

Committee Report

Item No: 1

Reference: B/15/01196

Case Officer: Kathryn Oelman

Ward: South Cosford.

Ward Member/s: Cllr Alan Ferguson.

Description of Development

Erection of 7 No. two storey dwellings

Location

Land To The Rear Of 1 - 6, The Street, Kersey, IP7 6ED

Parish: Kersey

Site Area: 0.2 Ha

Conservation Area: Kersey

Listed Building: Affects Setting of Grade II*

Received: 19/08/2015

Expiry Date: 18/08/2017

Application Type: FUL - Full Planning Application

Development Type: Minor Dwellings

Environmental Impact Assessment: Not required.

Applicant: Rural Community Housing Ltd

Agent: Wincer Kievenaar Architects Limited

DOCUMENTS SUBMITTED FOR CONSIDERATION

This recommendation refers to drawing number PA 03B received 30/05/2017 as the defined red line plan with the site shown edged red. Any other drawing showing land edged red whether as part of another document or as a separate plan/drawing has not been accepted or treated as the defined application site for the purposes of this recommendation.

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

Defined Red Line Plan PA 03 B - Received 30/05/2017

Block Plan - Proposed PA 04 C - Received 18/10/2017

Plans - Proposed PA 05 B - Received 30/05/2017

Plans - Proposed PA 01 B - Received 30/05/2017

Sectional Drawing PA 02 B - Received 30/05/2017

Topographic Survey 81391 1 - Received 20/08/2015

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

PART ONE – REASON FOR REFERENCE TO COMMITTEE

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

It is a controversial application which may adversely affect a number of significant heritage assets and for which a large number of representations have been received.

PART TWO – APPLICATION BACKGROUND

History

None relevant.

All Policies Identified As Relevant

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

Summary of Policies

CS01 - Settlement Hierarchy
CS02 - Settlement Pattern Policy
CS11 - Core and Hinterland Villages
CS18 - Mix and Types of Dwellings
CS19 - Affordable Homes
CN01 - Design Standards
CN06 - Listed Buildings - Alteration/Ext/COU
CN08 - Development in/near conservation areas
HS28 - Infilling/Groups of dwellings
HS32 - Public Open Space (New dwellings and Amended HS16 Sites up to 1.5ha)
TP15 - Parking Standards - New Development

Consultations and Representations

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

A: Summary of Consultations

Strategic Housing (Affordable/Major Dwel/G+T)

10.11.15 Comments: At November 2015 the Housing Register had 6 applicants registered for housing in Kersey of which 4 of these had a local connection to the village. 5 applicants had a 2 bed need. 1 applicant had a 1 bed need. 3 applicants are over the age of 55 yrs. Consider the mix of affordable housing offered in this application is acceptable. Request affordable homes are restricted to local people in perpetuity.

03.02.16 Confirm original comments still stand in relation to amendment.

SCC - Archaeological Service

25.11.15: No objections; subject to condition(s) relating to an appropriate scheme of investigation and assessment.

13.06.17: No objections; original advice still stands.

Anglian Water

05.11.15: Confirm they do not wish to comment.

2nd Response:

Environmental Health - Land Contamination

30.11.15: Object; insufficient provided on land contamination.

02.02.16: No objection; recommend condition on ground gasses

14.06.17: No objection; refer to advice given 02.02.16.

Environmental Health - Noise/Odour/Light/Smoke

10.12.15: Object: concerned with relationship of detached dwelling to public house and the susceptibility of the new dwellings to noise disturbance which could, in turn, fetter the operations of the pub. They note that the kitchen extract vent, beer garden, play area and car park lie very close by and that the pub has permission for live music outside until 11pm.

09.02.16: Object: original comments still stand.

29.07.17: Comments: as follows;

"I am pleased to see that the separation distance between the proposed development and The Bell Inn has been increased, although I note that this remains in close proximity.

As stated in my previous memo, The Bell Inn has a premises licence allowing the premises to be open, the playing of recorded music and the supply of alcohol to take place until 11pm Monday – Saturdays and 10.30pm on Sundays. In addition the Live Music Act 2012 has allowed the playing of live music 7 days a week until 11pm (including outside). There is also a kitchen extraction vent mounted on the rear of the pub which was clearly audible at the time of my visit, although I would expect this to be shielded to some extent by part of the pub itself.

The boundary of the application site is shared with the boundary of The Bell – at present there is no boundary wall or fence - and the proposed development would be in proximity to where the beer garden, children's play area and car parking areas are. I am unsure of whether a boundary treatment is proposed – I would recommend that, should you be minded to approve this application then a boundary treatment consisting of a solid wall or solid fencing be installed so as to provide a partial noise barrier. Plots 3, 4, 6 and 7 would have bedroom windows which potentially overlook some of the rear of public house and as such would be particularly susceptible to disturbance for noise. If you are minded to approve this application then I would recommend that a condition be attached to require that good quality thermal double glazing be used, with trickle ventilation.

There is therefore potential for loss of amenity due to noise arising from the everyday operation of the public house, in particular activities in the beer garden and play area, and vehicle movements in the car park, the level of noise is likely to be sporadic and will vary from day to day and I therefore regret that I am unable to give you a quantitative assessment – this will be a subjective judgement. I note that there is a domestic property to the rear of Carlton House which is in similar position/proximity to the proposed development. I can advise you that the Environmental Protection team has no records of any noise complaints relating to the operation of the public house - however, any substantiated noise complaint made by the occupants of the proposed new units would have the potential to fetter the operations of the public house.”

Arboricultural Officer

25.11.17: Comment; the access for the proposal has the potential to negatively impact upon a mature Beech tree off-site. An arboricultural assessment and identification of appropriate protection/mitigation measures should be provided by the applicant.

28.01.16: No objections; satisfied with the Arboricultural Report and recommend condition requiring specific design details and Method Statement.

Suffolk Police - Design Out Crime Officers

No comments received to date (deadline expired).

Suffolk Wildlife Trust

No comments received to date, deadline expired.

Historic England

20.11.15: Object; consider the long gardens to 1-6, The Street a historic feature historically used to grow produce and raise livestock. Consider the undeveloped character of this land contributes to the significance of 1-6, The Street. Do not support the principle of subdivision as it would result in an erosion of the historic setting. Consider the layout at odds with the historic pattern of development in Kersey and, regardless of any modern development approved nearby in the past, the proposal would have a negative impact upon the Conservation Area. They also raise concern that the small gardens left for nos.1-6, The Street will affect their future use and viability. They confirm that in their view the harm is not outweighed by the public benefits going on to say that: *"We consider development of the rear gardens of numbers 1 - 6 harmful to the significance of grade II* listed buildings and the conservation area in terms of the National Planning Policy Framework and recommend the application is refused."*

08.02.16: Continue to Object as previously stated.

11.08.17: Continue to Object; separation of the plot and imposition of large separate dwellings not justified; harmful to the significance of the heritage asset and the conservation area, original comments still stand.

[Please Note: A summary of Historic England's comments is provided above but their full comments are available in full on the Council's website. Members are directed to read all consultee responses in full prior to the Committee Meeting.]

SCC – Highways

10.12.17: Comments; response provided in full below;

“Notice is hereby given that the County Council as Highway Authority make the following comments:

This site has an access onto The Street which has limited visibility which is below standard requirements and therefore has a potential to create a hazard for drivers when pulling out onto the highway. For this reason the Highway Authority would not support intensification of use from this access.

