

Committee Report

Item No: 2

Reference: DC/17/03751

Case Officer: Steven Stroud

Ward: Lindsey

Ward Member/s: Cllr Bryn Hurren

Description of Development

Planning Application - Erection of 2no. 3-bedroom dwellings with associated garages (following demolition of existing dwelling); application to include change of use from agricultural land to residential use.

Location

The Bungalow, The Street, Lindsey, Ipswich, Suffolk, IP7 6PU

Parish: Lindsey

Site Area: 0.26ha

Conservation Area: Not conservation area

Listed Building: Not listed building

Received: 20/07/2017

Expiry Date: 07/10/2017

Application Type: FUL - Full Planning Application

Development Type: Minor

Applicant: Mrs Lisa Arthey

Agent: Mr Philip Branton

DOCUMENTS SUBMITTED FOR CONSIDERATION

This report refers to drawing number 001 received 08/06/2017 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 report and recommendation.

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

Application Form - Received 20/07/2017

Ecological survey - Received 20/07/2017

Design and access statement - Received 20/07/2017

Enviro search report – Received 20/07/2017

Defined Red Line Plan PA_01- Received 20/07/2017

Drawing numbers – All Received 20/07/2017: PA_01, PA_02, PA_03, PA_04, PA_05, PA_06, PA_07.

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

PART ONE – REASON FOR REFERENCE TO COMMITTEE

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

The applicant is related to a District Councillor.

PART TWO – APPLICATION BACKGROUND

History

There is no planning history relevant to this proposal.

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

Core Strategy

The Babergh Local Plan 2011-2031, Core Strategy and Policies (2014) document was adopted on the 25 February 2014. The following policies are especially applicable to this particular planning application:

- CS1: Applying the Presumption in Favour of Sustainable Development in Babergh
- CS2: Settlement Pattern Policy
- CS3: Strategy for Growth and Development
- CS15: Implementing Sustainable Development in Babergh
- CS18: Mix and Types of Dwellings

Local Plan

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 especially applicable to the proposal:

- CN01: Design Standards
- CN06: Listed Buildings - Alteration/Extension/Change of Use
- CR07: Landscaping Schemes
- CR08: Hedgerows
- CR10: Change of Use from Agricultural Land
- HS05: Replacement Dwellings
- HS28: Infilling
- TP15: Parking Standards - New Development

The National Planning Policy Framework (NPPF)

The 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-taking purposes.

The National Planning Practice Guidance (PPG)

On the 6th March 2014, a number of Ministerial planning circulars were cancelled by central Government and were replaced by the Government's online national Planning Practice Guidance (PPG). The guidance provided is advice on procedure rather than explicit policy, but has been taken into account in reaching the recommendation made on this application.

The PPG is an online reference and is available at the following internet address:

<https://www.gov.uk/government/collections/planning-practice-guidance> .

The relevant policies referred to above can be viewed online. Please see the notes attached to the Schedule.

List of other relevant legislation

- Human Rights Act 1998
- Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990
- Natural Environment and Rural Communities (NERC) Act 2006
- The Conservation of Habitats and Species Regulations 2010
- Localism Act 2011
- Consideration has also 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.

Consultations and Representations

Responses received prior to the completion of this report are summarised or directly quoted (when italicised) below.

A: Summary of Consultations

Lindsey Parish Council

The Parish Council, having been asked to consider the above planning application, has no objections to make and would like to recommend the application be considered for approval by Babergh District Council. It was felt that the proposed dwellings in place of the existing single dwelling would have no detrimental impact on the visual amenities enjoyed by neighbouring properties nor would it have a detrimental impact on the character and appearance of the area. The Parish Council also feels that the location would fit the Council's forward view as to the regeneration of the centre of the village and the fact that these are 2 mid-sized well-built houses supports the introduction of new families into the village. It was considered that the materials would be sympathetic to their surroundings and of a high standard.

Whilst considering the planning application, the Parish Council was mindful of the current status of Lindsey within Babergh District Council's Core Strategy and the spatial strategy for all new housing. It is acknowledged that although Lindsey is considered as countryside in the current local plan, it still plays a greater role in providing support to larger settlements within its vicinity. Within the 'functional cluster' as identified in the settlement hierarchy Lindsey forms part of the 'functional group' of villages that supports not only Boxford but also Bildeston and Hadleigh. It was considered that the proposal is in accordance with Paragraph 55 of the National Planning Policy Framework which states that in order to allow sustainable development within rural areas "housing should be located where it will enhance or maintain the vitality of rural communities". In this case the proposal would help maintain the vitality of the local rural services not only in Lindsey, but also in neighbouring Chelsworth, Kersey and Monks Eleigh and nearby Edwardstone, Bildeston, Boxford and Hadleigh.

