

Committee Report

Item No: 2

Reference: DC/17/02111

Case Officer: Gemma Pannell

Ward: Alton.

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

Description of Development

Outline application for 14 dwellings, children's play area and public open space (Access, Layout and Scale to be considered)

Location

Land Adjoining The Village Hall, Manningtree Road, Stutton, Suffolk

Parish: Stutton

Site Area: 1.19 hectares

Conservation Area: N/A

Listed Building: N/A

Received: 17/05/2017

Expiry Date: 31/12/2017

Application Type: OUT - Outline Planning Application

Development Type: Major Small Scale - Dwellings

Environmental Impact Assessment: Not Required

Applicant: Trustees of Holly Farm Trust & Stutton Hall Estate

Agent: Peter Wells Architects

DOCUMENTS SUBMITTED FOR CONSIDERATION

This decision refers to drawing number 003 received 01/12/2017 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 decision.

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

Defined Red Line Plan 003 - Received 01/12/2017

Design and Access Statement - Received 17/05/2017

Ecological Survey/Report PRELIMINARY ECOLOGICAL APPRAISAL - Received 17/05/2017

Land Contamination Assessment PHASE 1 CONTAMINATED LAND ASSESS - Received 17/05/2017

Flood Risk Assessment - Received 05/09/2017

General Details Q-10019-B3Y8-C - Received 17/05/2017

The application, plans and documents submitted by the Applicant can be viewed online at www.babergh.gov.uk.

PART ONE – REASON FOR REFERENCE TO COMMITTEE

The application is referred to committee at the request of Cllr. McCraw

PART TWO – APPLICATION BACKGROUND

History

There is no planning history relevant to the application site.

All Policies Identified As Relevant

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

Summary of Policies

NPPF - National Planning Policy Framework
CS01 - Applying the presumption in Favour of Sustainable Development in Babergh
CS02 - Settlement Pattern Policy
CS03 - Strategy for Growth and Development
CS11 - Core and Hinterland Villages
CS15 - Implementing Sustainable Development
CS18 - Mix and Types of Dwellings
CS19 - Affordable Homes
CS21 - Infrastructure Provision
HS28 - Infilling/Groups of dwellings
CN01 - Design Standards
CN06 - Listed Buildings - Alteration/Ext/COU
CR07 - Landscaping Schemes
CR02 - AONB Landscape

Supplementary Planning Documents/Area Action Plan

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

List of other relevant legislation

- Human Rights Act 1998
 - Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990
 - Natural Environment and Rural Communities (NERC) Act 2006 (any rural site)
 - The Conservation of Habitats and Species Regulations 2010
 - Localism Act
-

- Consideration has been given to the provisions of Section 17 of the Crime and Disorder Act, 1998, in the assessment of this application but the proposal does not raise any significant issues.

Details of Previous Committee / Resolutions and any member site visit

None

Details of any Pre Application Advice

Pre-application advice sought on general principles.

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

Anglian Water

No comments

Environmental Health - Noise/Odour/Light/Smoke

No objection- suggests conditions.

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

Affordable Tenure: Preferred AH mix - 5 out of 15 (35%)

Rented - 5 homes required: -

- o 3 x 2 bed 4-person houses @ 79 sqm
- o 2 x 3 bed 5-person houses @ 93 sqm

Ecology - Place Services

No objection subject to conditions to secure:

A) A proportionate financial contribution towards visitor management measures for the Stour & Orwell Estuaries SPA/Ramsar.

B) Ecological mitigation and enhancements

HRA completed which concludes that this project can be screened out from any requirement for further HRA assessment.

Stutton Parish Council

Recommend Refusal.

Plans are outside the village boundary line (including Joint Local Plan)

Loss of open space

Policy CS14 states that existing green infrastructure will be protected and enhanced.

Paragraph 74 of the NPPF

Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
-

- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

The Council is concerned that plot 1 will cause access problems and has doubts that the access road joining the B1080 Manningtree Road can be installed completely in accordance to SCC Highways requirements, on visibility etc. The entrance is also next to a very narrow part of Manningtree Road.

The Council would like to ask that a visual impact assessment is conducted on the listed building (Chapel Cottage) as this view will be lost from the existing playing field if the development goes ahead.

SCC - Highways

Following an amendment to the layout of the development the following comments were received:
The new layout for Plots 3 and 4 are now considered appropriate however, the access and parking for Plot 1 still needs to be amended as there is insufficient visibility at this location - we feel this property is best served off the development rather than Manningtree Road.- suggests conditions

Environmental Health - Land Contamination

No objection.

Environmental Health - Sustainability Issues

Concerns about how the development would comply with Policies CS12, 13 and 15. Recommends a condition regarding a sustainability strategy.

SCC - Rights Of Way Department

The applicant is advised to check the legal alignment of the public footpath 1 in relation to the outline plan. Informatives are suggested.

Heritage Team

The Heritage Team considers that the proposal would cause:

Less than substantial harm to a designated heritage asset because the dwelling shown in plot 1 would be cramped and contrived, in a plot too small for a 2 storey dwelling. This would be located opposite the GII listed Chapel Cottage, a thatched dwelling with low eaves, and adjacent to 1.5 storey dwellings. The proposed dwelling at plot 1 would thus be of an inappropriate scale to sit comfortably with existing development on Manningtree Road.

The Heritage Team recommends that the dwelling proposed at plot 1 is omitted from the proposal to allow an appropriate landscaping buffer and avoid forming a cramped and contrived development.

SCC - Fire & Rescue

No objection- require fire hydrants

SCC - Flood & Water Management

No objection- suggests conditions.

SCC - Corporate S106 And Education

Confirm that requirements resulting from the development would be sought through CIL.

Natural England

Requests financial mitigation as the site is located within a 13km zone of influence for the Stour and Orwell Estuaries Special Protection Area (SPA).

SCC - Archaeological Service

No objection- conditions suggested.

