

## **Committee Report**

**Item No: 2**

**Reference: B/17/00950**

**Case Officer: Lynda Bacon**

**Ward: Alton.**

**Ward Member/s: Cllr Alastair McCraw. Cllr Harriet Steer.**

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### **Description of Development**

Erection of 34 dwellings and associated access, landscaping, and parking. Construction of road and pedestrian access to Church Road and Lower Street. As amended by drainage documents received 4 September 2017; highway documents received 5 September 2017 and energy report received 7 September 2017.

### **Location**

Land West of 35 - 40 Stutton Close, Stutton, Suffolk

**Parish: Stutton**

**Site Area: 1.75ha**

**Conservation Area: Not in a Conservation Area**

**Listed Building: Not Listed**

**Received: 05/04/2017**

**Expiry Date: 27/07/2017**

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

**Development Type: Major Small Scale - Dwellings**

**Environmental Impact Assessment: N/A**

**Applicant: The Clack Land Trustees C/O Mr. Clack**

**Agent: Roger Balmer Design**

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## **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. Whilst the proposal is considered to not comply with and therefore to contravene development plan policies CS2, CS11 and CS15, the authority cannot currently demonstrate a five year housing land supply and the adverse impacts of the development, including those areas of non-conformity with the development plan policies referred to, are not considered to significantly and demonstrably outweigh the benefits of the development.

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Furthermore, whilst harm is identified to heritage assets, this is at the low to moderate end of the spectrum of less than substantial harm where the public benefits of the proposal outweigh this harm. In this regard, the proposal is not considered to conflict with specific policies in the NPPF and is thereby in accordance with the Framework when taken as a whole. The proposal is therefore 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.

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

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

It is a “Major” application for: -

- a residential development for 15 or over dwellings
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## **PART TWO – APPLICATION BACKGROUND**

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### **History**

1. There is no planning history relevant to the application site.

### **Details of Member site visit**

2. Members undertook a visit of the site on 23<sup>rd</sup> August 2017.

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

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

### **All Policies Identified as Relevant**

4. 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**

CS01 - Applying the presumption in Favour of Sustainable Development in Babergh  
CS02 - Settlement Pattern Policy  
CS03 - Strategy for Growth and Development  
CS11 - Core and Hinterland Villages  
CS15 - Implementing Sustainable Development  
CS18 - Mix and Types of Dwellings  
CS19 - Affordable Homes

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CS21 - Infrastructure Provision  
HS28 - Infilling/Groups of dwellings  
HS31 - Public Open Space (1.5 ha and above)  
CN01 - Design Standards  
CN06 - Listed Buildings - Alteration/Ext/COU  
CN08 - Development in/near conservation areas  
CR02 - AONB Landscape  
CR07 - Landscaping Schemes  
CR08 - Hedgerows  
NPPF - National Planning Policy Framework

## **Consultations and Representations**

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5. During the course of the application Consultation and Representations from third parties have been received. These are summarised below.
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### **A: Summary of Consultations**

**Stutton Parish Council** - Recommended Refusal: The plans are outside curtilage of the Village. The site is situated in an AONB, and a development of this nature would vastly change the nature of the area. The developers have not demonstrated exceptional circumstances needed for such a development to go ahead in an AONB as required by National Planning Policy Framework 116. The council understands that there is a Priority Habitat (Traditional Orchard) present on site which would be destroyed by the present proposal. Concern over the increased number of vehicles/ parking problems raised at the meeting, therefore request Highways completes a full and up to date assessment of the roads affected by these plans.

If the development was to go ahead the following considerations should be taken into account; include street lighting high and low lights; pavement should be both sides of access road to aid visibility and help pedestrians; remove the ponds to improve child safety - if not removed who will have the responsibility of yearly maintenance?; suggest removing the group parking in favour of individual parking with extra parking for visitors; Plots 1 to 4 should be bungalows; investigate adequacy of the sewage systems; confirm who will have responsibility for maintaining the green spaces/area; restrict movement of construction vehicles (to avoid peak times) and provision of wheel cleaning of vehicles on site and developers should include 'Swift Bricks' in their buildings.

**SCC Local Highway Authority** – *Initial comments received* identified eight issues to be addressed by the applicant before a formal recommendation could be given that included the submission of a speed survey to enable a lower standard of visibility to be accepted; provision of a turning head separate from car parking areas; submission of additional design information to support the adoption of the spine road by the Highway Authority and management details for the filtration basin for highway water drainage within the public open space.

Further highway documents were received from the applicant on 5<sup>th</sup> September 2017 and the Local Highway Authority *subsequently recommended* that any planning permission granted should include six standard conditions to secure safe access and provision of appropriate visibility splays, parking and bin storage areas together with the submission of a Deliveries Management plan and payment of a contribution towards kerb improvements at the bus stops on Holbrook Road, secured by a s106 legal agreement.

**SCC Flood Drainage** – have reviewed the submitted documents and recommend approval of the application subject to three planning conditions being imposed to secure; the implementation of the approved surface water drainage strategy and Flood Risk Assessment; the submission and approval of details of all components of the proposed Sustainable Urban Drainage System and the submission, approval and implementation of a construction surface water management plan.

**SCC Rights of Way Officer** – No comment received.

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**SCC Fire and rescue Service** – Offer advice regarding access and fire-fighting facilities and recommend the installation of fire hydrants, secured by condition.

**SCC Strategic Development** - Confirm that requirements resulting from the development would be sought through CIL.

**SCC Archaeology** - The large proposal lies on the edge on a street fronted by listed medieval and post-medieval buildings. A Neolithic axe was located immediately adjacent to the proposed development area (STU 013) and large numbers of cropmarks are recorded in the vicinity (STU 010, 071, 077 and HBK 004). As a result, there is high potential for encountering early occupation deposits at this location. The proposed works would cause significant ground disturbance that has potential to damage any archaeological deposits that exist.

There are no grounds to consider refusal of permission in order to achieve preservation *in situ* of any important heritage assets. However, in accordance with the *National Planning Policy Framework* (Paragraph 141), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed. In this case two standard conditions would be appropriate.

**Suffolk Constabulary** – In relation to Traffic Management only, express concern in relation to the entrance to the development on Church Road, which is very narrow for quite some distance, meaning opposing vehicles will not be able to pass and the restricted space may be an issue.

**BDC Heritage Team** - considers that the proposal would cause a *low to moderate* level of harm on the spectrum of ‘less than substantial harm’ to several designated heritage assets because of the effect of the development on their settings.

**BDC Strategic Housing** - No objection. Under the Babergh Affordable Housing SPD this triggers an affordable housing requirement of 35%. The affordable housing requirement would 11 units secured via a s106 agreement.

The Council’s Choice Based Lettings system currently has circa 916 applicants registered for Babergh. 10 applicants state a local connection to Stutton.

A 75%/25% split is sought on the affordable unit tenures as identified in the current SHMA 2012 as follows:

75% = Affordable rent tenure  
25% = Shared Ownership tenure

With a total of 11 AH units following mix is proposed to reflect the majority registered housing need for smaller properties:

Affordable rental:  
4 x 1bed 2p flats  
3 x 2bed 4p houses  
1 x 3bed 6p house

Shared ownership:  
2x 2bed 4p houses  
1x 3bed 5p house

We are aware that emerging Government housing policy may recommend other tenures, which can be discussed as required.