The Council is also aware of a recent precedent for new housing development in Lindsey with regards to the granting of planning permission for the erection of a number of new dwellings over the past few years and, as such, could see no reason as to why it would not support this application.

Historic England

Do not wish to offer comments.

SCC – Local Highway Authority

No objection; recommend conditions with any grant of permission in respect of access, parking and visibility splays.

Ecology

No objection, subject to: Securing appropriate mitigation to compensate for likely disturbance to Stour and Orwell Estuaries Special Protection Area, and; conditions to secure the protection of local species.

Land Contamination:

No Objection.

Archaeology:

Recommends that the proposal has a condition requiring a scheme of archaeological investigation and assessment be added to any approval.

B: Representations

One item of representation has been received, summarised as follows:

- There is a ditch in proximity to the site that acts as a catchment for surface/foul water.
- The ditch finishes at our pond and there is a history of flooding.
- We cannot take any increase in water.
- We note that soakaways and a package treatment plant are proposed.
- We seek assurances that there will be no further impact on our property.

The above comments are a summary of responses that have been received, full comments are available to view on the council's website.

All consultee responses and representations received to date have been noted and have been taken into account when reaching the recommendations as set out below.

PART THREE – ASSESSMENT OF APPLICATION

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

The Site and Surroundings

- 1.1. The application site amounts to 0.26ha of part residential, part agricultural land. The residential element comprises a single bungalow and its garden which fronts, and takes access from, Lindsey Road on its eastern boundary.
- 1.2. The site is bounded on its western and southern sides by agricultural land and open countryside. Adjacent to the north lies Monks, which is a residential property and GII listed building. The GI Church of St Peter is east of the site, across Lindsey Road and a triangular junction.
- 1.3. The site is designated as falling within the countryside for planning purposes, however no other land designations or constraints are considered directly relevant to the determination of this application.

The Proposal

- 2.1. The applicant seeks full planning permission for the erection of 2 no. three-bedroom dwellings and associated garages following the demolition of the existing dwelling. The dwellings would be sited within the existing land occupied by The Bungalow property.
- 2.2. The proposal also includes the development of a change of use of agricultural land (which presently bounds The Bungalow to the south) to residential, in order to provide an increased amount of amenity/garden space for the development.
- 2.3. The submitted drawings identify dwellings that would be arranged over two floors, however taking a one-and-half-storey form in order to minimise visual impacts. The two dwellings would be divided by a detached garage unit and would both be served by the same, existing, access.
- 2.4. Proposed materials include red-facing brickwork, render, feather-edged boarding, and plain tiles.

The Principle of Development

Policy Context

- 3.1. Policy CS2 sets out the District's settlement strategy and states that most new development will be directed sequentially to the towns/urban areas, core and hinterland villages. The Policy also states, *inter alia*, that whilst small groups of dwellings and hamlets outside of such villages will fall within 'functional clusters', their remoteness and lack of services or facilities mean that such groups are classified as being countryside. Policy CS2 goes on to state that within the countryside, development will only be permitted in *exceptional circumstances and subject to a proven justifiable need*.
- 3.2. Lindsey has no defined settlement boundary and is designated as countryside for planning purposes, in accordance with that Policy. In the absence of exceptional circumstances and a proven, justifiable need, the development plan would therefore indicate development within such areas as being unacceptable, at the outset.
- 3.3. Section 70(2) of the Town and Country Planning Act 1990 requires that, in dealing with an application for planning permission, a local planning authority must have regard to the provisions of the development plan, so far as is material to the application, and to any "*other material considerations*".
- 3.4. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of applications under the planning Acts should be made in accordance with the development plan unless material considerations indicate otherwise.
- 3.5. The NPPF contains the Government's planning policies for England and sets out how these are expected to be applied. The planning policies contained within the NPPF are a material planning consideration, capable of being afforded a significant weighting for decision-taking purposes.

3.6. At Paragraph 6, the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development, and that the policies within Paragraphs 18 to 219, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

3.7. Paragraph 7 of the NPPF sets out that there are three dimensions, or ingredients, to sustainable development:

- *“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.”*

3.8. Paragraphs 11 thru 16 of the NPPF explain the presumption in favour of sustainable development where Paragraph 14, which is essentially the lynchpin of the NPPF, details how the presumption should operate in practice:

“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:*
 - i. *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*
 - ii. *specific policies in this Framework indicate development should be restricted.”*

3.9. Members should note that this operation or ‘algorithm’ is itself enshrined within the development plan, under Policy CS1 of the Core Strategy, which states that:

“When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in Babergh district.

Planning applications that are supported by appropriate / proportionate evidence and accord with the policies in the new Babergh Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.

Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:

- i) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or*
- ii) specific policies in that Framework indicate that development should be restricted.”*

- 3.10. In Babergh, where planning proposals accord with development plan, comprising the Core Strategy and Local Plan, they should be granted planning permission without further ado, unless other material considerations indicate otherwise. This is what the first bullet-point under the decision-taking limb of Paragraph 14 of the NPPF, and the second paragraph under Policy CS1 above, means in practice.
- 3.11. Where the second bullet-point under Paragraph 14 - or indeed vicariously Policy CS1 - applies, because the development plan is absent, silent or relevant policies are out-of-date: *“...the proposal under scrutiny will be sustainable development, and therefore should be approved, unless any adverse impacts significantly and demonstrably outweigh the benefits”¹.*
- 3.12. Specifically, *“another way of putting the matter is that the scales, or the balance, is weighted, loaded or tilted in favour of the proposal. This is what the presumption in favour of sustainable development means: it is a rebuttable presumption, although will only yield in the face of significant and demonstrable adverse impacts”².*

Housing Land Supply

- 3.13. Paragraph 47 of the NPPF requires Councils to boost significantly the supply of housing. This includes identifying, and updating on an annual basis, a supply of specific deliverable sites sufficient to provide for five years' worth of housing provision against identified requirements. For sites to be considered deliverable they have to be available, suitable, achievable and viable.

¹ CEBC vs SSCLG [2016] EWHC 571 (Admin)

² Ibid.

- 3.14. Paragraph 49 of the NPPF, in the event that there is not a demonstrable 5-year supply of deliverable housing sites, specifically signposts Paragraph 14 in stating that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing should be considered out of date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 3.15. In accordance with the PPG, the starting point for calculating the 5-year land supply should be the housing requirement figures in up-to-date adopted Local Plans. It goes on to state that:
- “...considerable weight should be given to the housing requirement figures in adopted Local Plans, which have successfully passed through the examination process, unless significant new evidence comes to light.... Where evidence in Local Plans has become outdated and policies in emerging plans are not yet capable of carrying sufficient weight, information provided in the latest full assessment of housing needs should be considered. But the weight given to these assessments should take account of the fact they have not been tested or moderated against relevant constraints...”*³
- 3.16. The Council adopted its Core Strategy in February 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 (see subsequent section). Therefore, the 5-year land supply has been calculated for both the adopted Core Strategy based figures and the new SHMA based figures. For determining relevant planning applications, it will be for the decision-taker to consider appropriate weight to be given to these assessments and the relevant policies of the development plan.
- 3.17. A summary of the Babergh 5-year land supply position is:
- Core Strategy based supply for 2017 to 2022 = 4.1 years
SHMA based supply for 2017 to 2022 = 3.1 years
- 3.18. Evidentially, the Babergh District Council cannot presently demonstrate such a supply as required by national planning policy, and therefore its relevant policies for the supply of housing are out of date; the ‘tilted’ planning balance under Paragraph 14 of the NPPF and Policy CS1 of the Core Strategy is therefore engaged.

The Presumption in Favour of Sustainable Development / Tilted Balance

- 3.19. The precise meaning of ‘relevant policies for the supply of housing’ has been the subject of much case law, with previously inconsistent results. However, in May 2017 the Supreme Court (SC) gave a judgment which has clarified the position⁴. The SC 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.

³ Paragraph: 030 Reference ID: 3-030-20140306

⁴ Suffolk Coastal District Council v Hopkins Homes Ltd and Richborough Estates Partnership LLP v Cheshire East Borough Council [2017] UKSC 37

- 3.20. However, the SC made it clear that the argument over the meaning of that expression is not the real issue. The purpose and consequence of the policy of Paragraph 49 of the NPPF is to simply act as the *trigger* of the 'tilted balance' under Paragraph 14.
- 3.21. In applying the 'tilted balance' required by that Paragraph, the Council must however evaluate, as they would do ordinarily, what weight to attach to all of the relevant development plan policies, having regard for the material planning considerations relevant, which in this instance includes the strong policy direction provided by the NPPF. The 'tilted balance' is capable of affecting the weight to be given to other development plan policies, although the weight they should be given remains a matter for planning judgment.
- 3.22. Within this context, and acknowledging the direction of Policy CS1 and the NPPF in the absence of a 5-year housing land supply, officers apply a limited weighting to the Council's housing supply policies, including Policy CS2.
- 3.23. The actual operation of the presumption in favour of sustainable development shall be carried within the balance of planning considerations at the conclusion of this report; having regard for the development plan, the NPPF, PPG, and other material planning considerations pertinent to this proposal.
- 3.24. In the light of the above, this report will now consider the proposal against a number of key material planning considerations, under the application of the suite of policies within the development plan and the NPPF, in order to determine whether the proposal accords with those instruments as a whole and to inform the planning balance.