B: Representations

One representation received making the following comments:

Concerns about the visibility splay of the new access

The road is not wide enough and vehicles are often having to cross the central line

Increased traffic movements in the village

Concerns about the siting of plot one and the impact on a well established tree and hedge

Concealed parking could increase crime in the area

PART THREE – ASSESSMENT OF APPLICATION

1. 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.
2. The application site comprises an irregularly shaped parcel of land measuring 1.19 ha in area. Part of the site is located within the defined settlement boundary of the village of Stutton, which is identified as a Hinterland village within the Holbrook functional cluster. The remainder of the site is located to the north of the BUAB, and wraps partly around the village hall and shop. The application site sits adjacent to the Dedham Vale area of Outstanding Natural Beauty (AONB) and is located to the north of a Grade II listed building.
3. The application site is currently well screened with trees and hedges to the north, west and south boundaries, but little other landscaped features within the body of the land. Where the site abuts Manningtree Road, there are existing residential properties. The eastern boundary is open to the large crop field.
4. The site itself is currently vacant open grassland used as informal amenity space by the village in agreement with the landowner.

The Proposal

5. The application seeks outline planning permission for the erection of 14 homes, including 5 affordable and comprises single storey dwellings and two storey houses, with full details submitted of the vehicular and pedestrian accesses into the site, layout and scale. Landscaping and appearance are reserved matters and will be considered in a subsequent planning application. A single vehicular access point is proposed from Manningtree Road.
 6. The affordable housing provision is sited at Plots 2 – 7 and offers 3 no. two bed units and 2 no. three bed units. The market housing comprises 3 no. three bed, 2 no. two bed bungalows, 3 no. four bed units and 2 no. five bed units.
 7. The application also includes details of the proposed children's play area and area of land to be used as public open space.
-

The Principle Of Development

8. The National Planning Policy Framework (NPPF) requires Councils to identify and update on an annual basis a supply of specific deliverable sites sufficient to provide for five years worth of housing provision against identified requirements (paragraph 47). For sites to be considered deliverable they have to be available, suitable, achievable and viable.
 9. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites (as stated in paragraph 49 of the NPPF). Where policies cannot be considered up-to-date, the NPPF (paragraph 14) cites the presumption in favour of sustainable development and states that planning permission should be granted unless i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or ii) specific policies in the NPPF indicate development should be restricted. The presumption in paragraph 14 also applies where a proposal is in accordance with the development plan, where it should be granted permission without delay (unless material considerations indicate otherwise).
 10. The precise meaning of 'relevant policies for the supply of housing' has been the subject of much case law, with inconsistent results. However, in May 2017 the Supreme Court gave judgment in a case involving Suffolk Coastal District Council which has clarified the position. The Supreme Court overruled earlier decisions of the High Court and the Court of appeal in this and other cases, ruling that a "narrow" interpretation of this expression is correct; i.e. it means policies identifying the numbers and location of housing, rather than the "wider" definition which adds policies which have the indirect effect of inhibiting the supply of housing, for example, countryside protection policies. However, the Supreme Court made it clear that the argument over the meaning of this expression is not the real issue. The absence of a five year housing land supply triggers the application of paragraph 14 of the NPPF. In applying the 'tilted balance' required by this paragraph, the Council must decide what weight to attach to all of the relevant development plan policies, whether they are policies for the supply of housing or restrictive 'counterpart' policies such as countryside protection policies.
 11. In accordance with National Planning Policy Guidance paragraph 030 (Reference ID: 3-030-20140306) the starting point for calculating the 5 year land supply should be the housing requirement figures in up-to-date adopted Local Plans. It goes on to state that '...considerable weight should be given to the housing requirement figures in adopted Local Plans, which have successfully passed through the examination process, unless significant new evidence comes to light....Where evidence in Local Plans has become outdated and policies in emerging plans are not yet capable of carrying sufficient weight, information provided in the latest full assessment of housing needs should be considered. But the weight given to these assessments should take account of the fact they have not been tested or moderated against relevant constraints...'
 12. The Council adopted the Core Strategy in Feb 2014 having been tested and examined as a post-NPPF development plan. The Council published the Ipswich and Waveney Housing Market Areas Strategic Housing Market Assessment (SHMA) in May 2017 which is important new evidence for the emerging Babergh and Mid Suffolk Joint Local Plan. Therefore, the 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.
 13. 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
-

14. Policy CS1 is the local reflection of the presumption in favour of sustainable development and is embedded within the development plan. It includes the position that where relevant policies are out-of-date at the time of the decision, the Council will grant planning permission (unless material considerations indicate otherwise), taking into account whether any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF overall, or specific policies in the NPPF indicate that development should be restricted. Since there is not, on any measure, a 5 year land supply, paragraph 49 of the NPPF deems the relevant housing policies of the Core Strategy to be out-of-date, so triggering both the 'tilted balance' in paragraph 14 of the NPPF, and the operation of Policy CS1.
15. The NPPF requires that development should be sustainable, and paragraph 6 of the NPPF sets out guidance on what this means in practice by drawing attention to all of the policies from paragraph 18 to 219 of the NPPF. In some circumstances there is also a presumption in favour of sustainable development which is to be applied as set out in paragraph 14 of the NPPF. This has been discussed above. Paragraph 7 of the NPPF sets out three dimensions for sustainable development, economic, social and environmental:

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

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

an environmental role - contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy."
16. In the light of all of the above, this report will consider the proposal against the policies of the development plan to determine whether the proposal is in accordance with the development plan as a whole. If it is not, and there are policy conflicts, they will need to be weighed against other material considerations to see whether a decision which does not accord with the development plan is warranted, in the light of the presumption in favour of sustainable development, and in the context of the authority not being able to demonstrate a 5 year land supply.

