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COMMITTEE: **PLANNING COMMITTEE**

VENUE: **King Edmund Chamber -
Endeavour House, 8 Russell
Road, Ipswich**

DATE: **Wednesday, 25 July 2018
9.30 am**

Conservative Group	Independent Group	Independent Conservative Group	Liberal Democrat Group	Labour Group	Babergh Unionists Group
Peter Beer - C Michael Creffield Jennie Jenkins Adrian Osborne Lee Parker Ray Smith	Clive Arthey Stephen Plumb David Rose	John Hinton Michael Holt - VC	David Busby	Luke Cresswell	Sue Burgoyne

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AGENDA

PART 1

ITEM	BUSINESS
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Page(s)

1 SUBSTITUTES AND APOLOGIES

Any Member attending as an approved substitute to report giving his/her name and the name of the Member being substituted.

To receive apologies for absence.

2 DECLARATION OF INTERESTS

Members to declare any interests as appropriate in respect of items to be considered at this meeting.

3 PL/18/4 TO CONFIRM THE MINUTES OF THE MEETING HELD ON 16 MAY 2018 1 - 6

4 PL/18/5 TO CONFIRM THE MINUTES OF THE MEETING HELD ON 30 MAY 2018 7 - 12

5 TO CONFIRM THE MINUTES OF THE MEETING HELD ON 13 JUNE 2018 - TO FOLLOW

6 **TO RECEIVE NOTIFICATION OF PETITIONS IN ACCORDANCE WITH THE COUNCIL'S PETITION SCHEME**

7 **SITE INSPECTIONS**

In addition to any site inspections which the Committee may consider to be necessary, the Corporate Manager – Growth and Sustainable Planning will report on any other applications which require site inspections.

The provisional date for any site inspections is Wednesday 1 August 2018.

8 **PL/18/6 PLANNING APPLICATIONS FOR DETERMINATION BY THE COMMITTEE** 13 - 16

An Addendum to Paper PL/18/6 will be circulated to Members prior to the commencement of the meeting summarising additional correspondence received since the publication of the agenda but before 12 noon on the working day before the meeting, together with any errata.

a **DC/18/00929 THE SLAUGHTER HOUSE AND LAND ADJACENT, CUCKOO HILL, BURES ST MARY** 17 - 74

b **DC/17/04239 LAND ADJOINING HADLEIGH HALL, POUND LANE, HADLEIGH** 75 - 88

9 **EXCLUSION OF THE PUBLIC (WHICH TERM INCLUDES THE PRESS)**

To consider whether, pursuant to Part 1 of Schedule 12A of the Local Government Act 1972, the public should be excluded from the meeting for the business specified below on the grounds that if the public were present during this item, it is likely that there would be the disclosure to them of exempt information as indicated against the item.

The author of the report proposed to be considered in Part 2 of the Agenda is satisfied that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

PART 2

10 **PL/18/7 ADDITION OF TWO REASONS FOR REFUSAL TO PLANNING APPLICATION REFERENCE B/17/00091 (APPEAL REFERENCE APP/D3505/W/18/3197391)** 89 - 122

11 **PL/18/8 TO CONFIRM THE CONFIDENTIAL MINUTE OF 30 MAY 2018 MEETING** 123 - 124

Notes:

1. The next meeting is scheduled for Wednesday 22 August 2018 commencing at 9.30 a.m.
2. Where it is not expedient for plans and drawings of the proposals under consideration to be shown on the power point, these will be displayed in the Council Chamber prior to the meeting.
3. The Council has adopted Public Speaking Arrangements at Planning Committees, a link is provided below:

[Public Speaking Arrangements](#) (pdf)

Those persons wishing to speak on an application to be decided by Planning Committee must register their interest to speak no later than **two clear working days before the Committee meeting**, as detailed in the Public Speaking Arrangements (adopted 30 November 2016).

The registered speakers will be invited by the Chairman to speak when the relevant item is under consideration. This will be done in the following order:

- A representative of the Parish Council in whose area the application site is located to express the views of the Parish Council;
- An objector;
- A supporter;
- The applicant or professional agent / representative;
- County Council Division Member(s) who is (are) not a member of the Committee on matters pertaining solely to County Council issues such as highways / education;
- Local Ward Member(s) who is (are) not a member of the Committee.