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## Open Market Homes Mix:

- There is a strong need for homes more suited to the over 55 age bracket within the district and supply of single storey dwellings or 1.5 storeys has been very limited over the last 10 years in the locality.
- Homes for first time buyers are also in demand, it is recommended that a broad range of homes including bungalows are provided to ensure a balance housing mix for both first time buyers and those wishing to downsize to include 1, 2 and 3 beds.

**BDC Communities – Localities Officer** – As the locality officer for the area and the LA Governor at Stutton CEVC Primary School information has been shared with me in regards to Suffolk County Council advice to the Governing Body that they intend to launch a consultation process on 11th September 2017 to address the viability and sustainability of the future of the school. Ultimately Suffolk County has a clear intention that they want to close the school however in light of the 3 planning applications that are currently in for the village of Stutton and the additional substantial multiple planning applications in the surrounding areas of; Holbrook, Brantham, Wherstead and Shotley it is essential that this information is made available to the planning committee.

Stutton School has been through a very turbulent time during the last few years, particularly in regards to leadership. The Governing body has approached Suffolk County Council on a number of occasions seeking support and unfortunately no support was received. However Stutton school is in a much stronger position now with head teacher Anne Clarke fronting the school, the school has just received a good with outstanding features in their SIAMS inspection and have a very positive cohort of parents and the community behind them and they will do whatever it takes to fight Suffolk County's proposal. Suffolk County Council cannot offer an indication of what the school site could potentially be used for and it is a slightly complicated situation because the footprint of the building is owned by the Church Diocese and the building and playground by SCC.

Suffolk County Council have indicated that they would try to accommodate children within the surrounding schools on the Peninsula, however they have not been able to provide information in regards to the cumulative impact upon the existing schools in the area or indeed the future planned levels of growth in the area and the impact upon the educational settings.

The school is very much at the heart of the community, the community identify the need to increase affordable housing and smaller starter homes to attract younger families to the village to support the few facilities they currently have. The community shop has started building work to develop their permanent structure following the very successful 8 years of the temporary facility. This is not only a lifeline to the aging population of the village but the school use the community shop on a regular basis to extend their learning and curriculum. The school also regularly use the church and Canham's wood for educational enrichment and forest school activities. The school is fundamental in the village community and in my opinion without a school the village would be unsustainable on a number of different levels.

**BDC Arboriculture Officer** – no objection subject to the development being undertaken in accordance with the protection measures detailed in the accompanying arboricultural report. Whilst a small number of trees are proposed for removal these are of limited amenity value and their loss will have negligible impact on the appearance and character of the local area. All significant trees are scheduled for retention.

If you are minded to recommend approval a detailed Arboricultural Method Statement and Tree Protection Plan will be required in order to help ensure the protective measures referred to are implemented effectively. This information can be dealt with under condition.

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**BDC Environmental Health - Contaminated Land** – The information submitted confirms that the risks posed at the site are sufficiently low/negligible to warrant no objection. Request that we are contacted in the event of unexpected ground conditions being encountered during construction and that the developer is made aware that the responsibility for the safe development of the site lies with them.

**BDC Environmental Health - Sustainability** – The energy report received 7 September 2017 commits the applicant to air source heat pumps and wood burners if required, which is considered to be an acceptable method of showing compliance however, this commitment should be secured by a condition along with the required 10% reduction in the predicted carbon dioxide emissions.

**Ecology – Place Services** – Issued a holding objection due to insufficient information to understand the likely impacts on the Stour and Orwell Estuaries SPA/Ramsar from recreational disturbance, either alone or in combination with other plans and projects. Habitats Regulations Assessment (HRA) screening required and subsequently completed for this development and Natural England formally consulted. The HRA identifies the need for a mitigation package to include a proportionate contribution towards visitor management measures for the Stour & Orwell Estuaries SPA, secured by a s106 agreement.

**Dedham Vale and Stour Valley Project** – The proposed development lies within the nationally designated Suffolk Coast & Heaths Area of Outstanding Natural Beauty (AONB). As such, the proposals must accord with national and local policies relating to the AONB. In determining this application, the Local Planning Authority has a duty to pay due regard to the purposes of the AONB (S. 85 Countryside and Rights of Way Act, 2000): to conserve and enhance the area's natural beauty. Alongside national policy, the proposals should also accord with the landscape policies set out in the relevant development plan and appropriate saved policies. The proposal should take into account the objectives as set out in the AONB Management Plan which Babergh District Council is a signatory and should seek to positively contribute to the purposes of the AONB designation.

This proposal is considered to be 'major development' within the AONB and contrary to a number of national and local policies which seek to protect areas of national significance for landscape quality. The Local Planning Authority will need to be satisfied that the proposal meets the tests of the NPPF sec. 115 and 116.

The Local Planning Authority will need to be satisfied that there are exceptional circumstances which would justify granting of permission in this case. We have a number of additional concerns with the proposal, namely:

- The potential negative impacts on the character of the settlement of Stutton
- The potential negative impacts on the special qualities of the AONB, in particular impacts on tranquillity.
- The loss of potentially significant habitat and landscape features, including trees and hedgerows
- The potential for increased recreational disturbance within close proximity of the Stour Estuary and associated protected habitats and species. Ramsar, SPA and SSSI designations must be fully considered

If the Local Planning Authority are satisfied that the scheme meets the tests of paragraph 115 and 116 of the NPPF and is minded to grant permission, it is recommended that appropriate conditions are in place to:

- Provide for sufficient undeveloped land within the site to allow for positive contribution to an enhancement of landscape character and quality and associated ecological enhancements
  - Ensure that the design, scale, and mass of the development positively enhances the AONB and is not detrimental to its landscape character
  - Control external lighting to a minimum
  - Ensure that the access and boundary treatment for the site does not result in a loss of character along Church Road in particular (where hedgerow removal has been proposed)
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- Retain and enhance established landscape and ecological features within the site including boundary hedgerows and mature trees, with mechanism to secure on going management of such features
- Secure a financial contribution through section 106 towards mitigation of likely increase in recreational disturbance on nearby designated sites
- Secure landscape enhancement measures, such as replacement of overhead wires with underground cables in the vicinity of the site.

**Natural England** - Based on the information provided in support of the application, including the incorporated mitigation measures, it is our view that the proposal is unlikely to have a significant effect on the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site. We also consider that the proposal is unlikely to adversely affect the Orwell Estuary, Stour Estuary or Cattawade Marshes Sites of Special Scientific Interest (SSSIs). We therefore have no objections, subject to the inclusion of planning conditions to secure mitigation measures. Further advice also offered on other issues such as protected landscapes, protected species and biodiversity enhancements.

**Anglian Water** – The foul drainage from this development is in the catchment of Brantham Water Recycling Centre that will have available capacity for these flows. Also, the sewerage system at present has available capacity for these flows.