But having undertaken a site visit it is my opinion that vehicles using The Street are generally travelling below 30mph and although the access does have restricted visibility, there are natural calming features in Kersey which keep speeds low, such as the ford at the bottom of the street and the tight bend at the top. Indeed, this road is quite unique, not a through route and vehicle numbers are particularly low. The village of Kersey has a very historical feel. There have been no recorded accidents in The Street which reinforces my opinion that even though there are a number of sub-standard accesses the current situation naturally creates a low speed environment and therefore is not unsafe in Highway terms.

Therefore although this proposal may not be desirable in highway terms, the Highway Authority will not defend a refusal under highway safety grounds since there is no evidence to suggest that this proposal would have a severe impact on the Highway in this location. If the LPA is minded to give planning consent taking into account the above issues together with any relevant other planning considerations, I would request that the following highway conditions are included:

Condition: *Before the development are commenced details of the areas to be provided for the [LOADING, UNLOADING,] manoeuvring and parking of vehicles including secure cycle storage shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter and used for no other purpose.*

Reason: *To ensure that sufficient space for the on site parking of vehicles is provided and maintained in order to ensure the provision of adequate on-site space for the parking and manoeuvring of vehicles where on-street parking and manoeuvring would be detrimental to highway safety to users of the highway.*

Condition: *Before the development is commenced details of the areas to be provided for storage of Refuse/Recycling bins shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter for no other purpose.*

Reason: *To ensure that refuse recycling bins are not stored on the highway causing obstruction and dangers for other users.*

Condition: *Before the development is commenced details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of surface water from the development onto the highway. The approved scheme shall be carried out in its entirety before the access is first used and shall be retained thereafter in its approved form.*

Reason: *To prevent hazards caused by flowing water or ice on the highway.”*

30.07.17: Object; response provided in full below;

“Notice is hereby given that the County Council as Highways Authority recommends that permission be refused for the following reasons:

The amendments to the application have resulted in further reviewal of the proposal allowing a more pragmatic approach to the proposed development. Taking into consideration; visibility splays onto The Street and ease of access/egress.

Visibility splays from the Southern access has visibility splays of $x=2.4m$ by $y= 14$ (to the North) and $y=7m$ (to the South). The access to the North of the site only has visibility splays of $x=2.4m$ by $y=9m$ (to the North and $y=10m$ (to the South). In the absence of measured speeds, Manual for Streets 2 recommends that a road with a 30mph speed limit would require visibility splays of $x=2.4m$ by $y=43m$ in each direction. The standard cannot be achieved due to obstructions outside of the applicant's ownership boundaries. Therefore, there can be no guarantee that safe and suitable access can be achieved (National Planning Policy Framework para.32). This highway safety concern is heightened by the intensification of use that the current proposal would create.

In regards to the access layout and subsequent access width, the access at the North of the site would need to be laid out in accordance with Suffolk County Councils standard construction drawing DM03 with an entrance width of 4.5m. This width would need to be for a minimum distance of 5m to allow for two vehicles to safely pass one another without disrupting the free flow of pedestrian or vehicular traffic. Due to the proposed parking layout, this is not achievable, the driveway width at a 10m setback is 3.9m. therefore, two vehicles would not be able to pass one another safely especially when a delivery vehicle is entering/exiting the site.

It is anticipated that the aforementioned highway safety concerns cannot be overcome to meet current standards therefore Suffolk County Council will be upholding this recommendation for refusal unless sufficient evidence can be provided to suggest otherwise.”

07.11.17 “Notice is hereby given that the County Council as Highways Authority recommends that permission be refused for the following reasons:

The newly proposed visibility splays, following the speed survey, are still substandard. The ‘x’ distances: 1.238m and 2m are too short and would result in vehicles protruding onto the highway, this highway safety concern is heightened because of on-street parking. Visibility requirements for the ‘x’ distance is 2.4m

Insufficient sight distance and limited forward visibility can adversely affect safety and increases the risk of a collision by reducing reaction times and stopping distances. Adequate sight distance provides drivers with sufficient time to identify and appropriately react to all elements of the road environment, including other road users and hazards. Sight distances are particularly important in areas where there are pedestrians and cyclists in the highway

Whilst the driveway serving Plots 1 through 7 has sufficient widths due to the inclusion of a passing bay, the driveway serving “Spaces for 1-6 The Street” only has a width of 2.724m, the minimum width for a vehicular access is 3m.

As visibility cannot be improved to an acceptable level due to obstructions in 3rd party ownership, Suffolk County Council uphold its recommendation for refusal under highway safety grounds as safe and suitable access cannot be achieved (NPPF para.32).”

Kersey Parish Council

14.12.15: Object; raise the following concerns;

- 1-6, The Street would lose their outlook, light and some privacy
 - There would be more traffic generated, with narrow access onto the existing highway
 - Kersey is not a sustainable village which can support development.
 - Councillors would rather see social or affordable rental properties.
 - There would be a considerable harmful impact on listed buildings
 - The harm is greater than the public benefit.
 - The harm is that this proposal is in the middle of the Conservation Area and the proposed development would have a considerable negative impact.
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- The gardens of 1-6, The Street have stood unencumbered by development for 100's of years and the area has a character of its own.
- It is a tranquil garden and the direct views to open countryside would be lost.
- This proposal would break the linear structure of the village.
- There was some lax planning law in the past when some back land development was approved and mistakes in the past must not be repeated.
- Other decisions support the principles reiterated for this development
- The design is acceptable.

The Parish conclude that *"The Council decided not to support this application because the harm that would be caused to the historic buildings and Conservation Area far outweighs the public benefit of 2 new affordable rental houses and 4 market rent houses. The Parish Council has, however, acknowledged there is support for affordable housing in Kersey, which it would need to consider."*

06.07.17: Continue to object; summarised below:

- Harm to grade II* listed building and Kersey Conservation Area
- Kersey is linear village; this change would spoil that character and create precedent
- Increased traffic movements detrimental to already congested area of village

07.11.17 *"Thank you for re-consulting the Parish Council following receipt of the highways report from GH Bullard and Associates and the new amended site plan. The Parish Council considered this report at their meeting on 6 November 2017. The earlier two decisions of Kersey Parish Council and the responses made by the Parish Council in December 2015 and July 2017 still stand. The Parish Council is unanimous in not supporting this application."*

After considering the highways report from GH Bullard and Associates the Parish Council would like to make the following comments:

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1. *The amended site plan calls for further work which will require Listed Building Consent.*
 2. *The amended site plan may require white lines on The Street which would further disfigure the street design and outlook. There are no other white or yellow road markings in Kersey, a practice which should be retained.*
 3. *The Bullard Report is flawed for the following reasons:*
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(a) Speed measurements used to justify the revised proposal include vehicles that were just starting or finishing their journey, so the average speed figures used are not indicative of the speed of passing traffic.

(b) There is no mention in the Bullard Report of the effect of the extra traffic movements through the restricted entry and exit points. If there are 16 car parking spaces, it will mean at least 32 extra vehicles per day passing through a narrow channel to enter or leave the site, close to the rear and main entrance to No.6 The Street. This is before consideration of the effect of deliveries, emergency vehicles and refuse collection. The suggested width of the revised driveway of 4.2 to 4.5 metres is clearly inadequate and unsafe for this purpose.