- 3.25. Notwithstanding the above, officers are aware of recent appeal decisions affecting the District where Inspectors have treated Policy CS2 in an alternative fashion⁵. This has included comment that the 'blanket restriction' upon development imposed by that Policy is inconsistent with the cost-benefit analysis advocated by the NPPF, and that not having a 5-year housing land supply satisfies the need to demonstrate an exceptional circumstance and proven, justifiable need under that Policy.
- 3.26. Officers have considered these points carefully and acknowledge that the decisions issued by a Planning Inspector are capable of being treated as material considerations; it is important that Members bear such decisions in mind.
- 3.27. However, where such decisions are presently in the minority – and other Inspectors have reached differing conclusions – officers express caution with an adoption of those highlighted positions without considering the individual merits of a particular application.
- 3.28. Nevertheless, these points are largely academic where officers accept and give great weight to the direction of the NPPF and Policy CS1, which is to apply the presumption in favour of sustainable development – i.e. the 'tilted balance' – in situations such as this; officers therefore consider that Policy CS2 should be afforded a lesser weighting in any event.

⁵ Appeal References: 3178700, 3180004, and 3170002.

Community Vitality, Connectivity and Housing Delivery

- 4.1. Policy CS15 of the Babergh Core Strategy sets out a range of criteria related to the elements comprising sustainable development and principles of good design, which are to be applied to all developments, as appropriate, dependent on the scale and nature of the proposal. It requires that new development should ensure that an appropriate level of services, facilities and infrastructure are available to serve the proposed development and that development should seek to minimise the need to travel by car.
- 4.2. Paragraph 55 of the NPPF states that in order to promote sustainable development in rural areas, housing should be located where it would enhance or maintain the vitality of rural communities and advises that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances; no special circumstances are necessary unless a home is to be isolated.
- 4.3. The NPPF does not define the term 'isolated' and neither does the development plan. Taking its ordinary meaning, it is considered reasonable for the following definition to be applicable, as taken from the Oxford English Dictionary: *"Placed or standing apart or alone; detached or separate from other things or persons; unconnected with anything else; solitary."*
- 4.4. Applied to the circumstances of this present proposal officers consider that, at least in a physical sense, the application site is not isolated and therefore the satisfaction of a special circumstance under Paragraph 55 is not required. To approach matters in this way has recently been endorsed at the Planning Court.⁶
- 4.5. The PPG provides up-to-date direction on the proper interpretation and application of national planning policy and is considered to warrant a significant weighting in the decision-taking process. In relation to rural housing, it states that: *"all settlements can play a role in delivering sustainable development in rural areas - and so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence"*.⁷ This is consistent with Paragraph 55 of the NPPF which places an emphasis on the vitality of settlements and further states that *"...where there are groups of smaller settlements, development in one village may support services in a village nearby"*.
- 4.6. At the same time and acknowledging that the achievement of, or momentum toward, securing sustainable development requires the balance of competing *desiderata* that might pull a decision-taker in differing directions, the NPPF is equally clear (consistent with Policy CS15) that a core planning principle should be to support the transition to a low carbon future; including the promotion of sustainable patterns of travel and a reduction in the reliance upon the private motor vehicle. At Paragraph 29, the NPPF accepts that the opportunities to maximise sustainable transport solutions will diminish when moving from urbanised to rural areas, however this does not undermine the need to locate new developments where they will be well-connected and operate toward fulfilling environmental objectives.

⁶ Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Developments Limited [2017] EWHC 2743 (Admin).

⁷ Paragraph: 001 Reference ID: 50-001-20160519.

- 4.7. The inherent social benefits presented in contributing to the vitality of a community aside, Paragraph 19 of the NPPF also requires decision-takers to attach “*significant weight...on the need to support economic growth through the planning system*”.
- 4.8. Further, in terms of the social and economic dimensions, a new dwelling could feasibly offer the following:
- opportunities for small and medium-sized companies to enter or remain a viable part of the development market, helping to promote competition and quality of build;
 - economic activity through the construction phase;
 - a new home;
 - support for local jobs and sustaining local growth given the use of local services and facilities, and;
 - effective use of developable and available land.
- 4.9. Whilst some of the above bullet-points are only likely to present short to medium-term gains, there is nonetheless no reason to consider that a proposal for a new home would be harmful in respect of the economy or the social dimension of sustainability (assuming it is well-located to benefit a hosting community in that sense) and would indeed present moderate benefits; where the NPPF presents a duty to significantly boost housing supply, the contribution of a single, new home is still of significance and in this instance the proposal offers a net increase of one dwelling.