## **B: Representations**

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6. One representation supporting the principle of the development has been received, neutral comments have been received from 9 properties and 18 representations objecting to the application have been received. The comments are summarised as follows:
    - Outside village envelope
    - Impact of traffic on the AONB
    - Density of development does not fit with pattern of development, excessive in scale, cumulative impact with nearby developments
    - Overlooking and loss of privacy, loss of open view
    - Increased traffic, Church Road will not cope, surface will deteriorate
    - Church Road is very narrow and without footpaths, two cars cannot pass
    - Lower Lane is part of designated Suffolk Coastal route used by walkers and cyclists
    - Visitors to frontage properties will park on Church Road, preventing access for emergency vehicles
    - Transport survey is not accurate, this is one of two roads on the peninsular and heavy usage results in difficulties
    - Residents are reliant on cars not public transport, insufficient parking proposed for residents and visitors
    - Virtually all services are in neighbouring villages
    - Affects access on to the gravel lane, which could become a 'rat run'
    - Development poses a risk to all highway users and is unacceptable in highway safety terms
    - Increased light pollution, noise and disruption in peaceful part of the village
    - Construction management plan required
    - Car headlights will disturb sleep/shine through bedroom windows
    - Existing street lighting is kept to a minimum for environmental reasons and pedestrian safety is at risk
    - Alternative sites should be sought
    - Impact on 5 nearby listed buildings
    - Concerns about surface water drainage
    - Open pond is a safety risk, it should be fenced
    - Loss of archaeological deposits
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- Impact on protected species, wildlife impacts have not been properly considered
- Fails to accurately assess a Priority Habitat (Traditional Orchard)
- Removal of hedge will open up views
- Proposed hedge to northern boundary should be replaced with full height fencing for security
- Maintenance of open areas
- Substation inappropriately sited
- School is under threat of closure, no provision in this eventuality
- Sewerage system is inadequate
- Precedent
- Site rejected from 2006 SHLAA
- Support for new housing by the village but in the right location
- Land forms part of historic setting, this is not the village centre, nor an infill plot
- Lack of exceptional circumstances or justifiable local housing need for the proposed development

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

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

### **The Site and Surroundings**

7. The application site comprises an irregularly shaped parcel of land measuring 1.75 ha in area. The site is located outside of, but enclosed by, the defined settlement boundary of the village of Stutton, which is identified as a Hinterland village within the Holbrook functional cluster. The application site sits within the Dedham Vale area of Outstanding Natural Beauty (AONB) and is located to the north of a number of Grade II listed buildings.
  8. The application site forms an area of enclosed land, formerly in horticultural use, located between Church Road, Lower Street and Stutton Close. The site is private land with no public access. The site is level, albeit that it slopes gently towards the south-western corner and is within the buffer zone of an area of archaeological potential. There is no defined vehicular access in to the site although there is a narrow track accessed from Stutton Close, which currently allows some limited access on to the site.
  9. The surrounding development is of mixed character and comprises historic houses and cottages, 1950s through to 1980s style development some of which comprises bungalows and houses, including former/local authority owned homes. The boundaries of the site are varied. To the west the boundary comprises an overgrown elm hedge, to the north the boundary of the site is well vegetated with a mixture of hawthorn, holly and laurel with rear gardens and housing development beyond. On the eastern and north-eastern sides of the site the boundary is defined by a low picket fence resulting in clear views into the site from neighbouring properties and rear gardens. To the south the boundary is defined by an overgrown hawthorn hedgerow and trees (holly and sycamore).
  10. The local character of the site and its immediate environs is comprised of the historic lane of Lower Street, the overgrown elm hedgerow along Church Road, the remnant fruit trees, modern development along Stutton Close and Church Road and the cluster of historic buildings to the south of the site, all of which influence the character of the site.
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## **The Proposal**

11. The application seeks full planning permission for the erection of 34 homes, including 11 affordable and 23 market houses, and comprises single storey dwellings, one and a half storey and two storey houses. The affordable housing provision is sited at Plots 8 – 14 and 20 – 22 and offers 4 no. one bed units, 5 no. two bed units and 2 no. three bed units including 2 two bed and 1 three bed to be shared ownership with the remaining for rental. The market housing comprises 3 no. one bed, 11 no. two bed and 9 no. three bed units.
12. Vehicular access to the site is proposed to be created off Church Road, with further pedestrian access via Lower Street and Stutton Close. The proposed development is set out in a cul de sac arrangement with the main spine road running centrally through the site development, bisecting a central public open space area. A community orchard is proposed to the southern end of the site with a footpath access on to Lower Street. The application includes provision of two ponds for the collection of surface water and wildlife habitat. Structural planting and hedging is proposed along part of the south-eastern boundary and the existing hedgerow along Church Road will be removed and reinstated along the site boundary to the south of the new access. Elsewhere, existing boundary enclosures to the perimeter of the site will, for the most part, be retained. A new 1.8m high close boarded fence will be provided along a section of the north boundary to the rear of Plots 11 -15. The existing hedge to the eastern boundary adjacent to 35 – 40 Stutton Close will be retained and supplemented where necessary.
13. Single storey dwellings are proposed adjacent to the eastern, northern and north western boundaries of the site; a terrace of two storey cottages are proposed on the northern side of the site access on to Church Road and on the southern side of the new access road is a barn style two storey building comprising 1no. two bed unit and 2 no. three bed units. To the rear of these properties on either side of the new access road there are one and a half storey and two storey dwellings. The overall layout reflects a range of building heights, with taller buildings located mostly within the central section and Church Road frontage of the site
14. The external construction materials include red soft brick, render, black stained timber boarding and off white painted timber board with painted timber joinery. Clay peg, pantiles and natural slate are the proposed roofing material.
15. The application is supported by a number of specific reports including a Planning Statement; Transport Statement; Landscape and Visual Appraisal; Flood Risk and Drainage Strategy; Arboricultural Impact Assessment; Ecological Assessment; Reptile Survey; Hedgerow Assessment; Phase 1 Environmental Desk Study; Anglian Water Pre-planning Assessment Report and a Utility Solutions Feasibility Report – all of which can be viewed on line via the planning pages on the District Council's website.

## **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.
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## **PLANNING POLICIES**

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

### **BABERGH CORE STRATEGY 2014**

- CS1 Applying the Presumption in favour of sustainable development in Babergh
- CS2 Settlement Pattern Policy
- CS3 Strategy for Growth and Development
- CS11 Strategy for Development for Core and Hinterland Villages
- CS13 Renewable/Low Carbon Energy
- CS15 Implementing Sustainable Development in Babergh
- CS18 Mix and Types of Dwellings
- CS19 Affordable Homes
- CS21 Infrastructure Provision

### **BABERGH LOCAL PLAN (ALTERATION NO.2) 2006**

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:-

- HS28 - Infilling/Groups of dwellings
- HS31 - Public Open Space (1.5 ha and above)
- CN01 - Design Standards
- CN06 - Listed Buildings - Alteration/Ext/COU
- CN08 - Development in/near conservation areas
- CR02 - AONB Landscape
- CR07 - Landscaping Schemes
- CR08 - Hedgerows
- TP15 Parking Standards – New Development

### **SUPPLEMENTARY PLANNING DOCUMENTS/AREA ACTION PLAN**

- Suffolk Adopted Parking Standards (2015)
- Rural Development and Policy CS11 (2014)
- Affordable Housing (2014)

### **Main Considerations**

18. 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.

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## The Principle of Development

19. 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.
  20. 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).
  21. 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.
  22. In accordance with [National Planning Policy Guidance paragraph 030 \(Reference ID: 3-030-20140306\)](#) the starting point for calculating the five-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...*'
  23. The Council adopted the 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 five-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.
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24. A summary of the Babergh five-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

25. 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 five-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.

26. 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."*

27. In the light of all of the above, this report will consider the proposal against the policies of the development 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)**

28. As detailed 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.

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29. 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 the location 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.

30. Policy CS2 (Settlement Pattern Policy) identifies Stutton as a Hinterland Village within the Holbrook functional cluster. This policy also provides that Hinterland Villages will accommodate some development to help meet the needs within them. Sites outside of a 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 Hinterland village and needs to satisfy these tests to comply with Policy CS2.