(c) The Report is silent on proposals to cope with refuse collection. A senior officer in Babergh has previously stated that collections cannot be made through this point.

(d) The traffic volume and speeds were measured across The Street parallel to the telegraph pole adjacent to Number 1. This therefore, does not include traffic from the south visiting The Bell car park, so is underestimated.

(e) *The report also fails to include any mention of road width at the proposed exit onto The Street. The width of The Street immediately opposite The Bell, to the south of 1-6 The Street is 6.5 metres. This narrows to 5.65 metres at the entrance and exit point of the proposed site. This clearly has an effect on safety considerations which have been missed.*

(f) *It was noted that the SCC 2015 report says the application 'may not be desirable'. The SCC 2017 report, which takes into account the extra building on the site, states '... there can be no guarantee that safe and suitable access can be achieved, (NPPF, para32).' These statements are not contradictory.*

(g) *The Parish Council has concerns that the writer of the Bullard report has exceeded the brief. Bullards were asked " In your opinion do you regard the access to be safe and suitable for all people?". This did not include a requirement to discuss this matter with the architects for the developer - as stated in the report summary - resulting in a new site plan."*

Heritage Team

07.12.17: Object; consider the principle of severance would be damaging to the character and appearance of the Conservation Area. Whilst admitting that some back land development has occurred in Kersey in the past, this pre-dates the Conservation Area Appraisal which advises damaging back land development should be refused. They raise specific issue with the design approach used, commenting that: *"The proposed development does not respect the historical pattern of development in Kersey where backland development is confined to modest ancillary outbuildings sometimes of limited life span due to both the construction and use of the buildings. It is not considered that the proposed development follows this historic use of backlands for ancillary outbuildings. On the contrary the development is neither modest in its scale nor mass. The C18th/19th inspired design of the development is at odds with Kerseys backland tradition of isolated domestic outbuildings and agricultural buildings." They conclude that "we conclude that the harm to the heritage assets is significant, and cannot, and has not, been justified in the proposal. Furthermore it is considered that additional housing could be provided elsewhere in the area without compromising the Grade II* listed Buildings and the conservation area."*

13.09.17: Object; Consider introduction of backland dwellings irregular to historic pattern of development. Unappolagetic pastiche design. Lack of respect for traditional hierarchy which upsets narrative of built form in village and therefore character and appearance of Conservation Area. Harm to setting of 1-6 The Street as open nature of their gardens curtailed. Cottages historically open to agricultural land beyond; medieval agrarian character significant to the setting of the terrace. Weigh harm to be at the highest end of 'less than substantial harm' category. Comment that this is an extremely high bar to overcome.

SCC - Fire & Rescue

06.11.15: No objection; comments and request for fire hydrants condition.

B: Representations

Letters of support and of comment have been received which make the following points:

- We cannot see any sufficient planning reason why this should be refused.
 - Kersey needs affordable/rented housing.
 - Housing should be provided for those who wish to remain in villages but cannot afford to buy.
 - The development would be barely visible from the street.
 - You cannot see the site or countryside from the street.
 - The development would improve the nature of the site.
 - The proposal accords with the Core Strategy.
 - Would boost the diversity of the village population.
 - The site has been extremely well planned and is neatly tucked out of sight.
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- It is pleasing to see that award-winning architects have been commissioned.
- Would not detract from the Conservation Area.
- More housing for young people is needed in the village.
- A small minority of objectors cannot jeopardise a project that would benefit the majority.
- Attractively-designed dwellings in keeping with their surroundings.
- This development is needed to ensure the survival of Kersey; it is becoming a 'second home' village.
- The proposal would pose minimal impacts.
- The proposal would not affect the character of The Street.
- The village is currently becoming stagnated due to retirees, many of whom are not local.
- The village is important due to its relationship with the street scene, not its rear.
- The village boundary line is arbitrary; more development and off-street parking opportunities should be encouraged.
- The development would be contrary to local and national planning policy.
- Limited public benefits.
- Not enough small dwellings are left in the village.
- Affordable housing is welcome but not just anywhere.

Letters of objection have been received; together with a petition submitted on behalf of 59 no. owners/occupiers residing in Kersey, by Michael Collins - Listed Building Planning Consultant. Those comments received are summarised as follows:

- The range (1 - 6, The Street) primarily comprises three timber-framed structures which are acknowledged by separate listing entries.
 - The buildings were graded for their importance in the street scene.
 - The submitted Heritage Asset Assessment demonstrates that the buildings possess more interest than the listing entries would suggest.
 - The Kersey Conservation Area Appraisal highlights that "backland areas are at risk of overdevelopment and this should not be permitted where views through to the countryside setting would be lost, or where the very linear form of the village would be compromised."
 - The PPG requires that decisions affecting the historic environment must address statutory considerations as well as satisfying local and national planning policy (details of statute, policy and guidance being summarised by the author).
 - Nos. 1 - 6, The Street are of considerable importance in their own right and in terms of the contribution that they make to the Conservation Area.
 - The range reinforces the linear pattern of historic development on the west side of The Street.
 - The 1841 tithe map demonstrates this historic pattern and illustrates frontage development within deep plots.
 - The proposal represents inappropriate intrusion and backland development.
 - Would establish a precedent to the further erosion of the character of the designated area.
 - The scheme can be distinguished from other 'examples' of backland development; two cited examples of approvals that followed the conversion of an existing building or the construction of a dwelling on the site of previous built development.
 - The Council refused planning permission for the erection of a dwelling in 2009 on the basis that it did not accord with the prevailing pattern or character of built development.
 - The application site, as undeveloped, is identifiable from a number of public vantage points; the development poses harmful visual impacts.
 - The nature of the development by virtue of its proximity to the range would also be harmful in terms of residential/vehicular disturbances to its setting.
 - Harmful impact upon residential amenity.
 - Insufficient information provided by the applicant.
 - Unsustainable village
 - Cramped and ugly layout
 - Access between 1 The Street and The Old Bell in adequate and risk vehicle strike
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- Unsafe northern exit from site onto The Street
- Affordable rent level won't be 'affordable'
- Dwellings would be visible from key views in winter (Image provided is not in winter)
- Lack of bin presentation area
- The undeveloped nature of the site contributes to the setting of the listed buildings and to the character and appearance of the Conservation Area. The development would fail to preserve this.
- Insufficient justification for harm provided.
- It has not been demonstrated that the public benefit of the proposal could outweigh the harm that has been identified.
- Planning permission should be refused.

In response to the most recent consultation (which was in relation to the Bullards Report) 14 letters of objection and 4 letters of support have been received, any new points raised are summarised below:

- Bullard's report suggests white H marking to prevent cars parking close to access.
- Bullard's report suggests work which would need listed building consent
- Traffic speed survey will have included vehicles which are passing to visit dwellings in Kersey, therefore slowing down to enter their accesses etc. It is not a reflection of the speed only of through traffic.
- Width of driveway still remains inadequate for volumes of traffic proposed.
- Refuse vehicles cannot enter the site so bin presentation must be on The Street.
- Vehicles using The Old Bell's car park will not have been counted in the survey as it is 'passing' traffic only, but these vehicles do affect the visibility splay.
- The road is only 5.65m at points, which is too narrow.
- Bullard's should not have sought to affect a resolution to the problem by talking to the agents.
- Additional parking onsite provided still inadequate and people will park on The Street.
- Roads surrounding Kersey too narrow; unsustainable location.
- Heritage issues and objections still not overcome.