Sustainability of the Proposal (including assessment against the development plan and the NPPF)

17. As detailed above, in applying the 'tilted balance' required by paragraph 14 of the NPPF, the Council must decide what weight to attach to all the relevant development plan policies, whether they are policies for the supply of housing or restrictive 'counterpart' policies such as countryside protection policies.
 18. In that regard, whilst it is for the decision maker to determine the weight that is to be given to these policies, it is your officer's opinion that policies CS2, CS3, CS11 and CS15 provide a framework to consider the sustainability of the location of this site, having regard to the three strands of sustainable development set out in the NPPF. As such, these policies and their requirements are assessed further here.
-

19. Policy CS2 (Settlement Pattern Policy) identifies Stutton as a Hinterland Village within the Holbrook functional cluster. This policy also provides that Hinterland Villages will accommodate some development to help meet the needs within them. Sites outside of a defined settlement form part of the countryside and Policy CS2 limits development in the countryside so that it will only be permitted in exceptional circumstances subject to a proven justifiable need. The application site is outside of the defined Hinterland village and needs to satisfy these tests to comply with Policy CS2.
20. Policy CS3 sets out the Council's Strategy for Growth and Development. The Council will introduce management actions to address housing delivery should there be a 20% deviation in housing delivery as opposed to targets for 2011-2016; and 2017 – 2021; and a 10% deviation for 2022-2026. These management actions could include constructively and proactively working with developers to bring forward committed or allocated sites; reviewing phasing of allocated sites; reviewing housing targets and associated policies; and allocating additional sites to meet targets if required.
21. Policy CS11 sets out the Local Plan 'Strategy for Development in Core and Hinterland Villages' The general purpose of Policy CS11 is to provide greater flexibility in the location of new housing development in the Core and Hinterland Villages. Considered together, Policy CS2 (Settlement Pattern Policy) and Policy CS3 (Strategy for Development and Growth) and Policy CS11 provide for a minimum of 1,050 dwellings to be delivered in Core and Hinterland Villages for the period between 2011 and 2031. Subject to specified criteria, Policy CS11 intentionally provides greater flexibility for appropriate development beyond the existing Built Up Area Boundaries (BUAB) for each Core Village, as identified in the 2006 Local Plan Saved Policies.
22. The accompanying 'Rural Development & Core Strategy Policy CS11 Supplementary Planning Document ("the SPD") was adopted by the Council on 8 August 2014. The Council produced the SPD to provide guidance on the interpretation and application of Policy CS11, acknowledging that the Site Allocations Document foreshadowed in Policy CS11 may not be prepared for some time. Although the SPD is not part of the statutory development plan, its preparation included a process of community consultation before it was adopted by the Council, and means that it is a material consideration when planning applications are determined.
23. The proper interpretation of development plan policy is a matter of law and, in principle, policy statements should be interpreted objectively in accordance with the language used, read as always in its proper context; however, statements of policy should not be construed as if they were statutory or contractual provisions (see *Tesco Stores Ltd v Dundee City Council* [2012] UKSC 13).
24. The matters listed in Policy CS11, which proposals for development for Hinterland Villages must address, are now considered in turn.

The landscape, environmental and heritage characteristics of the village

Impact on Landscape

25. The NPPF emphasises as a core principle (paragraph 17) the need to proactively drive and support sustainable development to deliver homes. It states that both the intrinsic character and beauty of the countryside should be recognised and that pursuing sustainable development involves widening the choice of high quality homes. Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. In addition, the NPPF provides (para 187) that "*Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.*"
-

26. Furthermore, policies CS11 and CS15 of the Core Strategy require development proposals to protect the landscape of the district. Also of relevance to this proposed development is the AONB Management Plan 2013-18 and the Joint Babergh and Mid Suffolk District Council Landscape Guidance (August 2015). The former document refers to development responding to local character and history, and reflecting the identity of local surroundings and materials while not preventing or discouraging appropriate innovation. The latter document also seeks to improve the quality of development coming forward ensuring that it fits with its surroundings, but also helps to retain and enhance the distinctive character of the area.
27. The Planning Practice Guidance advises that “The opportunity for high quality hard and soft landscaping design that helps to successfully integrate development into the wider environment should be carefully considered from the outset, to ensure it complements the architecture of the proposals and improves the overall quality of the townscape or landscape”.
28. The site lies adjacent to the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB) and is considered to be within the setting of this nationally designated landscape.
29. Following guidance from the AONB unit in relation to the original siting of plot 1, this was removed from the development which reduced the dwelling numbers to 14. Following its removal it is considered that the access, now devoid of built form, is far more appropriate in the existing streetscene, and that the detailed landscaping scheme secured at reserved matters stage should aim to contribute to the existing landscape character. It is therefore considered that the revised layout would not harm the setting of the nationally designated landscape.

Impact on Heritage Assets

30. With reference to the treatment of the submitted application, the Council embraces its statutory duties and responsibilities in relation to listed buildings, notably the general duty in section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the Listed Building Act"), "in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority ... shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses".
 31. Recent case law on the application of that statutory duty acknowledges that the consideration of the impact of a proposed development on the significance of a designated heritage asset is a matter for its own planning judgement, but that the local planning authority is required to accord any identified harm to the significance of a designated heritage asset considerable importance and weight. However, where special regard to the desirability of preserving heritage assets has been paid and no harm is considered to be posed, the 'balancing' of harm (which should be given considerable weight as above) against public benefits as required by the NPPF, is not engaged.
 32. The NPPF sets out the Government's national planning policy for the conservation of the historic environment and builds upon the 1990 Act referred to above. It also identifies protection and enhancement and establishes a presumption in favour of sustainable development in the planning system (paragraphs 6, 7 and 14). Good design is a key part of sustainable development, and the Government attaches great importance in it (paragraph 56). The NPPF also states that the significance of listed buildings and conservation areas can be harmed or lost by alteration to them or development in their setting (paragraph 132) and that the conservation of heritage assets is a core principle of the planning system (paragraph 17). Paragraphs 132-134 state inter alia that when considering the impact of works on the significance of a designated heritage asset, great weight should be given to the asset's conservation; any harm requires clear and convincing justification.
-

Where works will lead to harm to significance, Local Planning Authorities should refuse consent unless it can be demonstrated that the harm is necessary to achieve public benefits that outweigh that harm and that proposals which make a positive contribution to the asset should be treated favourably (paragraph 137). In making this assessment the decision maker should not apply the 'tilted balance' of paragraph 14 of the NPPF (even if it is otherwise applicable) but should place the priority on conserving the heritage asset free from harm, by refusing harmful proposals, unless there is sufficient public benefit to outweigh that harm.