31. Policy CS3 sets out the Council's Strategy for Growth and Development. It states that "*Babergh District Council will make provision for 5,975 new dwellings between 2011 and 2031 in the District. These dwellings are planned as follows: 1,100 between 2011 - 2016; and 4,875 between 2017-2031. The housing target will be achieved by:*

- i) Existing commitments as identified in the trajectory;*
- ii) ii) Allowing for a windfall figure of 1,640 dwellings;*
- iii) iii) Making provision for 2,500 new dwellings to be built in the following locations:*

.....  
*Core & Hinterland Villages 1,050*  
.....

*The Council will introduce management actions to address housing delivery should there be a 20% deviation in housing delivery as opposed to targets for 2011-2016; and 2017 – 2021; and a 10% deviation for 2022-2026. These management actions could include constructively and proactively working with developers to bring forward committed or allocated sites; reviewing phasing of allocated sites; reviewing housing targets and associated policies; and allocating additional sites to meet targets if required”.*

32. 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.*
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*Development in Hinterland Villages will be approved where proposals are able to demonstrate a close functional relationship to the existing settlement on sites where relevant issues listed above are addressed to the satisfaction of the local planning authority (or other decision maker) and where the proposed development:*

- 1. is well designed and appropriate in size/scale, layout and character to its setting and to the village;*
- 2. is adjacent or well related to the existing pattern of development for that settlement;*
- 3. meets a proven local need such as affordable housing or targeted market housing identified in an adopted local plan/neighbourhood plan;*
- 4. supports local services and/or creates or expands employment opportunities; and*
- 5. does not compromise the delivery of permitted/identified schemes in adopted community/village local plans within the same functional cluster.*

*The cumulative impact of development both within the Hinterland Village in which the development is proposed and within the functional cluster of villages in which it is located will be a material consideration when assessing such proposals.*

*All proposals for development in Hinterland Villages must demonstrate how they meet the criteria listed above.*

*The Core and Hinterland Villages identified in the Spatial Strategy provide for the day-to-day needs of local communities, and facilities and services such as shops, post offices, pubs, petrol stations, community halls, etc that provide for the needs of local communities will be safeguarded.*

*New retail, leisure and community uses appropriate in scale and character to the role, function and appearance to their location will be encouraged in Core and Hinterland Villages, subject to other policies in the Core Strategy and Policies document, particularly Policy CS15, and other subsequent (adopted) documents as appropriate.*

33. 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.
  34. 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.
  35. 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).
  36. The matters listed in Policy CS11, which proposals for development for Hinterland Villages must address, are now considered in turn.
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## The landscape, environmental and heritage characteristics of the village

### *Impact on Landscape*

37. 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. 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. In addition, the NPPF provides (para 187) that *“Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.”*
  38. Furthermore, policies CS11 and CS15 of the Core Strategy require development proposals to protect the landscape of the district. Also of relevance to this proposed development is the AONB Management Plan 2013-18 and the Joint Babergh and Mid Suffolk District Council Landscape Guidance (August 2015). The former document refers to development responding to local character and history, and reflecting the identity of local surroundings and materials while not preventing or discouraging appropriate innovation. The latter document also seeks to improve the quality of development coming forward ensuring that it fits with its surroundings, but also helps to retain and enhance the distinctive character of the area.
  39. 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”*.
  40. The site falls within the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB), the boundary of which lies approximately 100m to the north along the B1080 Holbrook Road. The southern part of Stutton village is therefore included in the designated landscape, while existing housing north of Holbrook Road falls beyond the AONB boundary.
  41. The Suffolk County Landscape Character Assessment shows the site located within landscape character type 11: Plateau Estate Farmlands while to the south, east and west the land drops away to form the character type 15: Rolling Estate Farmlands; forming the valley sides of the Stour Estuary and provides an attractive pattern of arable and pasture farmland interspersed by large houses and parklands.
  42. The site lies outside the settlement boundary of Stutton but is situated within its urban fabric with medium to low density housing on all four boundaries that enclose the site so that it is not readily visible in the wider landscape setting.
  43. As part of the application submission, the applicant has prepared a Landscape and Visual Appraisal (LVIA), which has identified a number of visual receptors and key viewpoints. Consideration has been given to views from the wider landscape and AONB and especially from public rights of way to the west of the settlement and from the southern shores and valley sides of the Stour Estuary. Similarly consideration has been given to views from the adjacent rural lanes in the village and in particular from Lower Street. Attention has also focused on views from surrounding properties and consideration given to effects on visual amenity.
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44. The submitted LVIA also acknowledges that Natural England is in the process of defining an extension to the existing AONB to include the Stour Estuary and southern valley sides. Consideration in the LVIA has therefore been given to possible views from Jacques Bay and access points to the foreshore at Wall Lane and Shore Lane and confirms that from these latter locations the views are at a lower elevation than the site. Crowe Hall and its associated landscaped parkland is visible from the southern shores and immediately behind Crowe Hall is a wooded skyline formed by the trees between the house and Lower Street. Houses adjacent to the site at Stutton Close, Wellington Close, Lower Street or along Church Road are not visible from these viewpoints. The site is also not visible from the south side of the Stour even in winter.
45. The LVIA also confirms that there are limited filtered views into the site along Church Road due to the overgrown nature of the elm hedge which flanks the eastern side of the road and that from Lower Street, there are some glimpsed views into the site particularly opposite Bay Tree Farm where the site extends to meet the lane. From the lane views extend across this open space through trees and intermittent hedgerow into the centre of the site, although the western and eastern halves of the site remaining obscured by vegetation and existing development. From Stutton Close there are glimpsed views into the site between buildings. Views tend to focus on the eastern half of the site although there are some views across the site to vegetation along Church Road and along the northern boundary.
46. The LVIA explains that whilst the lowland coastal landscape of Suffolk Coast and Heaths AONB make it highly sensitive to development, this does not preclude development, particularly associated with existing settlement.
47. The main findings of the LVIA are:
- Effects on landscape character and visual receptors would be very localised;
  - The provision of central, accessible green, village pond and community orchard would be beneficial to the local community;
  - The development would not be perceptible from public rights of way within the wider AONB, especially to the west and to the south across the Stour Estuary;
  - The design of dwellings on the site and their arrangement would be in keeping with the historic qualities of the village;
  - The proposed scheme is in accordance with the guidance provided in the Landscape Guidance Document for Babergh and Mid Suffolk (2015);
  - The strong vegetation framework along with proposed landscaping would enable the new development to be integrated into the village and for the character of the village to be enhanced;
  - The special landscape qualities so valued as part of the natural beauty of the AONB would be unharmed.
48. The LVIA concludes that the proposed development of 34 dwellings would, in the longer term, have minimal landscape and visual impact on village character, the AONB and visual amenity of adjacent properties. Effects will be greatest on day one of the development and will reduce with time as a result of proposed mitigation planting and landscaping which will soften and integrate the development into its surrounding context and strengthen local village character.
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49. As detailed in the consultation response from the Dedham Vale and Stour Valley Project (AONB Unit) the Local Planning Authority has a duty to pay due regard to the purposes of the AONB (S. 85 Countryside and Rights of Way Act, 2000): to conserve and enhance the area's natural beauty. The Local Planning Authority also needs to be satisfied that the proposal meets the tests of the NPPF sec. 115 and 116 which require: "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" (para. 115) and "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" (para. 116). 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.
50. The AONB Unit consider the application to be 'major development' within the AONB and contrary to national and local policies seeking to protect the landscape quality of the AONB and therefore the Local Planning Authority will need to be satisfied that there are exceptional circumstances which would justify granting of permission in this case. In the event that LPA are satisfied that the scheme meets the tests of paragraph 115 and 116 of the NPPF, a number of conditions are suggested.
51. 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.
52. 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, even though it is so categorised for the purposes of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO). In *Aston v SSCLG* [2013] EWHC 1936 (Admin) the High Court rejected an argument to the effect that 'major development' should be given the same meaning wherever it appeared in regulations or planning policy documents, and, specifically rejected the contention that it should be interpreted in accordance with the definition of "major development" set out in Article 2 of DMPO. 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 Saved Policy CR02, as follows.
53. Saved 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 CR02 therefore invokes a different test to paragraph 115 in respect of the consideration of development in the AONB however, 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 impact of the development on the AONB will now be considered against these provisions.
54. As detailed above, the site is enclosed by existing built form and the existing hedgerow on to Church Road. The hedge is a dominant feature in the street scene and is part of the local landscape character. Saved Policy CR08 affords protection to hedgerows of amenity or landscape significance unless suitable mitigation is proposed. Removal of the hedge along the road frontage would inevitably alter views and make the development more visible in the short term.
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However, it is considered that this impact is mitigated through the proposed replacement planting (to be secured by condition) such that the proposal is not considered to give rise to significant longer term impacts (and thereby in the terms of policy CR02 it is not necessary to consider whether there is a national need or alternative sites available). A further condition is recommended to secure management of the boundary hedge and it is recommended that this is not placed in the ownership of individual houses as management would be sporadic; the boundary hedged should be retained with the management company which takes on the public open space and structural landscaping and a condition requiring a management plan is also recommended.