Suffolk Preservation Society

16.11.15 Object;

- The terrace (1 - 6, The Street) is grade II* listed consisting of three pairs of medieval buildings in a prominent location within an historic core.
- Part of the site falls outside of the settlement boundary.
- Whilst the need for local housing is noted, the Society has significant concerns regarding this development.
- Since at least 1841 the rear of those properties has been unencumbered by structures and has enjoyed an unfettered relationship with the open countryside to the west, as appreciated by the footpath running adjacent to the application site.
- The society considers that the proposal would represent a serious intrusion into the prevailing 'garden belt' of land and linear nature of built development.
- The introduction of 4 no. parking spaces adjacent to the northern access would be harmful to the setting of the listed terrace as it introduces an alien visual element.
- The detailed design would not be consistent with other backland developments in the vicinity.
- The detached unit appears to be randomly sited, is too close to the terrace and appears cramped and awkward.
- Contrary to local and national planning policy.

12.07.17 Object:

- More housing resulting in more traffic movements
 - Housing now beyond BUAB
 - Maintain reasons for harm to setting of listed buildings and Conservation Area
 - Backland development out of character with surroundings
 - Parking on site visible from The Street alien and inappropriate in setting of heritage assets
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National Farmers' Union

08.12.15 Support:

- The development will provide much needed low cost rented housing for local people, in a style suitable for its surroundings.

Country Land and Business Association (CLA)

03.12.15 Support;

- We write to confirm our support for the proposal.
- The NPPF is supportive of developments that widen ownership opportunities, create inclusive and mixed communities and maintain/enhance the vitality of rural communities.
- Housing applications should be considered in the context of a presumption in favour of sustainable development.
- Babergh District Council cannot demonstrate that it has a five year supply of deliverable housing land and therefore its policies should be considered as out of date.

PART THREE – ASSESSMENT OF APPLICATION

1 Site Description

- 1.1 The application site comprises approximately 0.2ha of communal rear garden to 1-6, The Street, Kersey. The garden extends to the west of the dwellings for some 70m in length. The site lies partially within the built-up area boundary of Kersey (BUAB). The site is within the Kersey Conservation Area and an area identified as having archaeological potential.
- 1.2 The site and host properties are situated on the hillside which slopes in a southerly direction by a gentle gradient. The land also slopes gently upwards to the west resulting in the site being elevated approximately 70cm in comparison to the floor level of 1-6 The Street
- 1.3 1-6 The Street are designated as Grade II* listed buildings which lie immediately to the east of the site. Immediately to the south of the site lies The Bell Inn Public House, which is Grade II listed. To the north lies The Old Gardens, a modern dwelling. To the west lies open countryside. There are also numerous listed buildings elsewhere which front onto The Street.
- 1.4 There is a public right of way (footpath) that runs across the fields adjacent to the rear boundary of the site in a north-south orientation.

2 The Proposal

- 2.1 The applicant seeks approval for the erection of 7 no. dwellings together with associated access and landscaping. The application has been revised on several occasions and these revisions have reduced the scale of the dwellings from two-storey to one-and-half-storey scale, located them further away from the listed buildings, but beyond the BUAB, and sought to address comments from the Council's Environmental Protection Team in relation to proximity to The Old Bell public house.
- 2.2 The plans as amended now propose seven two bedroom properties arranged around a courtyard. Six are semi-detached and one detached. The four to the rear are proposed to be affordable rent and the three which lie on the boundary of the BUAB in the centre of the site are proposed to be open market.

- 2.3 The existing access north of 1-6 The Street would provide access to the seven new dwellings and two parking spaces allocated for occupants of 1-6 The Street. The existing southern access between 1 The Street and The Bell Inn would be used to provide access to a further 2 parking spaces for the occupants of 1-6 The Street. The defined gardens of the dwellings would not extend the full length of the site as there is an area for communal garden proposed to be retained to the rear to serve 1-6 The Street. Materials proposed are red brick and clay plain tiles.
- 2.4 The applicant is a registered provider (Rural Community Housing) and has submitted a Housing Statement which explains their ethos for managing and letting all the dwellings. The applicant wishes to let the affordable units at an affordable rent, retaining nomination rights and restricting them only to those with a local connection.

3. The Principle Of Development

- 3.1 The site is located on the boundary of the Built Up Area Boundary (BUAB). The BUAB boundary runs through the three open market dwellings whilst the four affordable dwellings lie completely outside in designated countryside. The site comprises land used as residential garden so a change between use classes is not proposed. Originally the dwellings were sited within the BUAB, however were re-sited in order not to be further from the listed buildings. In policy terms the original proposal would have had complied with CS2, but this was not necessarily desirable in order to ensure the impact upon heritage assets is minimised where possible. As such a balance is required between compliance with an academic policy line and the reality of impacts upon the heritage assets. However, it is worth noting that local opposition sites the BUAB as indicative of the limits of historic development in the village, therefore it may inadvertently perform a different role. Beyond this line it could be argued that the development acquires a modern back land character which is undesirable in its impacts upon the character and appearance of the conservation area. Officers are of the view that the need to minimise the impact upon heritage assets should occupy paramount importance in influencing where the dwellings are sited.
- 3.2 The four affordable dwellings lie outside the BUAB and have been assessed for potential compliance with Policy CS20 (Rural Exception Sites). The proposal does not meet the criteria as it contravenes the heritage and design principles set out in CS15 and has not demonstrated that it does not exceed local need or is consistent with the needs identified in the housing needs survey.
- 3.3 Under Section 70 (2) of The Town and Country Planning Act 1990 (as amended) the Local Planning Authority (LPA) must *“have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations”*. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 (as amended) directs that, if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, *“the determination must be made in accordance with the plan unless material considerations indicate otherwise”*.
- 3.4 As members will be aware, the NPPF (Paragraph 49) 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. Currently Babergh has a land supply between 3.1 and 4.1 years depending upon which method is used to calculate it. This has the effect of engaging Paragraph 14 of the NPPF which directs 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.*

Specific policies in the NPPF referred to in (ii) include paragraphs 131, 132 & 134; if there is not compliance with these policies the development does not benefit from the 'titled balance' established in (i) and thus must default to compliance with the development plan or generate substantial material considerations which indicate a departure is justified (Para 3.3 above). Paragraphs 128 and 129 also offer advice on how the Local Planning Authority should conduct it's self in relation to decision making where there is potential for impact upon heritage assets.

- 3.5 Where the proposal does not contravene paragraphs 131, 132 & 134 then the principles of Paragraph 14(i) remain engaged and the relative weight of local policies for the supply of housing must be evaluated in accordance with Paragraph 14 & 49. Case law suggests a "narrow" interpretation of 'relevant policies for the supply of housing', but that the decision maker 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 CS2, CS3 and CS11.