The Proposal/Application Site

- 4.10. Lindsey is relatively unique amongst settlements within the District as the Core Strategy identifies it as falling within three, separate, ‘functional clusters’: Bildeston, Boxford, and Hadleigh. All three – and Hadleigh being a key town – offer an extensive range of services and facilities to serve residential needs; however, they are located around 5km, 5km, and 6.5km from the application site respectively.
- 4.11. The Institute for Highways and Transportation’s (IHT) ‘Guidelines for Providing Journeys on Foot’, which has in turn influenced and been carried through by the DfT, identifies that 800 metres is the preferred maximum walking distance in a town centre (according with the Manual for Streets). In rural areas, this figure can be increased to 1200m and then 2000m for commuting or schools. It should be pointed out, however, that such distances are preferred as a maximum and that any increase would not necessarily be unacceptable, dependent upon circumstance. Officers consider that this is a useful measure against which to apply development proposals.
- 4.12. With regard to the proposal before Members, Lindsey has a limited degree of services and facilities: it holds a public house, a church, and a village hall. The Village Hall routinely hosts community events, including a regular ‘craft club’, and the Church is active; both are within 100m of the application site. The Lindsey Red Rose public house is 1km away, to the North.
- 4.13. The application site is within proximity to other dwellings (part of a cluster of 13), however Lindsey/Lindsey Tye comprise sporadic clusters of properties, with a focus upon the ‘core’ which is where the public house is sited.

- 4.14. There is no regular bus service that stops within walking distance of the site, having regard for the national guidelines above.
- 4.15. The IHT and DfT document 'Cycle Friendly Infrastructure: Guidelines for Planning and Design' provides a guide on suggested cycle speeds associated with cyclists of varying confidence and ability. Using a modest speed of 10mph (16kph) a catchment of 6.5km would be available within approximately 25 minutes' cycle time, which would not be onerous. This immediately brings the town/urban area of Hadleigh, and the Core Villages of Boxford and Bildeston within an acceptable range for commuting and connecting to other facilities and services.
- 4.16. Nonetheless it is acknowledged that the state and presentation of the local highway network must be considered in order to reach a conclusion as to how accessible routes to key destinations would be for pedestrians and cyclists.
- 4.17. In this respect, whilst the Church and Village Hall are readily accessible, there is no defined or paved footway leading to the Red Rose, and the route is unlit. Officers conclude that in inclement weather, or at night, future occupiers of the development would be unlikely to use that facility as pedestrians.
- 4.18. The cycle routes to Boxford, Bildeston and Hadleigh require the navigation of often narrow roads, some at national speed limit, and in respect of travelling to Hadleigh the need to traverse busy 'A' and 'B' roads. Only the most determined or confident cyclists would routinely undertake such journeys, as a matter of planning judgement.

Conclusion

- 4.19. Taking into account the direction of the PPG and NPPF, officers consider that the development would add to the vitality of Lindsey/Lindsey Tye as a community and would not run contrary to Paragraph 55 of the NPPF in that respect.
- 4.20. Despite the net increase of only one dwelling, the housing delivery secured in allowing development to proceed would offer tangible social and economic benefits and would assist – albeit in a very modest way – with meeting the housing shortfall facing the District.
- 4.21. Conversely, and again whilst the impacts associated with a *new* dwelling would be limited, officers are, however, concerned with the environmental harm the development would pose due to the heavy reliance on private motor car that would likely result.

Effective Use of Land

Existing Residential Land

- 5.1. The proposed dwellings would be sited within the existing land occupied by The Bungalow; that land is therefore already residential (C3) in nature, being land ancillary/part of the host dwelling/planning unit.