33. Saved policy CN06 of the Babergh Local Plan Alteration No. 2 (2006) requires new work within the curtilage or setting of a listed building to, inter alia, respect those features that contribute positively to the setting of that listed building. In accordance with the NPPF, due weight must be given to the policies contained within the development plan according to their degree of consistency with the NPPF. Policy CN06 of the Local Plan is considered to be consistent with the NPPF and so should be accorded full weight in the determination of the application.
34. As noted, the assessment of whether there is likely to be harm to a designated heritage asset is a matter for the LPA's own planning judgement. This application involves the proposed development of 14 dwellings.
35. The application site is adjacent to a historic 1.5 storey dwelling (1-3 Manningtree Road), and more modern C20th development. The application site is opposite a C19th red brick chapel, and the GII listed Chapel Cottage, a C16th timber framed, thatched dwelling.
36. The proposed access would be linear in layout, although would be of axial orientation to the highway. Stutton is a multi-nodal settlement and has featured recent development whereby the historic settlement morphology has been disrupted. The proposed orientation of the development would therefore not be out of character for the area.
37. Following guidance from the Heritage team in relation to the original siting of plot 1, this was removed from the development which reduced the dwelling numbers to 14. Following its removal it is considered that the access, now devoid of built form, is far more appropriate in the existing street scene, and that the detailed landscaping scheme secured at reserved matters stage should aim to contribute to the existing landscape character. It is therefore considered that the revised layout would cause less than substantial harm to a designated heritage asset.
38. The NPPF, at paragraph 134, says that, where proposals lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. Decision-takers should now make this balancing assessment of harm against public benefits. Unless the public benefits of the scheme are considered to be substantial, they will not outweigh the harm to heritage interests. Decision-takers should also be mindful of the specific legal duties with regard to the settings of listed buildings set out in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Therefore, taking all of these factors into account, it is necessary to consider the specific benefits of this proposal against the harm to heritage assets that has been identified. The balancing assessment is carried out in the 'Planning Balance' section of this report.

Impact on Environment

39. The application has been reviewed by the Environmental Protection Team and it is confirmed that the applicant has submitted all of the required land contamination information. The information submitted confirms that the risks posed at the site are sufficiently low/negligible to warrant no objection.
-

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

The locational context of the village and the proposed development

41. This matter requires an assessment of the context in which the application site is located by reference to the village, its facilities and applicable planning designations.
42. Paragraph 10 of the SPD states that: "To be considered under CS11 proposals must be in or adjacent to a Core Village or a Hinterland Village. Proposals should be well related to the existing settlement. It is suggested that the starting point for assessing this is whether or not the site adjoins the Built Up Area Boundary (BUAB) of the village. Some sites, even though they adjoin a BUAB may not be well related to the village and a judgement will need to be made taking in account issues such as;
- Whether the proposal would constitute ribbon development on the edge of the village
 - How the site is connected to the existing settlement, jobs, facilities and services including location of site access and availability of sustainable transport links
 - The scale, character and density of the proposal in relation to the existing adjoining development
 - Whether the proposal constituted a logical extension of the built up area of the village
 - Whether the proposal is self-contained and has logical natural boundaries
43. The site abuts the built up area boundary, which wraps around the bottom portion of the site. The development is therefore considered to be well related to existing development. The scale, character and density of the proposal is well related to surrounding development, following the removal of the original plot 1.
44. In terms of spatial connection, the application site is amongst existing development which has access to the village primary school, shop, public house, church, dentist and bus stop. Stutton, being a Hinterland village, is supported by the Core village of Holbrook, which provides everyday services and facilities including post office, doctor's surgery, high school, pubs and shops.
45. Stutton is therefore a more 'sustainable' settlement for development and must be considered in the context of the development plan policies that identify Stutton as a hinterland village, where some development will be accommodated to help meet the needs within the villages. It is therefore considered to comply with the aims of this part of policy CS11.

Site Location and Sequential Approach to Site Selection

46. The acceptability of the principle of development does not turn on whether or not the site is within the BUAB. In this case the site is outside but adjacent to the BUAB. However it adjoins the boundary and is considered to be reasonably well related and accessible by walking to services and facilities within the village.
47. There are no sequentially preferable allocated sites within Stutton, nor are there any sites within the built up area boundary which would enable a development of commensurate scale.
-

48. The outcome of R (on the application of East Bergholt PC) v Babergh District Council CO/2375/2016 before Mr Justice Mitting has clarified that in relation to sequential assessment there is no requirement to look at alternative sites adjoining the built up area boundary, as sequentially they are within the same tier.
49. On balance, therefore, the proposal is considered to be acceptable in terms of this element of policy CS11 and given the lack of five year housing land supply.