55. The potential for street lighting to result in a significant impact on existing dark skies has been identified and it is considered that conventional street lighting would be inappropriate in this location. A condition is therefore recommended to require details of street lighting to be submitted and approved by BDC.
56. Whilst the proposal is within the AONB boundary it is considered that having reviewed the findings of the submitted LVIA in this regard, the proposal does not have a significant adverse impact, (in either landscape or visual terms), and for the reasons already set out, the proposal complies with paragraph 109 and 115 of the NPPF, and with development plan policies CR02 (Babergh Local Plan).
57. In summary, Policy CS11 activity encourages rural growth and the consequence of this is some impact on the countryside. However, the impacts should be minimised and the key question is therefore whether the impact of the development is reasonably contained. In this case, whilst the development would have an adverse impact on the undeveloped character of the site itself, it would not appear prominent in the wider landscape setting as the site is visually contained by surrounding built form. Furthermore, the design approach of the development has been influenced by the sensitivities identified in the LVIA to further mitigate impacts. Consequently, on balance, and subject to the mitigation identified, the development is considered to have an acceptable impact on the countryside/landscape.

### *Impact on Heritage Assets*

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58. With reference to the treatment of the submitted application, the Council embraces its statutory duties and responsibilities in relation to listed buildings, notably the general duty in section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the Listed Building Act"), *"in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority ... shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses"*.
  59. Recent case law on the application of that statutory duty acknowledges that the consideration of the impact of a proposed development on the significance of a designated heritage asset is a matter for its own planning judgement, but that the local planning authority is required to accord any identified harm to the significance of a designated heritage asset considerable importance and weight. However, where special regard to the desirability of preserving heritage assets has been paid and no harm is considered to be posed, the 'balancing' of harm (which should be given considerable weight as above) against public benefits as required by the NPPF, is not engaged.
  60. The NPPF sets out the Government's national planning policy for the conservation of the historic environment and builds upon the 1990 Act referred to above. It also identifies protection and enhancement and establishes a presumption in favour of sustainable development in the planning system (paragraphs 6, 7 and 14). Good design is a key part of sustainable development, and the Government attaches great importance in it (paragraph 56).
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The NPPF also states that the significance of listed buildings and conservation areas can be harmed or lost by alteration to them or development in their setting (paragraph 132) and that the conservation of heritage assets is a core principle of the planning system (paragraph 17). Paragraphs 132-134 state inter alia that when considering the impact of works on the significance of a designated heritage asset, great weight should be given to the asset's conservation; any harm requires clear and convincing justification. Where works will lead to harm to significance, Local Planning Authorities should refuse consent unless it can be demonstrated that the harm is necessary to achieve public benefits that outweigh that harm and that proposals which make a positive contribution to the asset should be treated favourably (paragraph 137). In making this assessment the decision maker should not apply the 'tilted balance' of paragraph 14 of the NPPF (even if it is otherwise applicable) but should place the priority on conserving the heritage asset free from harm, by refusing harmful proposals, unless there is sufficient public benefit to outweigh that harm.

61. Saved policy CN06 of the Babergh Local Plan Alteration No. 2 (2006) requires new work within the curtilage or setting of a listed building to, inter alia, respect those features that contribute positively to the setting of that listed building. In accordance with the NPPF, due weight must be given to the policies contained within the development plan according to their degree of consistency with the NPPF. Policy CN06 of the Local Plan is considered to be consistent with the NPPF and so should be accorded full weight in the determination of the application.
  62. As noted, the assessment of whether there is likely to be harm to a designated heritage asset is a matter for the LPA's own planning judgement. This application involves the proposed development of 34 dwellings in an apparently landlocked area of the village located in between Stutton Close in the east, Lower Street in the south, Church Road in the west and Holbrook Road in the north. The Council's Heritage Team comment that the issues of heritage concern relate to the impacts of the work on the setting of the various listed buildings situated on Lower Street, which include Bay Tree Farmhouse and the adjoining dwelling, Bay Tree Barn, Ancient House, Tudor Cottage, Wall Adjacent to Lower Street and Rose Cottage. The land was historically used as a nursery and as such probably served the community either through employment, or via its produce.
  63. From an assessment of the early OS maps it would appear that either Bay Tree farmhouse or Crowe Hall owned or tenanted the land, though access was directly to the north of the farmhouse. There is also evidence on the early maps of glasshouses in front of the farmhouse at the far end of the path. Whilst this assessment is based on the early OS maps evidence and a site visit - and may therefore be open to challenge - the land nevertheless contributes to the setting of the farmhouse because of the orientation of the property and the direct access to it across the road. This aspect of the setting is therefore considered to contribute to the significance of the property. The impact of building over it would therefore diminish the setting of the farmhouse, and its barns which, by virtue of their relationship with the farmhouse, may also have played a role in the nursery process.
  64. The impact on the setting of the other listed buildings is less notable, but on balance the level of harm is considered to be low to moderate on the spectrum of 'less than substantial harm' – and this must therefore be weighed against the public benefit of the development. In terms of the Planning (Listed Buildings and Conservation Areas) Act 1990 the development would not preserve the setting of Bay Tree Farmhouse or its barn and the public benefit must be weighed against this degree of impact on the assets.
  65. The NPPF, at paragraph 134, says that, where proposals lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. Decision-takers should now make this balancing assessment of harm against public benefits. Unless the public benefits of the scheme are considered to be substantial, they will not outweigh the harm to heritage interests.
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Decision-takers should also be mindful of the specific legal duties with regard to the settings of listed buildings set out in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Therefore, taking all of these factors into account, it is necessary to consider the specific benefits of this proposal against the harm to heritage assets that has been identified. The balancing assessment is carried out in the 'Planning Balance' section of this report.