- 5.2. Where “the carrying out of building... or other operations in, on, over or under land, or the making of any material change in the use of ... land”⁸, represents ‘development’, it is reasonable to consider that the red-lined area subject to the application (with the exception of the additional garden area to be provided on existing agricultural land) has already been developed - i.e. through the establishment of The Bungalow as a planning unit.
- 5.3. That this portion of the application site should be viewed as ‘brownfield’ is supported through the NPPF and subsequent case law. The Glossary to the NPPF defines ‘previously developed land’ as:
- “Land which is or was occupied by a permanent structure, including the curtilage of the developed land... and any associated fixed surface infrastructure. This excludes: ... land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.”*
- 5.4. Taking a literal interpretation, a conclusion that residential gardens in the countryside or outside of built-up areas should be considered as brownfield is a valid one. This matter was considered in the case of *Dartford Borough Council v SSCCLG [2016] EWHC 635 (Admin)*, where the relevant dictum of the sitting judge agreed with the reasoning of the Secretary of State (i.e. following that reasoning above) by stating that *“It is impossible to read the definition of previously-developed land in... such a way as to exclude from it private residential gardens which are not in built-up areas. To do so is to contradict the clear words used in the definition [in the NPPF]”*.
- 5.5. Acknowledging, then, that the application site in that respect should be considered as brownfield, this is a material consideration that weighs in favour of the proposal. Paragraphs 17 and 111 of the NPPF place a requirement upon decision-takers to encourage the effective re-use of brownfield land; that such land should in effect be prioritised for development. Whilst the weight to be applied to such a consideration is in some ways limited by the word ‘encourage’ it is nonetheless a factor that gives additional weighting, albeit limited, to the acceptability of the principle of development.
- 5.6. This presumption is caveated with the exception that the brownfield land in question should not be of high environmental value. The application site does not meet such a threshold; it is domestic in use and appearance and is not protected by any specific environmental designations, nor is it within a Special Landscape or Conservation Area.
- 5.7. On that basis, the siting of the two dwellings within the existing planning unit of The Bungalow is considered to be an effective use of land; matters relating to amenity are considered elsewhere in this report, however officers consider that a presentation on that basis alone would nevertheless be acceptable.

⁸ See s55 of The TCPA 1990.

Agricultural Land

- 5.8. However, it is noted that the applicant also seeks permission for a change of use of agricultural land to residential in order to provide additional garden land for the proposed development and Policy CR10 of the Local Plan is the lead policy in that respect. Officers note that the relevant test within the NPPF (at Paragraph 112), is only enacted when a significant loss is proposed; as a matter of planning judgement that is not considered to be the case in this instance.
- 5.9. Policy CR10 states that permission for a change of use from agricultural land to residential garden will not be permitted where such a change would: pose adverse impact to landscape quality or biodiversity; result in the loss of Best and Most Versatile (BMV) agricultural land; is an intrusion into open countryside, and; it threatens farm viability [officer emphasis].
- 5.10. The inclusion of the word 'and' indicates that all criteria must be satisfied or 'triggered' in order to return a negative result. However, officers favour a more cautious approach and have considered each criterion carefully.
- 5.11. The Agricultural Land Classification (ALC) system classifies land into five grades (Grade 1: excellent, to Grade 5: very poor, inclusive), with Grade 3 subdivided into sub-Grades: 3a (good quality) and 3b (moderate quality). 'Best and Most Versatile' (BMV) agricultural land is land in grades 1, 2 and 3a of the ALC. Natural England advises that the best and most versatile agricultural land should be protected⁹.
- 5.12. The applicant's submission defines the site as Grade 3 but does not proceed further, only to acknowledge it is of 'good to moderate' quality. Taking a cautious approach and without further evidence, this would mean that it is BMV land.
- 5.13. However, as above, the land is nevertheless considered to be of little environmental value and given the modest and insignificant quantum of land identified this would not otherwise conflict with the wider thrust of the development plan or undermine the core planning principles of the NPPF in seeking to protect the intrinsic beauty of the countryside. The development would not therefore represent an unhealthy or incongruent ribbon expansion into open countryside; the physical aspects of the development remain on the land that has previously been developed.
- 5.14. Further, and as argued by the applicant, the loss of such land is unlikely to harm farming viability given its small area and awkward shape, as it relates to The Bungalow property and runs adjacent to Lindsey Road. The ecological information and mitigation measures supplied and identified by the applicant are also acceptable.
- 5.15. In strict terms, the potential loss of BMV land, however small, poses some tension with the Local Plan policy. However, this must be framed against the context of those other criteria within the Policy – which are all satisfied. On balance, therefore, this element of the development is considered as acceptable.