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

50. The outcome of R (on the application of East Bergholt PC) v Babergh District Council CO/2375/2016 before Mr Justice Mitting has clarified "Locally Identified Need" within policy CS11 means the needs of the Core Village, its functional cluster¹ and perhaps in areas immediately adjoining it (paragraph 23). It does not mean the needs of the wider rural parts of the district, it being agreed by all the parties that it would not in any event apply to urban areas such as Ipswich fringe.
 51. The approach to the distribution of new dwellings within Policy CS3 is to be driven by the function of the villages, their role in the community, and the capacity for a particular level of growth which will be guided by many factors and which will result in a different level of development being identified as "appropriate" in different settlements, even those within the same category. The approach will also provide for a degree of in-built flexibility within the catchment area.
 52. The Core Villages are very varied and their needs and factors which influence what is an "appropriate level of development" will vary from village to village, especially where villages are situated within environmentally and visually sensitive landscapes, particularly the AONBs, and/or where villages include conservation areas and heritage assets. These landscapes and heritage assets will be key considerations when considering planning applications.
 53. Accordingly, "locally identified need" or "local need" should be construed as the development to meet the needs of the Hinterland village identified in the application, namely Stutton and its wider functional cluster.
 54. Policy CS11 allows flexibility for developments of appropriate scale and form to come forward for Core Villages. The Growth and Development Strategy therefore allows for some rural growth, which has been identified locally as important to sustain the existing rural settlement pattern and existing rural communities in the catchment area. The sequential approach of the Strategy for Growth and Development requires new development for "rural growth", first, to be directed to Core Villages, which are expected to accommodate new development in locations beyond existing BUAB, where appropriate.
 55. In respect of affordable housing need, paragraph 2.8.5 of the Core Strategy advises that Policy CS11 will lead to greater flexibility in the provision of affordable housing, related to need which has to be considered more widely than just within the context of individual settlement but also the other villages within that cluster and in some cases adjoining clusters. This is consistent with the requirements of the NPPF that aim to ensure that the local plan meets the needs for affordable housing in the housing market area.
 56. The SPD identifies that proposals should be accompanied by a statement that analyses the local housing needs of the Village and how they have been taken into account in the proposal. For the reasons explained, the local housing needs of the village must be construed as the needs of the village itself and the needs of the function cluster of smaller rural settlements it serves. In this case the Applicant has not submitted a housing needs assessment.
-

57. The Council's 2014 Suffolk Housing Needs Survey shows that there is high demand for smaller homes, across all tenures, both for younger people, who may be newly forming households, and also for older people who are already in the property owning market and require different, appropriate housing, enabling them to downsize. Affordability issues are the key drivers for this increased demand for smaller homes.
58. The local housing need for affordable dwellings is set out in detail in the comments provided by the Council's Strategic Housing Team (see above), which confirms that the Council's Choice Based Lettings system currently has circa 916 applicants registered for Babergh with 10 applicants stating a local connection to Stutton itself. The development proposed will enable the provision of 11 affordable units which will help address the local need of this Hinterland village and the wider cluster. There is also a strong need for open market homes more suited to the over 55 age bracket within the district and supply of single storey dwellings or 1.5 storeys has been very limited over the last 10 years in the locality. Similarly, open market homes for first time buyers are also in demand and the proposal will provide a range of 1, 2 and 3 bed additional market and affordable housing to satisfy a local housing need.
59. However, without the submission of a local needs assessment the extent to which the applicant has demonstrated that the development meets local needs in the terms understood to be required by policy CS11 is not considered to be met.
60. As such, the proposal cannot be considered to accord with this element of policy CS11.

Locally Identified Community Needs

61. Policy CS11 requires a similar approach to the determination of proposals for development to meet locally identified community needs, recognising the role of Core Villages and the "functional clusters" they serve. Paragraph 2.8.5.2 of the Core Strategy notes that the "approach advocated for the management of growth in Core Villages and their hinterlands, has many benefits for the communities". The benefits that the application of Policy CS11 and other relevant policies should secure include "Flexibility in the provision of and location of facilities" ... "to reflect a catchment area pattern which relates to the day to day practice of the people living in the villages" (see item iii) in paragraph 2.8.5.2).
 62. 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 principles of these proposals have been discussed in detail between the land owner, his representatives and local bodies including the Stutton Parish Council, Stutton Community Council and Village Shop Committee over at least a two year period, which resulted in amendments to the proposals including reinforcing pedestrian routes through the new housing to the play area and open space.
 63. The proposed development will generate contributions towards community infrastructure, to be spent on local services and infrastructure, therefore supporting rural communities, local services and facilities. In this regard, the proposal delivers benefits through CIL that are also considered to satisfy this element of policy CS11.
-

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

64. The SPD identifies, at paragraph 13, that "cumulative impact should include existing commitments and other proposals in the same village and existing commitments and other proposals in the cluster where they are likely to have a wider impact for example in terms of traffic generation, capacity of schools and health services. The impact on other neighbouring villages and neighbouring local authority areas should also be taken into account".
65. Policy CS11 requires the cumulative impact of development both within the Hinterland Village in which the development is proposed and the functional cluster of villages in which it is located, to be a material consideration when assessing proposals under the policy.
66. Technical responses received from consultees demonstrate that the development can be accommodated within the village and that the services, facilities and infrastructure (including improved provision through CIL) have the capacity to accommodate the level of development proposed. The development will not lead to a detrimental impact on the social, physical and environmental wellbeing of the village nor the wider cluster and the proposal therefore complies with this element of CS11. It should also be noted that whilst the development would help support the future viability of the school, the ultimate decision on the future of the school rests with the County Council.

Additional CS11 Criteria for Hinterland Villages

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

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

68. The size and scale of the development should be proportionate to the settlement in which it is located. According to the Council's Housing and Population Data Profile (2015) for Stutton, the village has approximately 407 houses and the proposal for 14 additional dwellings would represent an increase of 3.4% which is considered an acceptable scale of development for the village.
69. The submitted layout demonstrates that the site could accommodate this level of development and that it will relate to neighbouring properties. Therefore the development is considered to be in accordance with policy CS11 on the basis that it addresses to the satisfaction of the local planning authority that the development is well designed and appropriate in size/scale, layout and character to its setting and to the village.

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

70. In addition, the proposal is well related to the existing pattern of development for the settlement and there are no other sequentially preferable sites which the Local Planning Authority considers is in a more favourable location, in terms of its relationship to the main part of the village and the services upon which it relies and therefore complies with this element of CS11.
-

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

71. Stutton does not have a neighbourhood plan. Consideration of the extent to which the development meets local needs, both in terms of housing and community facilities, is considered elsewhere in this report. The conclusion is that the proposal does not demonstrate that the proposal meets local needs, contrary to this element of CS11.
72. The proposal is to develop 14 new dwellings which would not only add to the supply of housing in the district but includes the required element of affordable housing which would provide additional housing in that respect as well, such that the proposal can be considered to fall within the social dimension of sustainable development.