66. Whilst related to the issue of Heritage, the County Archaeologists have not recommended refusal but have requested an archaeological investigation condition is attached as the site lies on the edge of a street fronted by listed medieval and post-medieval buildings. As a result, there is high potential for encountering early occupation deposits at this location. Any undesignated archaeology/heritage would need to be recorded.
67. In light of the considerations set out above, it is also considered that the proposal would comply with this element of policy CS11.

### *Impact on Environment*

68. The application has been reviewed by the Environmental Protection Team and it is confirmed that the applicant has submitted all of the required land contamination information. The information submitted confirms that the risks posed at the site are sufficiently low/negligible to warrant no objection.
69. As such, the proposal is considered to comply with criterion vii of policy CS15 insofar as it relates to land contamination.

### The locational context of the village and the proposed development

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.

70. 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"

71. The site abuts the built up area boundary, which wraps around the site and encloses it on all sides. The development is therefore considered to be well related to existing development and would not constitute ribbon development. The scale, character and density of the proposal is well related to surrounding development, with the exception of the historic development along the southern side of Lower Street, which is of a looser more organic form than the 20<sup>th</sup> Century development to the north, east and west. The development of the application site is considered to constitute a logical 'infill' extension of the built up area boundary, without project into open countryside in an incongruous way by virtue of the good degree of containment afforded to the site by surrounding development.
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72. In terms of spatial connection, the application site is amongst existing development which has access to the village primary school, shop, public house, church, dentist and bus stop within a maximum 0.6 mile radius (0.9Km); the school is 0.2 miles distant with an alternative pedestrian access via the existing footpath through Stutton Close. Stutton, being a Hinterland village, is supported by the Core village of Holbrook, which provides everyday services and facilities including post office, doctor's surgery, high school, pubs and shops.
73. Stutton is therefore a more 'sustainable' settlement for development and must be considered in the context of the development plan policies that identify Stutton as a Hinterland Village, where some development will be accommodated to help meet the needs within the villages. It is therefore considered to comply with the aims of this part of policy CS11.

#### Site Location and Sequential Approach to Site Selection

74. 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 services and facilities within the village.
75. There are no sequentially preferable allocated sites within Stutton, nor are there any sites within the built up area boundary which would enable a development of commensurate scale.
76. 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.
77. On balance, therefore, the proposal is considered to be acceptable in terms of this element of policy CS11 and given the lack of five-year housing land supply.

#### Locally identified need - housing and employment, and specific local needs such as affordable housing

78. The outcome of *R (on the application of East Bergholt PC) v Babergh District Council CO/2375/2016* before Mr Justice Mitting has clarified "Locally Identified Need" within policy CS11 means the needs of the Core Village, its functional cluster<sup>1</sup> 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.
  79. 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.
  80. 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.
  81. Accordingly, "locally identified need" or "local need" should be construed as the development to meet the needs of the Hinterland village identified in the application, namely Stutton and its wider functional cluster.
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82. 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.
83. In respect of affordable housing need, paragraph 2.8.5 of the Core Strategy advises that Policy CS11 will lead to greater flexibility in the provision of affordable housing, related to need which has to be considered more widely than just within the context of individual settlement but also the other villages within that cluster and in some cases adjoining clusters. This is consistent with the requirements of the NPPF that aim to ensure that the local plan meets the needs for affordable housing in the housing market area.
84. The SPD identifies that proposals should be accompanied by a statement that analyses the local housing needs of the Village and how they have been taken into account in the proposal. For the reasons explained, the local housing needs of the village must be construed as the needs of the village itself and the needs of the function cluster of smaller rural settlements it serves. In this case the Applicant has not submitted a housing needs assessment.
85. The Council's 2014 Suffolk Housing Needs Survey shows that there is high demand for smaller homes, across all tenures, both for younger people, who may be newly forming households, and also for older people who are already in the property owning market and require different, appropriate housing, enabling them to downsize. Affordability issues are the key drivers for this increased demand for smaller homes.
86. The local housing need for affordable dwellings is set out in detail in the comments provided by the Council's Strategic Housing Team (see above), which confirms that the Council's Choice Based Lettings system currently has circa 916 applicants registered for Babergh with 10 applicants stating a local connection to Stutton itself. The development proposed will enable the provision of 11 affordable units which will help address the local need of this Hinterland village and the wider cluster. There is also a strong need for open market homes more suited to the over 55 age bracket within the district and supply of single storey dwellings or 1.5 storeys has been very limited over the last 10 years in the locality. Similarly, open market homes for first time buyers are also in demand and the proposal will provide a range of 1, 2 and 3 bed additional market and affordable housing to satisfy a local housing need.
87. However, without the submission of a local needs assessment 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 met.
88. As such, the proposal cannot be considered to accord with this element of policy CS11.

#### Locally Identified Community Needs

89. Policy CS11 requires a similar approach to the determination of proposals for development to meet locally identified community needs, recognising the role of Core Villages and the "functional clusters" they serve. Paragraph 2.8.5.2 of the Core Strategy notes that the "approach advocated for the management of growth in Core Villages and their hinterlands, has many benefits for the communities".
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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).

90. The SPD identifies that proposals should be accompanied by a statement that analyses the community needs of the Village and how they have been taken into account in the proposal. In this case the Applicant has indicated that they engaged in a comprehensive public consultation including presentations/meetings with the parish council and a public exhibition. The submitted CS11 Assessment Checklist identifies that there is a need for a community orchard and village pond that can be accommodated on site and whilst the community needs cannot be considered to have been robustly considered, the proposal is considered to accord with this element of policy CS11. Furthermore, Officers would advise that the proposed development will generate contributions towards community infrastructure, to be spent on local services and infrastructure, therefore supporting rural communities, local services and facilities. In this regard, the proposal delivers benefits through CIL that are also considered to satisfy this element of policy CS11.

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

91. 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".
92. Policy CS11 requires the cumulative impact of development both within the Hinterland Village in which the development is proposed and the functional cluster of villages in which it is located, to be a material consideration when assessing proposals under the policy.
93. Concerns have been raised that Stutton would suffer the cumulative impacts of this development in conjunction with others within the village and the functional cluster. Technical responses received from consultees demonstrate that the development can be accommodated within the village and that the services, facilities and infrastructure (including improved provision through CIL) have the capacity to accommodate the level of development proposed. The development will not lead to a detrimental impact on the social, physical and environmental wellbeing of the village nor the wider cluster and the proposal therefore complies with this element of CS11. It should also be noted that whilst the development would help support the future viability of the school, the ultimate decision on the future of the school rests with the County Council.

#### Additional CS11 Criteria for Hinterland Villages

94. While the above criteria are relevant to developments in both Core and Hinterland Villages, policy CS11 also provides additional criteria relevant to development in Hinterland Villages. These are considered further below.

#### Is well designed and appropriate in size, scale, layout and character to its setting and to the village

95. The size and scale of the development should be proportionate to the settlement in which it is located. According to the Council's Housing and Population Data Profile (2015) for Stutton, the village has approximately 407 houses and the proposal for 34 additional dwellings would represent an increase of 8.3% which is considered an acceptable scale of development for the village.
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96. The submitted layout demonstrates that the site could accommodate this level of development and that it will relate to neighbouring properties. Therefore, the development is considered to be in accordance with policy CS11 on the basis that it addresses to the satisfaction of the local planning authority that the development is well designed and appropriate in size/scale, layout and character to its setting and to the village.

Is adjacent or well related to the existing pattern of development for that settlement

97. In addition, the proposal is well related to the existing pattern of development for the settlement and there are no other sequentially preferable sites which the Local Planning Authority considers is in a more favourable location, in terms of its relationship to the main part of the village and the services upon which it relies.