⁹ Paragraph: 026 Reference ID: 8-026-20140306

Impact upon the Character and Appearance of the Area

- 6.1. Policy CN01 of the Local Plan requires all new development to be of an appropriate scale, form and design, with particular regard to the scale, form and nature of surrounding development and the local environment. Policies CR07 and CR08 seek to enhance and protect the landscape to ensure that all new development is harmonious within its setting.
- 6.2. 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 landscape, landscape features, streetscape/townscape heritage assets, important spaces and historic views of the locality.
- 6.3. Delivering quality design is also a core aim of the NPPF which states (at Paragraph 56) that good design is a key aspect of sustainable development and is indivisible from good planning. Further, it states that the intrinsic character and beauty of the countryside should be recognised in planning decisions. Paragraph 60 further advises that planning decisions *“should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.”*
- 6.4. Paragraph 9 of the NPPF encourages the replacement of poor design. Officers agree with the applicant that The Bungalow is of no architectural importance and is of poor quality, design, materials and construction. Its loss and replacement is therefore welcomed.
- 6.5. In this case the form and detailed design of the new dwellings generally reflect the wider, rural Suffolk vernacular and the submitted Design and Access Statement provides a reasoned and cogent rationale for the design approach taken, which helps to frame the development within its context. Whilst there is a degree of coherency between surrounding buildings – which this development would complement – the proposed development would ‘speak’ on its own terms and yet concurrently offer deference to the surrounding architectural language and distinctiveness; for example, the use of dormers that take reference from the Monks property to the north.
- 6.6. Due to their set-back siting and one-and-half-storey scale, the dwellings would not be unduly prominent when viewed from the public realm and their maximum heights would be commensurate with residential properties in the vicinity. The proposed external facing materials are considered to be positive, acceptable and are not considered to pose detriment to visual amenity or the character and appearance of the area; however, it would be prudent to assess precise details of those materials prior to application.
- 6.7. Having considered the scale, siting and presentation of the proposed units and their relationship to surrounding environs, the development would be relatively unobtrusive. Limited landscaping and boundary treatment details have been provided, however the imposition of planning conditions can secure positive and verdant treatment appropriate for the setting. The use of a single point of access (making use of existing) would limit ‘hard’ visual impacts.
- 6.8. When considered against the development plan and national planning policy and guidance, the development is considered acceptable in terms of its design and impacts upon visual amenity and the character and appearance of the area.

Heritage

- 7.1. With reference to the overall treatment of the submitted application, the Council embraces its statutory duties and responsibilities, notably; Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires the Local Planning Authority 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*”.
- 7.2. Case law pertaining to the application of that duty acknowledges that the consideration of the impact of a proposed development upon the significance of a designated heritage asset is a matter for a local planning authority’s own planning judgement, but that a local planning authority is required to give any harm that it identifies considerable importance and weight; such harm as may be identified gives rise to a strong presumption against planning permission being granted¹⁰.
- 7.3. The NPPF sets out the Government's national planning policies for the conservation of the historic environment and builds upon the 1990 Act referred to above. 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 clear and convincing justification.
- 7.4. Policy CS15 of the Core Strategy and Policy CN06 of the Babergh Local Plan seek to secure the preservation or enhancement of the historic environment. 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. The aforementioned policies are considered to be consistent with the NPPF and so are afforded a strong weighting.
- 7.5. The application site is not within or adjacent to a conservation area and does not comprise a listed building, monument or other designated asset. However, officers consulted Historic England and sought internal heritage advice as the development would be within proximity to two designated heritage assets: The Grade II Monks to the north, and Grade I Church of St Peter to the east. Their responses are included within the relevant section of this report.
- 7.6. Due to the scale, layout, form and detailed design of the development, separation distances and intermediary features involved (and likely to be strengthened through a robust landscaping proposal), officers are satisfied that those assets would not be ‘harmed’ by this proposal, within the meaning provided by Historic England guidance and expanded by the NPPF¹¹.

Residential Amenity

- 8.1. One of the core planning principles within paragraph 17 of the NPPF is that Local Planning Authorities should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings, and this is also required by saved policy CN01 of the Local Plan.

¹⁰ R. (on the application of Lady Hart of Chilton) v Babergh DC [2014] EWHC 3261 (Admin).

¹¹ English Heritage, ‘Conservation Principles, Policies and Guidance’ (2008).

- 8.2. As such, consideration needs to be given as to whether the proposal would be likely to give rise to any material harm to the amenity of neighbours by reason of impacts including loss of light, privacy, or outlook, or other potential impacts associated with the proposed development.
- 8.3. In this instance, given the siting and orientation of the dwellings and the relationship between those units and neighbouring properties, including separation distances, it is not considered that the proposal would pose any unacceptable impacts with regard to residential amenity.
- 8.4. It is also important to consider the amenity of those future occupiers of the proposed dwellings. There is adequate private amenity space for each property with sufficient space for the drying of clothes, private sitting and children's play. As such the quantum of amenity space provided is considered as satisfactory. Again, given the orientation, siting and external presentation of each dwelling the relationship between the two is considered as acceptable.
- 8.5. The proposal is therefore considered as acceptable in this respect.

Highway Impacts and Access

- 9.1. The comments of the Local Highway Authority have been noted and taken into account. The access to the site is considered as acceptable in safety terms and there is an adequate quantum of space to allow for appropriate off-road turning and parking within the application site.