Supports local services and/or creates or expands employment opportunities

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

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

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

Summary of Assessment Against Policy CS11

75. For the reasons set out above, the development proposal has addressed most of the matters identified in Policy CS11 applicable to Hinterland Villages, with the exception of locally identified need, to the satisfaction of the local planning authority. As such, the proposal cannot be said to fully comply with policy CS11.

Consideration Against Other Development Plan Policies

76. As noted, there is no 5 year land supply, and as a result the policies for the supply of housing in the Core Strategy are, in line with paragraph 49 of the NPPF, deemed to be out-of-date for as long as this remains the case. This brings into play Policy CS1 (as well as paragraph 14 of the NPPF). The presumption in favour of sustainable development applies, unless it is excluded by either the consequence of applying the 'tilted balance' or the operation of restrictive policies in the NPPF. The 'tilted balance' is capable of affecting the weight to be given to other Core Strategy policies, although the weight they should be given remains a matter for planning judgment.
 77. Development in Core and Hinterland villages will be approved where the related criteria in CS11 is addressed to the satisfaction of the local planning authority and where proposals score positively when assessed against policy CS15. The above appraisal provides, therefore, only part of the consideration of the sustainability of the site and only part of the consideration of the development plan as a whole. As such, this report will now consider the provisions other relevant development plan policies, and also consider, in light of the entirety of this assessment, the three strands of sustainable development set out in the NPPF.
 78. Policy CS2 requires that sites outside of Core and Hinterland Village (or other defined settlement) form part of the countryside and Policy CS2 limits development in the countryside so that it will only be permitted in exceptional circumstances subject to a proven justifiable need. The application site is outside of the defined Core Village and so needs to satisfy these tests to comply with Policy CS2.
-

79. Policy CS2 forms part of a suite of policies within the Core Strategy. As set out at paragraph 23 of this report, the Core Strategy was adopted post-NPPF and, therefore, was examined and tested against the provisions of the NPPF. It can be seen that the aims of the Core Strategy, coupled with the development of a site allocations document referenced within it, would deliver the housing needs of the district through a planned approach to the delivery of housing. The approach set out within policy CS2 was, therefore, deliberately restrictive of development in the countryside, aiming to direct development sequentially to the towns/urban areas, and to the Core Villages and Hinterland Villages.
 80. However, the Council cannot now demonstrate a supply of specific deliverable sites sufficient to provide five years worth of housing against the housing requirements, as required by paragraph 47 of the NPPF. In the light of this, the weight that should be given to policy CS2 needs to be considered in the context of paragraph 14 of the NPPF. This is because at least some of the policies in the Core Strategy are relevant policies for the supply of housing (such as policy CS3 which includes the number and distribution of new homes). Those policies are currently out-of-date, whilst the shortfall endures, and so Policy CS1 and paragraph 14 of the NPPF are engaged.
 81. Policy CS2 forms part of a suite of policies to control the distribution of new housing, and can be afforded weight, since it contributes to ensuring that development is sustainably located and unsustainable locations are avoided. This planning objective remains important and is consistent with the NPPF's objective of promoting sustainable development, by limiting development in less sustainable locations with a limited range of services to meet the needs of new residents in a sustainable manner. However, in the absence of a five-year supply and with a substantial shortfall of almost a year (at best) or almost 2 years (at worst) indicating that it is appropriate to give significant weight to the provision of housing as to address the housing shortfall, Officers are of the view that this policy should be afforded limited weight.
 82. Policy CS15 is a long, wide-ranging, criteria based policy, setting out how the Council will seek to implement sustainable development. It contains a total of 19 criteria, covering matters such as landscape impact, job creation, minimising energy and waste and promoting healthy living and accessibility. Many of the criterion within policy CS15 are covered within the individual sections of this report including, for example, landscape impacts, sustainable drainage, biodiversity and minimising car use and it is not, therefore, necessary to run through each and every one of those criteria in this section of the report. What follows is, therefore, an overarching summary of the key points.
 83. As a Hinterland Village, Stutton is recognised as providing limited service and facilities for its own residents and is dependent on the nearby Core village of Holbrook to meet many of its everyday needs. However, Stutton is served by a range of facilities including a primary school, a community hall, church, public house, and village shop.
 84. Policy CS15 seeks to minimise the need to travel by car using alternative means and improving air quality. Stutton benefits from a regular (hourly) bus service between Ipswich and Manningtree/East Bergholt. Therefore, residents have access to a number of public transport connections which provide them with a choice of using public transport, and to combine short car based journeys with public transport, in order to access opportunities for employment, recreation and leisure.
 85. It is acknowledged, however, that there will be a high proportion of car travel from Stutton, as people travel out of the village to work, however it is also important to take into consideration both the provision of and accessibility of public transport in Stutton as discussed, which provides a credible alternative mode of transport for a variety of activities including employment, retail and leisure and recreation (criterion xviii of CS15).
-

86. The socio-economic profile of Stutton highlights the village's important role as an economic asset for the Babergh District. It is an attractive place to a variety of people, and plays an important role in the tourism and heritage of the local area. However, there is a need to balance housing stock and growth in the future to ensure that new housing development adds variety and choice to the local housing market and address a wide range of housing needs.
87. It is considered that the development proposed will enhance the vitality of the community and new housing development will deliver a range of benefits including attracting new residents to enhance the economic contribution of Stutton, underpinning social capacity, providing affordable housing and widening choice and the housing mix overall.