98. This matter was considered at paragraphs 70 and 71 above, where it is concluded that the site is a logical infill extension to the built up area boundary and the scale and character of development is commensurate with neighbouring development. Therefore, the proposal also complies with this part of policy CS11

Meets a proven local need, such as affordable housing or targeted market housing identified in an adopted community local plan / neighbourhood plan

99. Stutton does not have a neighbourhood plan. Consideration of the extent to which the development meets local needs, both in terms of housing and community facilities, is considered elsewhere in this report. The conclusion is that the proposal does not demonstrate that the proposal meets local needs, contrary to this element of CS11.

100. The proposal is to develop 34 new dwellings which would not only add to the supply of housing in the district but includes the required element of affordable housing which would provide additional housing in that respect as well, such that the proposal can be considered to fall within the social dimension of sustainable development.

Supports local services and/or creates or expands employment opportunities

101. The proposal would provide new dwellings that would support the existing facilities in the village through the generation of new occupants using those services, enhancing, and maintaining the vitality of village life. As such, the proposal meets this element of policy CS11.

Does not compromise the delivery of permitted or identified schemes in adopted community/village local plans within the same functional cluster

102. The proposal would not compromise delivery of permitted or identified schemes. As such, the proposal accords with this element of policy CS11.

Summary of Assessment Against Policy CS11

103. For the reasons set out above, the development proposal has addressed most of the matters identified in Policy CS11 applicable to Hinterland Villages, 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.

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## Consideration Against Other Development Plan Policies

104. As noted, there is no five-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.
  105. Development in Core and Hinterland villages will be approved where the related criteria in CS11 is 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 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.
  106. Policy CS2 requires that sites outside of Core and Hinterland 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.
  107. Policy CS2 forms part of a suite of policies within the Core Strategy. As set out at paragraph 23 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.
  108. 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.
  109. 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.
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110. 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.
111. As a Hinterland Village, Stutton is recognised as providing limited service and facilities for its own residents and is dependent on the nearby Core village of Holbrook to meet many of its everyday needs. However, Stutton is served by a range of facilities including a primary school, a community hall, church, public house, and village shop.
112. Policy CS15 seeks to minimise the need to travel by car using alternative means and improving air quality. Stutton benefits from a regular (hourly) bus service between Ipswich and Manningtree/East Bergholt. Therefore, residents 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.
113. It is acknowledged, however, that there will be a high proportion of car travel from Stutton, 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 Stutton 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).
114. The socio-economic profile of Stutton 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.
115. 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 Stutton, underpinning social capacity, providing affordable housing and widening choice and the housing mix overall.
116. 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 and green infrastructure (criteria xviii, iv and ix of CS15). Environmental aspects related to sustainable drainage (criteria x and xii of CS15), the associated highway issues (criterion xix of CS15) and biodiversity aspects (criterion vii of CS15) will also be considered. The design and layout of the scheme, and its impacts on the local area, are also to be considered (criterion ii of CS15). These assessments need to be made in order to fully assess the sustainability of the proposal as a whole, along with the following matters;
- The proposal would provide work for local contractors during the construction period, thereby providing economic gain through local spend within the community. (criterion iii of CS15).
  - The proposed development includes smaller and single storey properties that would support local services and facilities, and enhance and protect the vitality of this rural community (criterion v of CS15).
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- 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 application proposes to use grey water recycling and incorporates a SUDs mean of drainage. The development will meet the relevant sustainable design and construction standards (criterion viii of CS15).
- The proposal creates a landscaped area providing community benefits, in its landscaped form, for the occupiers of the site and for the wider community, including when viewing the site from Lower Street
- 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)

### Design and Layout and Impact on Residential Amenity

117. Delivering quality urban design is a core aim of the NPPF stating, in Paragraph 56, that good design is a key aspect of sustainable development and indivisible from good planning and in Paragraph 64 it states that permission should be refused for poor design that fails to take opportunities to improve the character and quality of an area and the way it functions. Saved policy CN01 of the Babergh Local Plan requires that *“All new development proposals will be required to be of appropriate scale, form, detailed design and construction materials for the location”* and sets out criteria as to how this should be achieved.
118. 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. Saved policy HS28 of the Babergh Local Plan states that applications for infilling or groups of dwellings will be refused where *‘the site should remain undeveloped as an important feature in visual or environmental terms* and seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.
119. The proposal has been designed to incorporate a range of house types across the site. Construction materials reflect the local palette, including clay roof tiles, natural slate, soft red brick, render, timber boarding and painted timber joinery. The scheme includes a mix of single storey properties, one and a half and two storey detached, semi-detached and terrace dwellings. Single storey dwellings are proposed for the eastern side of the site backing on to the existing bungalows to mitigate overlooking. Single storey dwellings are also proposed on the northern site boundary adjacent to the neighbours swimming pool and tennis court that are located close to the site boundary. Again single storey dwellings in this location avoids overlooking/perception of overlooking in to this private amenity area. Single storey dwellings are also proposed on the north western corner of the site thereby avoiding looking from first floor windows. The central section of the site provides for one and a half and two storey dwellings to provide a mix of dwelling types with natural surveillance of the public open space, created to add visual interest and enhanced permeability through the site.
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120. The properties each have reasonably sized private amenity space and the density at 19.4 units/ha is considered appropriate for the rural location. Off street parking is provided in accordance with SCC Guidance for Parking and includes parking areas adjacent to the north/west boundary, which is of concern to the neighbouring property in Church Road. The impact of the parking areas in this location is mitigated, in part, by the retention of existing boundary planting however, the boundary treatment can be considered in more detail by way of a planning condition. The scheme also provides structural landscaping and new additional planting along the Church Road frontage with additional landscape planting taking place within the application site. The existing hedge along Church Road is to be set back and reinstated along the site boundary to the south of the new access.
121. It is considered the overall design and layout of the scheme is acceptable and complies with policy CN01.

#### Site Access, Parking and Highway Safety Considerations

122. Initial concern was expressed by Suffolk County Council as Local Highway Authority in relation to the extent of visibility required to be provided at the proposed vehicular access onto Church Road, which is subject to a 30mph speed limit. The Design Manual for Roads and Bridges requires provision of a 90-metre visibility splay in both directions within a 30mph speed limit unless it is evident that existing vehicles using the highway are travelling at lower speeds. In response, the applicant undertook a speed survey which has satisfactorily demonstrated that existing vehicle speeds along Church Road warrant a lower standard of visibility being provided from the development onto Church Road. The Local Highway Authority is therefore now satisfied that the proposed 43 metre visibility splays are appropriate for the new access in this location.
123. The layout and width of the proposed estate spine road, together with the pavement width, kerb detail and highway surface water drainage have been designed to adoptable standards, which will be subject to formal agreement with the Highway Authority in due course.
124. 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 saved policy TP15.
125. The Local Highway Authority is 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.

#### Loss of Agricultural Land

126. 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. The Core Strategy has no direct reference to the loss of agricultural land so the application is primarily assessed against the test in the NPPF. Within this context, the development is not considered to be 'significant' so the test is not enacted. Notwithstanding this, Stutton is surrounded by best and most versatile agricultural land (Grade 2) so any development would erode this natural resource. The benefits of delivering housing in this instance outweigh the harm that would be caused from permanently developing best and most versatile agricultural land.
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127. The meaning of the term "significant" in this context was considered at the Tattingstone solar farm public inquiry. 'Significant' is not defined; it is down to the decision maker to consider what is significant. The Inspector in this appeal considered the development would need to be 'large scale' to be 'significant'. 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 1.75ha of land and therefore para 112 does not engage.