4. Sustainability Assessment Of Proposal

- 4.1 Policy CS2 (Settlement Pattern Policy) identifies Kersey as a Hinterland Village and the suggestion is that it should take "an appropriate level of development". Kersey is linked to the Hadleigh, Bildeston and Boxford clusters which suggests development has the potential to support several Core Villages. Policy CS2 also limits development in the countryside so that it will only be permitted "*in exceptional circumstances subject to a proven justifiable need*". As part of this site is designated Countryside this application represents a departure from Policy CS2 as there are no exceptional circumstances evident.
- 4.2 Policy CS3 (Strategy for Development and Growth) sets out that the Council must provide a minimum of 1,050 dwellings in Core and Hinterland Villages for the period between 2011 and 2031. Policy CS11 seeks to provide a framework to direct this growth outside Built up Area Boundaries (BUABs). CS11 establishes principles of flexibility which are supplementary to the Site Allocations process, therefore intended to be operational whether a five year supply has been demonstrated or not.
- 4.3 It is theoretically possible for a site not to be compliant with CS2, but be compliant with CS11 and CS15. The NPPG (Paragraph 012) advises that in such a scenario under section 38(5) of the Planning and Compulsory Purchase Act 2004 that conflicts between development plan policies adopted, approved or published at the same time must be considered **in the light of all material considerations, including local priorities and needs, as guided by the National Planning Policy Framework**.
- 4.4 Thus policies CS2, CS3, CS11 and CS15 provide a relevant framework to consider the sustainability of this site, having regard to the three strands of sustainable development set out in the NPPF. The adopted 'Rural Development & Core Strategy Policy CS11 Supplementary Planning Document' ("the SPD") is also a material consideration.

Assessment in relation to CS11 Criteria:

The landscape, environmental and heritage characteristics of the village

- 4.5 Policy CS15 of the Core Strategy requires (*inter alia*) that new development should be well designed and of an appropriate size/scale, layout and character in relation to its setting. Development should also respect the streetscape/townscape, heritage assets, important spaces and historic views of the locality.

- 4.6 Policy CN06 states that development which would affect the setting of a listed building, should, *inter alia*: not conceal features of importance or special interest; be of an appropriate scale, form and siting so as to harmonise with the existing building and its setting, and; respect those features which contribute positively to the setting of a listed building including space, views from and to the building, and its historic layout. Policy CN08 requires that new development preserve or enhance the character of a conservation area and its setting.
- 4.7 The Local Planning Authority has statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have “*special regard to the desirability of preserving [a] building or its setting or any features of special architectural or historic interest which it possesses*”; and Section 72(1) of the same Act which requires the Local Planning Authority to pay “*special attention...to the desirability of preserving or enhancing the character or appearance of that [conservation] area*”.
- 4.8 Paragraph 131 of the NPPF acknowledges the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; ‘heritage assets’ are termed such as they have environmental and social worth which contributes to the over-riding aims of sustainable development. Paragraphs 132-134 state, *inter alia*, that when considering the impact of works or development upon the significance of a designated heritage asset, **great weight** should be given to the asset's conservation; any harm requires a clear and convincing justification. Where works will lead to harm to significance, Local Planning Authorities should refuse permission unless it can be demonstrated that the harm is necessary to achieve public benefits that outweigh that harm.

Impact upon the setting of Listed Buildings

- 4.9 Nos. 1 - 6, The Street are a range of attached dwellings, primarily comprising three timber-framed buildings listed separately as grade II* by virtue of their special historical or architectural interest. The site is currently in residential use and comprises the gardens of 1-6 The Street. According to the Heritage Assessment submitted 1-2 The Street date from the C14th and were originally part of a parlour cross wing that originally faced south towards the church. 3-4 comprise a service wing added circa 50 years later and 5-6 are a terrace added C16th. For the last two hundred or so years the buildings have comprised a terrace of six properties with their gardens extending to the west in the same arrangement as they do now.
- 4.10 Members should note that a Grade II* classification is not ‘common’; Historic England state that such buildings are “*particularly important buildings of more than special interest*”, where only 5.5% of listed buildings are grade II*.¹ The submitted heritage assessment suggests that the buildings, albeit noted as having been listed for their street scene value, actually date from C14th and have elements of historic significance beyond that noted in the listing.
- 4.11 The advice from Historic England and the Heritage Team is that the long garden associated with 1-6 The Street is likely to have been used to grow produce or keep livestock. They consider the subdivision of this garden would erode the integral historic relationship this open area of land had to these listed buildings and how they operated in times past.
- 4.12 The design of the dwellings has been revised to possess more modest proportions and the roof heights reduced from that originally submitted. This has not proved sufficient remove the Heritage Team objection that they remain too dominant when viewed in the setting of the listed buildings. The Heritage Team also comments that the revised design is a ‘pastiche’, intimating it is unsuccessful as such.

¹ Historic England, *Listed Buildings* (2015). Available at: <https://historicengland.org.uk/listing/what-is-designation/listed-buildings/>. Last accessed 31st December 2015.

- 4.13 Officers, and previous Heritage advice, have seen some merit in the design approach which no longer seeks to replicate the appearance and character of the surrounding historic buildings, but seeks to achieve harmony as a separate entity. A traditional Alms-house character has been afforded the dwellings which are one-and-a-half storey in comparison to the two storey listed buildings. The cottages have traditional detailing and materials which, it could be argued, accord with their historic surroundings. The scale has been reduced and the ridgelines would remain lower than 106 The Street and adjoining properties, even with the slight increase in ground level on the site. The scale of the new dwellings would appear reduced in the distance with the listed buildings in the foreground from most key views. It is acknowledged that the parking arrangements on the site are not ideal and could be rationalised to become more subordinate; however, this is a minor issue.

Impact upon the appearance and character of the Kersey Conservation Area

- 4.14 The Conservation Area appraisal is a material consideration and it articulates the particular characteristics and significance of the Kersey Conservation Area.
- 4.15 The appraisal describes how there exists an *“important vista”* up and down The Street immediately outside 1-6 The Street, but how the street scene in this location has an *“enclosed”* character. This tallies with officer’s observations that, at present, there aren’t prominent east west vistas afforded through the site; these are inhibited by the rise of the land, outbuildings and vegetation whereby they are only glimpse views available in winter months. When the Conservation Area Appraisal refers the *“gaps between the buildings giving views into the countryside beyond”* it does not explicitly refer to views across this site or which might be affected by the development proposed.
- 4.16 The Conservation Area Appraisal does identify a very important vista which is achieved from the top of the church steps whereby the linear nature of Kersey and its relationship with its agrarian setting can be appreciated. The Appraisal notes that *“Backland areas are at risk of overdevelopment and this should not be permitted where views through to the countryside setting would be lost, or where the very linear form of the village would be compromised.”* It states that an intrinsic character of the Kersey conservation area is the fact that, due to its linear pattern, *“...to the rear of most properties there is countryside at hand.”*
- 4.17 The Heritage Team observes that where modern backland development has occurred in Kersey this has proved *“extremely irregular”*. They consider the proposal would be discordant with the prevailing historic linear built form that runs along the west side of The Street; this form having remained virtually unchanged for a significant period of time, being one element contributing to the areas special interest.
- 4.18 Historic England admit there exist examples in Kersey where back land development has occurred (notably The Old Gardens), but argue that 1-6 The Street and The Old Bell still combine to ensure historic building lines are evident. They consider that the current open character of the site preserves the gradual transition between the linear core and the agricultural hinterland which has existed for centuries. They consider this to be an historic feature which contributes to the appearance and character of the Conservation Area. They argue the introduction of built form would erode this open character and negatively affect the significance of the heritage assets.