Design and Layout and Impact on Residential Amenity

88. Delivering quality urban design is a core aim of the NPPF stating, in Paragraph 56, that good design is a key aspect of sustainable development and indivisible from good planning and in Paragraph 64 it states that permission should be refused for poor design that fails to take opportunities to improve the character and quality of an area and the way it functions. Saved policy CN01 of the Babergh Local Plan requires that "All new development proposals will be required to be of appropriate scale, form, detailed design and construction materials for the location" and sets out criteria as to how this should be achieved.
89. One of the core principles as set out in Paragraph 17 of the NPPF is that planning should always seek to secure high quality design and good standards of amenity for all existing occupants of land and building. Saved policy HS28 of the Babergh Local Plan states that applications for infilling or groups of dwellings will be refused where 'the site should remain undeveloped as an important feature in visual or environmental terms and seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.
90. The proposal has been designed to incorporate a range of house types across the site. The reserved matters application would look to secure materials that reflect the local palette, including clay roof tiles, natural slate, soft red brick, render, timber boarding and painted timber joinery. The scheme includes a mix of single storey properties, one and a half and two storey detached, semi-detached and terrace dwellings. The dwellings are shown to be laid out in a linear form where the heights and types of dwelling are mixed.
91. The properties each have reasonably sized private amenity space and off street parking is provided in accordance with SCC Guidance for Parking. The scheme also provides structural landscaping and new additional planting along the new access from Manningtree Road. To the west of the site and the rear of the village hall, the play area and the open space are shown, with links into the new housing.
92. It is considered the following the removal of the original plot 1, the proposed layout of the dwellings would not acceptable in terms of the existing amenity enjoyed by neighbouring properties.
93. It is considered the overall design and layout of the scheme is acceptable and complies with policy CN01.

Site Access, Parking and Highway Safety Considerations

94. Following amendments to a number of the plots and the removal of the separate access from Manningtree Road for plot one, which has been removed all together from the development, the Local Highway Authority is satisfied that the development is acceptable and will not lead to an adverse impact on highway safety. Sufficient parking is provided on site in accordance with the Parking Standards. The proposal therefore accords with the provisions of saved policy TP15.
-

95. As such, and in light of the connectivity aspects also having been found to have been acceptable, the proposal accords with criteria xviii and xix of policy CS15.

96. Loss of Open Space

97. Paragraph 74 of the NPP states the following:

Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements*
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location*
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss*

98. It is noted that there would be a loss of some of the informal open space that the landowner allows the Parish to use. However a parcel of land to be used a formal public open space and a formal play area are being secured by this proposal, which is considered to outweigh the harm caused by the loss of the informal open space, and therefore comply with the guidance outlined above. These elements are being secured using a s106 agreement.

Biodiversity and Protected Species

99. In assessing this application due regard has been given to the provisions of the Natural Environment and Rural Communities Act, 2006, in so far as it is applicable to the proposal and the provisions of Conservation of Habitats and Species Regulations, 2010 in relation to protected species. The protection of ecology is both a core principle of the NPPF and Core Strategy. Policy CS15 in particular requires new development to safeguard ecology. To that end, the application site is within the zone of influence for the Stour Estuary SSSI and the Stour and Orwell SPA to the south, but the site is not part of the designated areas. The application submission is supported by a reptile survey and ecological survey.

100. A Preliminary Ecological Appraisal (formerly known as an Extended Phase 1 Habitat Survey) was carried out on 10th April 2017. The site (central grid reference TM143348) was found to comprise a large, open area of amenity grassland set within a larger grass playing field.

101. The survey was undertaken in order to identify the habitats present on site, and the potential for these habitats to support legally protected species. With the exception of nesting birds, which are addressed by appropriate timing of works, the site is unlikely to support any protected species, and no further surveys are recommended.

102. There are significant opportunities to enhance the site and the immediate surroundings for local wildlife, and a number of ecological enhancement measures are recommended within the submitted report.

103. On 21 November 2017, the Council issued a Habitats Regulations Assessment (HRA) Screening Report in relation to the potential impacts resulting from the development on the Stour and Orwell Estuaries Ramsar Site and SPA. The range of potential impacts on the Stour and Orwell Estuaries Special Protection Area (SPA) /Ramsar and various mitigation measures have been considered and assessed.

The Recreation Avoidance and Mitigation Strategy (RAMS) package includes a proportionate financial contribution towards visitor management measures for the Stour & Orwell Estuaries SPA, secured by a s106, to ensure that implementation of the package of mitigation measures avoids a likely significant effect on the Stour and Orwell Estuaries SPA/Ramsar. This therefore demonstrates Babergh DC's compliance with the Conservation of Habitats and Species Regulations 2010.

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

Land Contamination

105. The applicant has submitted an assessment of the potential contamination risks on this site, which has been assessed by the Council's Contaminated Land Officer. It is considered that the assessment made is sufficient to identify that there would be no unacceptable risks from contamination. As such, the proposal is considered to comply with criterion vii of policy CS15 insofar as it relates to land contamination.

Surface Water Drainage

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

Crime and Disorder

108. Consideration has been given to the provisions of Section 17 of the Crime and Disorder Act, 1998, in the assessment of this application but the proposal does not raise any significant issues in relation to the design and layout which would unduly increase the risk of crime. Suffolk Police have however, expressed a concern in Traffic Management terms only, in relation to the site access and the narrow width of Church Road. This issue has been assessed by the Suffolk County Council as the Local Highway Authority.

Planning Obligations / CIL

109. The application is liable for CIL and therefore Suffolk County Council have outlined that they would be making a bid for CIL money to mitigate the impact of the development on education and libraries.
110. The application, if approved, would require the completion of a S106 agreement to secure the required number of affordable dwellings, public open space, play area and the contribution towards the Recreation Avoidance and Mitigation Strategy (RAMS) identified in the HRA.
-

111. 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.