#### Biodiversity and Protected Species

128. 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.

129. 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. To that end, the application site is within the zone of influence for the Stour Estuary SSSI and the Stour and Orwell SPA to the south, but the site is not part of the designated areas. The application submission is supported by a reptile survey and ecological survey.

130. The ecology report concludes that the proposal will not create any significant disturbance to wildlife or habitat conservation objectives. It is acknowledged that the proposal will result in some minor temporary disruption for bat foraging along the Church Road boundary as a result of the derelict hedge removal. The hedgerow removal also results in a loss of avian habitat. However, new hedges are proposed, which will create and provide new and enhanced habitat opportunities. The existing hedge will be removed outside the main bird nesting season to avoid any impact on nesting birds.

131. The reptile report concludes that there are no reptiles present on the site, nor any indicative field sign of past reptile presence. The report concludes that no further surveys, or mitigation are necessary.

132. The application also confirms that swift bird boxes will be incorporated into the gable end walls of the proposed dwellings. The proposal creates opportunity for biodiversity enhancements and new habitat creation and it is recommended that an ecological enhancement plan is secured by condition so that enhancements are maximised.

133. On 19 June 2017, 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. The range of potential impacts on the Stour and Orwell Estuaries Special Protection Area (SPA) /Ramsar and various mitigation measures have been considered and assessed. The Recreation Avoidance and Mitigation Strategy (RAMS) package includes a proportionate financial contribution towards visitor management measures for the Stour & Orwell Estuaries SPA, secured by a s106, to ensure that implementation of the package of mitigation measures avoids a likely significant effect on the Stour and Orwell Estuaries SPA/Ramsar. This therefore demonstrates Babergh DC's compliance with the Conservation of Habitats and Species Regulations 2010.

134. It is concluded that, provided the mitigation proposals are implemented in their entirety, this project will have no likely significant effect on the designation features of the Stour and Orwell Estuaries SPA/Ramsar, either alone or in combination. An Appropriate Assessment is therefore not necessary.

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## Land Contamination

135. 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. As such, the proposal is considered to comply with criterion vii of policy CS15 insofar as it relates to land contamination.

## Surface Water Drainage

136. Policy CS15 requires development to minimise the exposure of people and property to all sources of flooding and to minimise surface water run-off and incorporate sustainable drainage systems (SUDS), where appropriate.
137. The application is accompanied by the drainage strategy for the site, which demonstrates that surface water run-off from the dwellings can be accommodated via soakaways and follows latest SuDS guidance. The surface water will drain at source through a combination of infiltration systems, such as an infiltration basin, soakways, swales and permeable paving. The use of SuDS techniques as proposed will control the quantity of surface water run-off, manage the quality of the run-off to prevent pollution, create amenities with the ponds and create areas that will offer the opportunity for Biodiversity in line with the current SuDS objectives. The detailed drainage strategy has been reviewed by the County Flood Officer. Therefore, the development is able to demonstrate compliance with the requirements of both policy CS15 and the NPPF.

## **Summary of Assessment Against Policy CS15**

138. 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.

## **Crime and Disorder**

139. 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 in relation to the design and layout which would unduly increase the risk of crime. Suffolk Police have however, expressed a concern in Traffic Management terms only, in relation to the site access and the narrow width of Church Road. This issue has been assessed by the Suffolk County Council as the Local Highway Authority.

## **Planning Obligations / CIL**

140. 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.
  141. The application, if approved, would require the completion of a S106 agreement to secure the required number of affordable dwellings and the contribution towards the Recreation Avoidance and Mitigation Strategy (RAMS) identified in the HRA.
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142. 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)**

143. 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**

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### **Planning Balance**

144. 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.
145. 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.
146. 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 five-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'*.
147. 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”.*

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148. 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
149. As set out at paragraph 21 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.
150. It is considered that policy CS3, is a policy 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.
151. 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 (footnote 9) 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.
152. In consequence of the Council’s heritage assessment, the NPPF (para 14, footnote 9 and paragraph 134) and the statutory duty imposed by section 66(1) of the Listed Buildings Act are to be taken into account in the consideration of the policy context. As set out in the judgement on *Forest of Dean Council & the Secretary of State for Local Government v Gladman Developments Limited* (2016) EWHC 421 (Admin) and at the Court of Appeal in its decision on *Barnwell Manor Wind Energy Ltd v East Northants DC* [2014] EWCA Civ. 137, when an authority finds that a proposed development would harm the setting of a listed building or the character and appearance of a conservation area, it must give that harm considerable importance and weight, and that a finding of harm to the setting of a listed building or to a conservation area gives rise to a strong presumption against planning permission being granted.
153. The NPPF (para. 134) states that ‘*where a development proposal will lead to less than substantial harm to the significance of the designated heritage asset, this harm should be weighed against the public benefits of the proposal including securing optimal viable use*’. Whilst the harm identified to heritage assets is considered to be at the *low to moderate* level of harm on the spectrum of ‘less than substantial harm’, it is apparent that there is harm caused to heritage assets and, therefore, the balancing exercise required by paragraph 134 needs to be undertaken.
154. In this instance, the public benefits of the proposal are the delivery of 34 dwellings that are of an appropriate housing mix, including the delivery of 11 affordable homes; and the proposal would have inherent social and economic benefits and would meet housing needs and delivery of growth.
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155. 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.
156. Officers have therefore applied the balance required by paragraph 134 of the NPPF, having special regard to the desirability of preserving the setting of the listed building as required by section 66 of the Listed Buildings Act, and given the harm considerable importance and weight. The outcome of this balancing exercise is that those public benefits identified outweigh the less than substantial harm, even when that harm is given considerable importance and weight.
157. 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. The public benefits of the scheme have been weighed against the harm to heritage assets and have been found to outweigh that harm, thereby satisfying the test in paragraph 134.
158. 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. It should be noted that the outcome of *R (on the application of East Bergholt PC) v Babergh District Council* CO/2375/2016 before Mr Justice Mitting in respect of how the Council balanced the issues of the impact on the AONB and the impacts on heritage assets was that the claims made against the manner in which the Council had balanced these issues failed. This is a matter of planning judgement.
159. Further, and 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 and CS15. 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.
160. 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. Furthermore, whilst the restrictions in footnote 9 of the NPPF include impacts on heritage assets, for the reasons explained above none of these policies indicate that development should be restricted.
161. 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.

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

162. 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.
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In this instance the applicant has worked to address problems and has sought to resolve these wherever possible.

### **Identification of any Legal Implications of the decision**

163. 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.

### **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
- RAMS Contribution
- Bus stop improvements

And that such permission to be subject to conditions including:

- Commencement within 3 years
  - Development to be implemented in accordance with submitted details
  - As recommended by the LHA
  - As recommended by SCC Archaeology
  - As recommended by SCC Flood and Water Management
  - 10% reduction in predicted carbon
  - All external lighting, including any street lighting, to be approved
  - Fire hydrants to be provided
  - Hard and soft landscaping to be submitted and agreed
  - Boundary enclosure details to be submitted and agreed
  - Levels to be submitted and agreed
  - Tree and hedgerow protection fencing to be installed with details to be approved
  - Ecological enhancement strategy to be approved
  - Boundary hedge and landscape management plan
  - Provision and management of public open space including boundary hedge to the east and south
  - No burning to take place on the site
  - Construction Management Plan
  - Provision of open space
  - Maintenance of open space
-