Plots 4 and 5 with properties in The Westerings are small but are considered to be acceptable if the proposed properties are single storey and a standard 1.8m high garden fence is erected to mitigate overlooking. In any event, the illustrative plan will not form a part of any permission granted and scale/layout will remain a matter reserved for determination.

A condition is required for removal of permitted development rights for windows above ground floor level on plots with a common boundary with The Westerlings, to safeguard the amenity of residents.

15. Biodiversity and Protected Species

15.1. A reptile survey has been carried out and species of Slow Worm, Common Lizard and Grass Snake were recorded on the site. A full mitigation strategy is required and will be required concurrently with the first reserved matters submission application.

15.2. Enhancement of the existing hedge to the north eastern boundary of site will be required to contain the site visually and physically and also provide a better habitat for species that use the area for nesting and foraging. Consolidation of this hedge line is secured by separate condition and can also form part of the landscaping reserved matters.

16. Planning Obligations / CIL

16.1. A Section 106 agreement is required for the financial contribution as detailed above.

16.2. The development is CIL liable.

16.3. 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.

17. Details of Financial Benefits / Implications (S155 Housing and Planning Act 2016)

17.1. The proposed development for 5no. dwellings is liable to make a financial contribution to the Council under CIL, the amount of which would be dependent on the final size of the dwelling. This would be exempted if the applicant claims a self-build exemption.

PART FOUR – CONCLUSION

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

18.1. 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.

18.2. In this case no issues have arisen during the course of the application that have required negotiation.

19. Identification of any Legal Implications and/or Equality Implications (The Equalities Act 2012)

19.1. 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 and Country Planning (Listed Building and Conservation Areas) Act 1990
 - Natural Environment and Rural Communities (NERC) Act 2006 (any rural site)
 - The Conservation and Habitats and Species Regulations 2010
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- 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.

20. Planning Balance

20.1. 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.

20.2. The development plan includes the Babergh Core Strategy (2014) and saved policies in the Babergh Local Plan (2006). In light of this application relating to a proposal for new housing, an 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'*.

20.3. 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"*.

20.4. 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

20.5. As set out at paragraph 38 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.

20.6 It is considered that policies CS1 and CS3 are policies for the supply of housing. It is, therefore, considered that paragraph 14 of the NPPF is engaged with regards to this proposal.

20.7. 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, as being those which may indicate development should be refused.

20.8. In consideration of the AONB, the assessment carried out is that the proposal does not conflict with the NPPF or with other specific policies in the development plan. As such, it can be concluded that there are not specific policies in the Framework that indicate that development should be restricted and, therefore, paragraph 14 can be engaged

20.9. 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 this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted.

20.10. For the reasons set out in this report, the proposal is not considered to conflict with the Framework as a whole or with specific policies within it. 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.

RECOMMENDATION

Grant outline planning permission subject to the following conditions:

- Reserved matters time limit
 - Scale, layout, design and landscaping details
 - Approved plans and documents
 - Highways conditions as set out in the SCC Highways response
 - Enhancement of the north eastern boundary hedge
 - Notwithstanding the details of the site location plan there shall be no access to the blue line site
 - Removal of permitted development rights for windows/openings above ground floor level on dwellings with a common boundary with The Westerings
 - Landscape details including tree protection measures
 - Landscape timeframe
 - Ecology mitigation
 - Surface water drainage details
 - Restriction on flood lighting
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