- 4.19 It is certainly the case that modern development at The Old Gardens and The Keep do stand out as incongruous in views of the valley side. Some of this is a product of their modern roof forms; the Old Gardens has a slack pitch, pyramid roof form and deep gable width which are out of keeping. The Keep's roof presents a general scale, pantile roof slope and modern dormer which also appear alien. Officers consider the proposed dwellings would confer a more traditional roof form and materials, also occupying a location deeper in the valley, which would not be so visually jarring. Views of these roofs would be inhibited when the trees are in leaf and partially screened by The Old Bell.
- 4.20 It could be argued that, even with this incongruous backland development, the linear historic nature of the settlement has still survived as evident, dominant and therefore preserved. The illustrative view provided is somewhat compelling in showing how two distinct patterns of development have effectively been formed along valley side when viewed from a distance; there the historic linear development on The Street forms a distinct line with new dwellings and sizeable outbuildings (such as that at The Ancient Houses) contained in a line behind. It could also be argued that this modern development line now forms a feature of the street scene which, whilst arguably undesirable, is already established. The degree to which the presence of new development would further dominate or obscure the linear pattern of the settlement and the direct relationship dwellings have historically with the countryside is a matter for Members to judge.
- 4.21 Historic England does not qualify the level of harm caused to the heritage assets, but do say that the public benefit of the housing proposed would not outweigh this. The Heritage Team consider this harm to be at the very highest end of the spectrum of 'less than substantial harm'. If Members judge this to be the case, this is an extremely high bar where case law indicates any harm identified should be given considerable importance and weighting. 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; in this case the key designated heritage assets for consideration are the Kersey Conservation Area and the setting of the grade II* listed 1-6 The Street.
- 4.22 Whatever merit there is in arguing that the revised designs minimise the impact upon the setting of the listed buildings, heritage advice on the principle of subdivision of the plot cannot be overcome. The effects of severance of the plot and the introduction of inappropriate built form would be a permanent and irreversible negative effect upon the heritage assets.
- 4.23 For the reasons noted above, it is considered that that the proposal would be harmful to both the setting of 1 - 6, The Street and the character and appearance of the Kersey Conservation Area, therefore is contrary to the development plan policies outlined above.
- 4.24 In this instance, the key public benefits of the proposal can be summarised as including the following:-
- a. Delivery of seven dwellings of an acceptable housing mix to be occupied by those with a connection to Kersey; the proposal would have social and economic benefits and would meet housing need;
 - b. An offer of four affordable dwellings to support an inclusive community.
- 4.25 Whether in isolation or in combination, it is not considered that these public benefits are sufficient to outweigh the environmental and social harm identified to the heritage assets, especially where considerable importance and weight is given to the desirability of preserving those assets. It is considered that the proposal does not represent sustainable development and does not accord with this element of CS11.

- 4.26 [Additional officers note: Historic England argue that the dwellings could be provided elsewhere in this area without harm to the significance of the Grade II* listed building. Paragraph 129 of the NPPF requires LPAs to “*minimise conflict between the heritage asset’s conservation and any aspect of the proposal*”, but this is usually understood to extend to the confines of the site, not the wider area. If the balance of harm cannot be minimised within the site then common practice is for an application to be refused, not for the LPA to analyse the availability of sites elsewhere in the area before they make that decision.]

The locational context of the village and the proposed development (particularly AONBs, Conservation Areas and heritage assets)

- 4.27 The site is proximate to the village boundary and therefore within easy walking distance of its facilities, which include a Pub, Church and Primary School. However, on account of its undesirable visual impact when viewed from surrounding countryside and the harm caused to the significance of heritage assets, it cannot be concluded that the site is well related to the village. The proposal does not therefore accord with this element of CS11.

Site location and sequential approach to site selection

- 4.28 Compliance with this element of CS11 does not turn on whether or not the site is within the BUAB. In this case the site is partially outside the BUAB. There are no sequentially preferable allocated sites within Kersey, nor are there any sites within the built up area boundary which would enable a development of commensurate scale. Given there is no requirement to look at alternative sites adjoining the built up area boundary as sequentially they are within the same tier, it is concluded this proposal accords with this element of CS11.

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

- 4.29 “*Locally identified need*” or “*local need*” should be construed as the development to meet the needs of Kersey and its wider functional cluster. The sequential approach requires new development for “*rural growth*”, first be directed to Core Villages.
- 4.30 Proposals should be accompanied by a statement that analyses the local housing needs of the village and the needs of the function cluster. In this case the Applicant has not submitted a housing needs assessment.
- 4.31 The applicant has submitted a Housing Statement which sets out their rationale for letting out the dwellings. Occupants must have a local connection and would contain either of young families, key workers, older persons or low paid workers. The application proposes four dwellings at affordable rent (80% of market rent), but would select in the first instance from their own register. This would mean applicants on the Council’s Home Choice register would not take priority, so those with the greatest need within the district may not be served. The applicant claims they already have occupants who would have local connections and be able to demonstrate a need for these properties. The proposed lettings criteria would therefore not be likely to target those in the *most* need, but it is acknowledged that they would target those with a local need to some degree and, arguably those who would not take priority within the usual model may be eligible here.
- 4.32 The indicative plan shows that the properties would provide three bedroom homes with 57% of the dwellings indicated as being affordable housing. There is no requirement in policy for affordable dwellings to be provided on this site. The provision of these affordable dwellings can only be secured if necessary to tip the planning balance in favour of this development or/and if the site is viewed as a rural exception site and it has been demonstrated there is sufficient need for the dwellings.

- 4.33 It is considered that the proposed housing mix would help with the identified need for the smaller affordable homes. It is also considered that, if justifiable to insist upon, the applicant's selection criteria would favour those with a local need. However, the development has not been subject to a housing needs survey. It is considered that in strict policy terms the development has not demonstrated that there is a locally identified need for development of this scale. As such, the proposal cannot be considered to accord with this element of policy CS11.

Locally Identified Community Needs

- 4.34 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 not submitted a community needs assessment.
- 4.35 In the absence of such a statement, the application submission has not adequately demonstrated how the proposal would meet this element of policy CS11. However, 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, despite the absence of the needs assessment, the proposal delivers benefits through CIL that are considered to satisfy this element of policy CS11.

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

- 4.36 Policy CS11 requires the cumulative impact of development, both within the Village and its the functional cluster, to be a material consideration.
- 4.37 It is considered that, given the responses from statutory consultees and the small scale of development proposed, the cumulative impact of the development will be easily accommodated within the existing infrastructure of the village. There is no demonstrable evidence to suggest it would lead to a detrimental impact on the social, physical and environmental infrastructure or facilities of Kersey or its wider clusters. The proposal therefore complies with this element of policy CS11.

Additional CS11 Criteria for Hinterland Villages

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

- 4.38 As outlined above, it is not considered that the proposal not well related to the existing pattern of development for the settlement.

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

- 4.39 Kersey 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 in detail earlier in this report. The conclusion is that, even with an overprovision of affordable dwellings and their restriction to occupants with a local connection; the proposal does not demonstrate that the proposal meets local needs, contrary to this element of CS11.