PART FOUR – CONCLUSION

Planning Balance

112. 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.
113. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990, applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The consideration is, therefore, whether the development accords with the development plan and, if not, whether there are material considerations that would indicate a decision should be taken contrary to the development plan.
114. In light of this application relating to a proposal for new housing, a further important consideration in determining this application is that Babergh does not currently have a five-year supply of deliverable housing sites. Paragraph 47 of the NPPF requires LPAs to identify a 5 year supply of specific deliverable housing sites. Paragraph 49 of the NPPF states that 'relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites'.
115. Paragraph 14 of the NPPF states;
- “At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.
- For decision-taking this means:
- approving development proposals that accord with the development plan without delay; and
 - where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted”.
116. As such, the effect of paragraphs 47, 49 and 14 are that;
- the local authority should be able to identify a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements;
 - that where such a supply cannot be demonstrated, policies for the supply of housing should not be considered up-to-date, and;
-

- where policies are not up-to-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole or where specific policies in this Framework indicate development should be restricted. Policy CS1 sets out a similar approach where relevant Core Strategy policies are out-of-date.
117. As set out above, the Supreme Court in May 2017 has clarified the position with regards to ‘policies for the supply of housing’ and how that is to be considered. Officers note that the judgement makes it clear that the meaning of that expression is not the real issue, and that the absence of a five year housing land supply triggers the application of paragraph 14 of the NPPF, and that in applying the ‘tilted balance’ required by this paragraph, it is necessary to consider the weight to attach to all of the relevant development plan policies.
118. It is considered that policy CS3 is a policy for the supply of housing. It is, therefore, considered that paragraph 14 of the NPPF is engaged with regards to this proposal. So, too, is policy CS1.
119. However, prior to considering the presumption in favour of sustainable development identified by paragraph 14, it is necessary to consider whether there are specific policies in the Framework that indicate development should be restricted. The footnote to this part of the NPPF identifies, amongst other things, policies relating to heritage assets, as being those which may indicate development should be refused.
120. In consequence of the Council’s heritage assessment, the NPPF (para 14, footnote 9 and paragraph 134) and the statutory duty imposed by section 66(1) of the Listed Buildings Act are to be taken into account in the consideration of the policy context.
121. As set out in the judgement on *Forest of Dean Council & the Secretary of State for Local Government v Gladman Developments Limited* (2016) EWHC 421 (Admin) and at the Court of Appeal in its decision on *Barnwell Manor Wind Energy Ltd v East Northants DC* [2014] EWCA Civ. 137 when an authority finds that a proposed development would harm the setting of a listed building or the character and appearance of a conservation area, it must give that harm considerable importance and that a finding of harm to the setting of a listed building or to a conservation area gives rise to a strong presumption against planning permission being granted.
122. The NPPF (para. 134) states that ‘where a development proposal will lead to less than substantial harm to the significance of the designated heritage asset, this harm should be weighed against the public benefits of the proposal including securing optimal viable use’.
123. In this instance, the public benefits of the proposal are summarised by the applicant as including the following:-
- The development of homes on this site will also encourage sustained local economic benefits relating to additional local expenditure, with additional expenditure on goods and services by future occupiers of the site on first occupation of their new homes and on an ongoing basis in local shops and services in the local area.
 - The provision of affordable dwellings helping to meet local need.
 - The proposed development would also make a Community Infrastructure Levy (CIL) contribution.
 - At a District level, the CIL monies received will be spent on infrastructure projects such as:
 - Public transport facilities;
 - Libraries;
 - Education;
 - Healthcare facilities;
 - Leisure and community facilities;
-

- Open site open space and other strategic green infrastructure;
- Flooding infrastructure; and
- Waste infrastructure.
- Other social benefits including the creation of public accessible green spaces within the site

124. These public benefits are sufficient to outweigh the less than substantial harm to heritage assets identified, even when considerable importance and weight is given to the desirability of preserving those assets.
125. Officers have therefore applied the balance required by paragraph 134 of the NPPF, having special regard to the desirability of preserving the setting of the listed building as required by section 66 of the Listed Buildings Act, and given the harm considerable importance and weight. The outcome of this balancing exercise is that those public benefits identified outweigh the less than substantial harm, even when that harm is given considerable importance and weight.
126. In this respect, where paragraph 14 of the NPPF provides a presumption in favour of sustainable development, it is necessary to consider whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in this Framework indicate development should be restricted. The public benefits of the scheme have been weighed against the harm to heritage assets and have been found to outweigh that harm, thereby satisfying the test in paragraph 134.
127. As such, it can be concluded that there are not specific policies in the Framework that indicate that development should be restricted and, therefore, paragraph 14 can be engaged. Further, and in any event, the Council does not have a five year housing land supply and considers therefore that limited weight should be attached to policies CS2, CS11, CS15, and H1. Whilst it is considered that the proposal does not strictly comply with these policies, any conflicts with these policies (whether in relation to proving “exceptional circumstances” or compliance with the limbs of policy CS11 including (locally identifiable need) should be afforded limited weight.
128. Therefore, whilst the proposal is not in accordance with the development plan as a whole, it is considered that the adverse impacts from the proposed development (including the identified harm to heritage assets or otherwise) do not significantly and demonstrably outweigh the benefits of the development explained in this report. Furthermore, whilst the restrictions in footnote 9 of the NPPF include impacts on heritage assets, for the reasons explained above none of these policies indicate that development should be restricted.
129. As such, the proposal is considered to be sustainable development, in accordance with the three dimensions of sustainable development set out in the NPPF, and a recommendation of approval is therefore made. Whilst such a decision would not be in accordance with the development plan, viewed as a whole, it is an outcome that is envisaged by policy CS1 where the ‘tilted balance’ and the presumption in favour of sustainable development are engaged.

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

130. 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 has sought to resolve these wherever possible.
-

RECOMMENDATION

That the Corporate Manager - Growth and Sustainable Planning be authorised to grant planning permission subject to the prior completion of a Section 106 or Undertaking on terms to his satisfaction to secure the following heads of terms:

- Affordable Housing
- RAMS Contribution
- Public open space

And that such permission to be subject to conditions as set out below:

- Time limit for reserved matters application:
 - Approval of reserved matters
 - Approved plans & documents
 - Concurrent with reserved matters: Compliance with recommendations of the ecological report
 - Prior to occupation: lighting design scheme
 - Materials
 - Action required prior to occupation: use of fire hydrants
 - Construction management plan to be agreed
 - Lighting scheme
 - As recommended by Highways
 - Suds water drainage details
 - Archaeological works
-