Flood Risk

- 10.1. The site is wholly within Flood Zone 1, where there is a very low probability (less than 1 in 1000 annually) of river or sea (fluvial) flooding. The existing nature of the land, its surroundings, and its use also means that there is presently considered to be a low risk of an existing surface water (pluvial) flooding issue at this site or the immediate vicinity.
- 10.2. The proposed development is not considered to pose significant impacts in this regard. The comments of a nearby property in relation to surface/foul water drainage are noted. In respect of this issue, the planning system is constrained to apply controls that meet a number of 'tests'. This means that a condition must be necessary to make the development acceptable, and should not duplicate controls that are applied by other means or legislation. On small-scale schemes, such as the development in question, the Building Regulations (Part H) require an adequate provision of drainage and surface water management from a new dwelling.
- 10.3. The Council as Local Planning Authority must consider that the responsible and reasonable developer will meet such Regulations, where it is satisfied that arrangements are in place to secure adequate drainage, as is the case in this type of situation. Where a developer deviates from that this could result in a civil matter between parties, as the responsibility for the drainage of the land remains with the landowner or developer depending upon the circumstance; officers do not believe that an *increased* risk of flooding outside of the application site is a reasonably foreseeable scenario in this instance.

Archaeology

- 11.1. In accordance with the advice received from SCC Archaeological Service, the site is believed to have a high potential for holding archaeological assets. Conditions to secure adequate investigation and post-investigation analysis are recommended.

Ecology

- 12.1. In assessing this application due regard has been given to the provisions of the Natural Environment and Rural Communities Act, 2006, is so far as it is applicable to the proposal and the provisions of Conservation of Habitats and Species Regulations, 2010 in relation to protected species.

The application has been considered by both the Council's appointed ecologist and the surveys submitted demonstrate that the development will not result in any damage or loss of protected species or habitats and with the inclusion of appropriate conditions and financial contributions towards mitigation, as required by the Council's appointed ecologist it is considered that this matter has been addressed satisfactorily.

Planning Obligations and the CIL

- 13.1. 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)

- 14.1. Granting this development will result in the following financial benefits:
- New Homes Bonus
 - Council Tax
- 14.2. These considerations are not held to be material to the recommendation made on this application, nor its decision.

PART FOUR – CONCLUSION

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

- 15.1. When determining planning applications, The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires Local Planning Authorities to explain how, in dealing with the application they have worked with the applicant to resolve any problems or issues arising.
- 15.2. In this case the application could be recommended for approval without negotiation or amendment so there was no need to work with the applicant.

Planning Balance

- 16.1 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.
- 16.2. At the heart of the balancing exercise to be undertaken by decision takers is Section 38(6) of the Planning and Compulsory Purchase Act 2004; which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 16.3. Whilst the application site is located within the countryside for planning purposes, allowing development to proceed would provide for tangible social and economic benefits: through the addition of a new dwelling against the context of a significant shortfall in delivery, and support of the local economy through construction and occupation. Furthermore, the application proposes an efficient use of previously-developed land and would pose no harm to the character and appearance of the area and would maintain the intrinsic character and beauty of the countryside.
- 16.4. The proposed development would meet the aims of Paragraph 55 of the NPPF which seeks to maintain the vitality of rural communities and avoid new isolated homes in the countryside.
- 16.5. Conversely, the development would result in a small loss of potentially BMV agricultural land, and would result in future occupiers being heavily reliant on the private motor vehicle. Whilst the harm posed through land loss would be negligible, the harm to the environmental dimension of sustainable development through car reliance would be relevant and worthy of further consideration. However, given the minor impacts associated with the net increase of one dwelling, this harm is afforded a moderate weighting.
- 16.4. As the Council cannot, by any measure, demonstrate a 5-year supply of deliverable housing sites within the District, Paragraph 49 of the NPPF deems the relevant housing policies of the Development Plan to be out-of-date, so triggering both the 'tilted balance' in paragraph 14 of the NPPF, and the operation of Policy CS1.
- 16.4. Where applying significant weight to that direction, and diminished weighting to the housing supply policies of the development plan, including Policy CS2, the proposal is considered to be sustainable development, and officers do not consider that the adverse impacts identified in relation to this proposal would significantly or demonstrably outweigh the benefits of it, when framed against the NPPF as a whole. Officers do not consider that there are any specific policies within the NPPF that indicate that the development should be restricted.
- 16.5. In the absence of any justifiable or demonstrable material consideration indicating otherwise, it is considered that the proposals are therefore acceptable in planning terms and that there are no material considerations which would give rise to unacceptable harm.
- 16.6 A positive recommendation to Members is therefore given below.

RECOMMENDATION

That planning permission be granted subject to conditions including:

- Standard time limit
- Approved plans and documents
- Ecological mitigation.
- Highways measures/improvements
- Materials details
- Levels details
- Hard and soft landscaping details (inc. boundary treatments and management)
- Archaeological investigation/assessment