Supports local services and/or creates or expands employment opportunities

4.40 The proposal would provide new dwellings which would make a contribution to supporting the existing facilities in the wider area. As such, the proposal does meet 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

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

Consideration in relation to CS15 Criteria

4.42 Policy CS11 requires that proposals score positively against CS15. The following conclusions are made respective to the bullet points set out in CS15:

- **Negative:** The proposal does not respect the street scape/townscape, heritage assets, important spaces and historic views for the reasons outlined above
- **Negative:** The proposal does not contribute positively to the local character, shape and scale of the area for the reasons outlined above
- **Neutral:** Whilst the construction of the dwellings would help sustain the local economy, but in the long term the use does not provide employment opportunities
- **Positive:** The proposal would protect and enhance local services and facilities in Kersey and surrounding clusters.
- **Neutral:** The proposal is not of a nature where it would actively provide support, but equally it would not detrimentally affect, provision of this.
- **Positive:** The site does not utilise brownfield land, but there is no brownfield land in Kersey. The site has no contamination issues.
- **Neutral:** There are no specific design aspects which promote renewable/low-carbon energy, but no reason to refuse on the basis that these interests are actively undermined
- **Neutral:** There are no requirements to provide public amenity space for this scale of proposal
- **Neutral:** The proposal is neither exceptionally adequate nor inadequate in its provision of outdoor space or ecological offer.
- **Neutral:** No flooding risks on this site.
- **Neutral:** There is no reason to conclude surface water would not be adequately managed, but it is not demonstrated this had been 'minimised'
- **Neutral:** There is no reason to conclude the demand for portable water is inadequate, but it has not been demonstrated this has been 'minimised'
- **Neutral:** There is no reason to conclude waste arrangements are inadequate, but it has not been demonstrated this has been 'minimised'
- **Neutral:** There is no reason to conclude the energy demands are unacceptable, but there is no evidence to suggest they have been 'minimised'
- **Neutral:** The proposal is not inaccessible for those with disabilities, neither is it overly promotive
- **Neutral:** Not applicable in this location
- **Positive:** The site is located in a Hinterland Village which is consistent with the NPPF Para 55 to site dwellings where they can support the services in a village or in settlements close by and this is the basis upon which the settlement hierarchy in the Core Strategy has been devised; to ensure dwellings are located where they minimise the need to travel by car.
- **Neutral:** Not applicable for this scale of development.

Summary of Assessment Against Policy CS11

4.43 The proposal is in a sustainable location. It satisfies a greater number of the criteria listed above positively rather than negatively. However, the proposal would not ensure adequate protection, enhancement or mitigation of distinctive local features, including heritage assets; principles which are emphasised heavily in CS15 when the policy is read as a whole. CS15 also implies its criteria should be weighted by interpreting the sustainability principles set out in the NPPF into the local context. On that basis it is concluded the application does not score positively on CS15 as, following the decision making rationale set out in the NPPF, the harm to the significance of heritage assets would not outweigh the public benefits and distinctive positive characteristics of the local environment would be harmed/lost. For the reasons set out above, the development proposal is contrary to the majority of the provisions of Policy CS11 applicable to Hinterland Villages and Policy CS15.

5. Highway Safety

- 5.1 The Local Planning Authority has received conflicting advice from the Local Highway Authority (LHA) in relation to the safety of the northern access onto The Street. Highways advice issued 10.12.17 acknowledged that the existing access had substandard visibility, but reasoned that in practise the characteristics of the specific local environment meant the LHA did not actively object to the proposal. A later response to a re-consultation issued 30.07.17 gave a different view, reasoning simply that the standard visibility criteria cannot be met and it cannot be guaranteed that the intensification of use would be safe. The full responses from the LHA are provided in the consultation section of this report.
- 5.2 As the change in highways advice did not appear to have been prompted by material changes to the application, independent highways advice was commissioned by the LPA from G.H.Bullards & Associates, civil and traffic engineering consultants. The aim was for Officer's to benefit from a greater understanding of the highway environment in Kersey and seek advice on the appropriateness of applying generic visibility standards given the specific information on the characteristics of this environment. The highways consultants had regard for the following objectives:
- Road and personal safety: To achieve developments that are safe for all users;
 - Accessibility: To achieve developments accessible to all vehicles and people; and
 - Sustainability (tends to be for larger sites): To promote sustainable, high-quality alternatives to the private car and to encourage using sustainable materials wherever possible.
- 5.3 The Bullards Report is enclosed in Appendix 1 to your papers. Under the above brief Bullards conducted a seven day automated traffic count in order to determine the speed of vehicles using The Street. The hourly 85th percentile speeds were 23.39mph travelling up the hill past the access and 25.12mph travelling down the hill.
- 5.4 The report notes that there are natural traffic calming features in Kersey, such as the ford, which tend to encourage vehicles to slow down. The traffic count confirmed that The Street is very lightly trafficked (less than 30 vehicles in peak hour) and that generally vehicles were travelling at slow speeds, well under the 30mph limit.

- 5.5 Manual for Streets suggests that in a slow-speed lightly trafficked environment a reduction in the 'x' distance to 2m can be considered. However, it advises that *“using this value will mean that the front of some vehicles will protrude slightly into the running carriageway of the major arm. The ability of drivers and cyclists to see this overhang from a reasonable distance, and to manoeuvre around it without undue difficulty, should be considered.”*
- 5.6 Visibility from the access can be improved by the removal of a section of wall within the applicant's land ownership to the north, but beyond this no further improvements can be made. The visibility criteria are compared in the table below:

	X distance	Y north	Y south
LHA require:	2.4m	31m	34m
Manual for Streets suggests:	2m	31m	34m
Achievable:	1.24m	31m	34m

- 5.7 Bullards make the point that the criteria are set to apply to a 'new' access onto a public highway, whereas the accesses are historically capable of serving at least five properties (2-6 The Street). This existing access would have improved visibility in comparison to the current situation as it proposes the removal of the wall to the north. There have been no recorded accidents on The Street in the last five years. It is noted that the layout provides four dedicated parking spaces within the site for 1-6 The Street, therefore this is unlikely to exacerbate the levels of on-street parking which currently occur. Parking provision exceeds that required by SCC Guidance.
- 5.8 Whilst it has been suggested that a white H road markings could be used to prevent cars from parking immediately outside the access in the visibility splay, this is a matter for the highway authority to implement and therefore does not fall under the jurisdiction of a planning application to insist upon. The Bullards report points out that Manual for Streets accepts that parking in visibility splays is quite common yet it does not appear to create significant problems in practice, particularly where vehicle speeds are low. Judgements on safety have been made on the basis that four dedicated off road parking spaces will now be guaranteed to serve the occupants of 1-6 The Street and that parking to serve the dwellings will be provided within the site, so there is no demonstrable evidence to suggest on road parking levels would be increased, in fact, they may be decreased. If parking is decreased this may decrease the likelihood of vehicles parking in the splay and improve visibility in comparison to the existing situation.
- 5.9 Having considered the specific characteristics of local environment Officers accept that the seven new dwellings using the northern access would need to creep out of the access in order to ensure it is safe to exit. However, oncoming cars coming up the hill would have good visibility of cars doing so and are likely to be travelling at slow speeds so would have adequate opportunity to slow down if necessary. The effect of on road parking is that vehicles must edge out anyway so whether this is 2 or 2.4m is somewhat academic in practise. These considerations, in conjunction with the low frequency of traffic overall in Kersey, would suggest safe and suitable access can be achieved. A relaxation of standard criteria may therefore be justified, in line with the original Highway's advice where it was reasoned that a refusal on highway safety grounds could not be sustained simply for the sake of the application of generic guidelines on visibility distances.
- 5.10 In relation to a separate issue, 4.5m is usually required to allow two vehicles to pass safely for the first five metres into the access. The 30.07.17 highways response also raised concerns that parking bays that were located in the access would have had the effect of narrowing its width. The layout has been revised to convert two parking bays to passing places and extend the 4.5m width further into the site in order to address these concerns. An access width of 7m is now proposed for a distance 15m into the northern access.

- 5.11 It is noted that the southern access between The Old Bell and 1 The Street is shown on the plans to provide access to two parking spaces. This is an existing access which is already used to serve 1 The Street. The Bullards Report acknowledges that there is now likelihood that this access could be used by cars from more than one property, but notes that the guidelines apply to *new* accesses not *existing* ones. They also note that visibility from the southern access exceeds the splay distances required.
- 5.12 Residents/the Parish note that The Street is 5.6m in places. A road width of 5.5m is regarded to adequate to allow two vehicles, including large vehicles to pass.
- 5.13 Residents/the Parish have also commented that listed building consent is required. Officers can confirm that listed building consent is not required to remove the wall to the north. No other works are proposed to the listed buildings as part of the application that would require listed building consent.
- 5.14 Residents/the Parish have commented that the traffic survey does not account for cars entering the visibility splay turning into the car park of The Old Bell, as these are not 'passing' traffic. Officers agree that these vehicles would enter the splay, but they are not at risk of collision with vehicles exiting the access as they do not pass the access.

6. Environmental Impacts (Ecology/Trees etc)

- 6.1 There are not any trees on the site which are of particular merit. There is a large beech tree in the front garden of The Old Gardens whose viability and vitality it is important for reasons of visual amenity and contribution it makes to the Conservation Area. The Council's Arboricultural Officer is satisfied a construction solution can be found for the access road which would not harm this tree.
- 6.2 An ecological appraisal has been submitted conducted by a professional Ecological Consultant. A site walkover and desk study reveals that the garden may provide a habitat for amphibians and reptiles, but that impacts upon these species can be mitigated through site management prior to, and during, construction. Compensatory measures are also proposed in the recommendations section such as provision of bat and bird boxes. It is considered that this is sufficient to comply with the requirements of local and national policy having regard for the requirements of the NERC Act 2007 and Wildlife and Countryside Act 1981.

7. Residential amenity

- 7.1 The amended layout now observes a distance of 20m between new properties and the gardens of 1-6 The Street and therefore preserves the privacy of these properties. There are no windows proposed in the first floors side elevations of the dwellings which would look towards neighbouring properties, notably The Old Gardens in the north.
- 7.2 The response of the Environmental Protection Team to the revised plans suggests that the dwellings are unlikely to result in noise complaints that might fetter the operation of The Old Bell provided conditions are applied requiring the dwellings to be constructed with sound attenuating features such as thermal glazing and a wall along the boundary.

PART FOUR – CONCLUSION

8. Planning Balance and Assessment

- 8.1 As required by paragraph 134, in the determination of this application consideration should be given to whether the public benefits are sufficient outweigh the harm to the significance of the Heritage Assets, notably the setting of the listed building 1-6 The Street and the appearance and character of the Kersey Conservation Area. Despite considering 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), provision of affordable housing and economic and infrastructure benefits, it is not considered that these public benefits would outweigh the less than substantial harm to the heritage asset (having attributed considerable importance and weight to this harm). Having regard for Footnote 9 of the NPPF, the balancing exercise has returned a negative outcome and there are policies within the Framework which indicate that development should be restricted. The 'tilted balance', presented under Paragraph 14 of the NPPF and Policy CS1 of the Core Strategy therefore is not engaged and the overarching principles of sustainable development as set out in the NPPF remain unsatisfied.
- 8.2 The proposal is also contrary to CS1, CS2 CS11, CS15 and saved policies, CN01, CN06 and CN08 also having regard for the Kersey Conservation Area Appraisal and Rural Development & Core Strategy Policy CS11 SPD for the reasons outlined in your recommendation from Officers.

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

22. When determining planning applications The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires Local Planning Authorities to explain how, in dealing with the application they have worked with the applicant to resolve any problems or issues arising. In this instance the applicant has worked to address problems and submitted revised plans in an effort to address concerns raised regarding impact upon heritage assets. Unfortunately it did not prove possible to resolve these difficulties in their entirety.

Identification of any Legal Implications of the decision

23. 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 authority is delegated to the Corporate Manager - Growth & Sustainable Planning to **REFUSE** Planning Permission, subject to confirmation for the reasons set out below:

1. The application proposes erection of seven dwellings together with associated access and landscaping. The site comprises the gardens of Nos. 1 – 6; properties which are listed grade II* by virtue of their special historical or architectural interest. The site also lies within the Kersey Conservation Area in an area designated as 'countryside' under Babergh Local Plan Core Strategy & Policies (2014) Policy CS2.
2. The long gardens associated with 1-6 The Street are likely to have been used in past times to grow produce or keep livestock. The undeveloped character of this land is significant to the historic functional relationship it had to these listed buildings. The preservation of this connection allows us to appreciate the buildings within their historic setting and this setting is consistent with how these properties operated traditionally. The application proposes subdivision of this plot and the introduction of built form into this setting which would be harmful to the aforementioned characteristics which contribute positively to the setting of these buildings; 1-6 The Street. This harm would be of a level which is 'less than substantial' within the meaning of 134 of the National Planning Policy Framework (NPPF).
3. The Kersey Conservation Appraisal identifies that an integral attribute to this heritage asset is the linear pattern evident in the development to the historic core of the village and the fact that *"...to the rear of most properties there is countryside at hand."* By subdividing the application site this would disconnect these historic buildings from their traditionally agrarian setting, also eroding and diminishing the aforementioned distinctive characteristics and morphology of the Kersey Conservation Area, therefore causing harm to its historic significance. This harm would be of a level that is 'less than substantial' within the meaning of 134 of the NPPF.
4. The key public benefits of the proposal include the provision of seven dwellings of an acceptable housing mix. It is acknowledged that the proposal would have social and economic benefits and would meet housing need. Weight has also been attributed to the applicant's offer to legally tie the dwellings to those with a local connection to Kersey. It would also provide four affordable rented dwellings which would help support the council's objectives of achieving inclusive communities. However, when the harm outlined above is given great weight in the balance these public benefits do not outweigh this harm and subsequently the proposal is contrary to 132-134 of the NPPF.
5. In so far as the social and environmental conditions would not be improved by this proposal; it is of inappropriate scale and location to satisfactorily address landscape, environmental and heritage characteristics of the village; it fails to respect the streetscape/townscape, heritage assets, important spaces and historic views of the locality; is of inappropriate nature in relation to the environment surrounding the site; fails to respect those features which contribute positively to the setting of a listed building including space, views from and to the building; and fails to preserve or enhance the character of a conservation area and its setting; this proposal is contrary to Babergh Local Plan Core Strategy & Policies (2014) CS1, CS11, CS15 and Babergh Local Plan (Alteration No.2 2006) Saved Policies CN01, CN06 and CN08 respectively. In addition, there exist no material considerations which overcome the departure from CS2 or that weigh sufficiently heavily in the planning balance when the requirements of local and national policy are considered as a whole; therefore the application is refused.