Public speakers in each capacity will normally be allowed **3 minutes** to speak.

Local Ward Member(s) who is (are) not a member of the Committee are allocated a maximum of **5 minutes** to speak.

Introduction to Public Meetings

Babergh/Mid Suffolk District Councils are committed to Open Government. The proceedings of this meeting are open to the public, apart from any confidential or exempt items which may have to be considered in the absence of the press and public.

For more information about this meeting, including access arrangements and facilities for people with disabilities, please contact the Governance Officer on: 01473 296372 or Email: committees@baberghmidsuffolk.gov.uk

Domestic Arrangements:

- Toilets are situated opposite the meeting room.
- Cold water is also available outside opposite the room.
- Please switch off all mobile phones or turn them to silent.

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Agenda Item 3

BABERGH DISTRICT COUNCIL

PLANNING COMMITTEE

MINUTES OF THE MEETING OF THE BABERGH PLANNING COMMITTEE HELD IN THE ELISABETH ROOM - ENDEAVOUR HOUSE, 8 RUSSELL ROAD, IPSWICH ON WEDNESDAY, 16 MAY 2018

PRESENT: Peter Beer - Chairman

Sue Ayres
Michael Creffield
Derek Davis
Michael Holt
Adrian Osborne
Stephen Plumb
Ray Smith

David Busby
Luke Cresswell
Alan Ferguson
Jennie Jenkins
Lee Parker
David Rose

John Hinton was unable to be present:

160 SUBSTITUTES AND APOLOGIES

It was noted that in accordance with Committee and Sub-Committee Procedure Rule No 20, a substitute was in attendance as follows:-

Alan Ferguson (substituting for John Hinton)

161 DECLARATION OF INTERESTS

Jennie Jenkins declared a local non-pecuniary interest in Item 3 – Application No DC/18/00978 because her partner, Gordon Jones, is a Cabinet Member at Suffolk County Council.

David Busby declared a non-pecuniary interest in Item 3 – Application No DC/18/00978 in his capacity as a member of the Capel Community Trust.

162 TO RECEIVE NOTIFICATION OF PETITIONS IN ACCORDANCE WITH THE COUNCIL'S PETITION SCHEME

None received.

163 PL/17/41 PLANNING APPLICATIONS FOR DETERMINATION BY THE COMMITTEE

Members had before them an Addendum to Paper PL/17/41 (circulated to Members prior to the commencement of the meeting) summarising additional correspondence received since the publication of the Agenda, but before noon on the working day before the meeting, together with errata.

In accordance with the Council's arrangements for Public Speaking at Planning Committee, representations were made as detailed below relating to the items in Paper PL/17/41 and the speakers responded to questions put to them as provided for under those arrangements.

<u>Application No.</u>	<u>Representations from</u>
DC/18/00535 and DC/18/00536	Simon Quantrill (Parish Council) Matthew March (Objector) Neil Ward (Agent for the Applicant)
DC/18/00544	Neil Ward (Agent for the Applicant)
DC/18/00978	Chris Matthews (Parish Council) Rebecca Richardson (Objector) Maggie Boswell (Supporter) Apos Petrakis (Agent for the Applicant) Revd Andrew Sankey (Applicant – to answer questions) Sue Carpendale (Ward Member)
DC/17/05932	Joanna Robinson (Supporter) Mrs Milsom (Applicant) Peter le Greys (Agent for the Applicant – to answer questions) Bryn Hurren (Ward Member)

It was RESOLVED

That subject to the imposition of conditions or reasons for refusal (whether additional or otherwise) in accordance with delegated powers under Council Minute No. 48(a) (dated 19 October 2004) decisions on the items referred to in Paper PL/17/41 be made as follows:-

164 DC/18/00535 & DC/18/00536 THE WALLED GARDEN, NURSERY LANE, WOOLVERSTONE

WOOLVERSTONE

<p>Application Nos. DC/18/00535 and DC/18/00536 Paper PL/17/41 – Item 1</p>	<p>Full Application and Application for Listed Building Consent – alterations and extension to form single-storey dwelling and construction of associated works, The Walled Garden, Nursery Lane.</p>
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The Case Officer, Elizabeth Flood in introducing this application, advised Members that the outstanding information regarding land contamination had now been received, as a result of which item (1) of Recommendation A (Page 12 of the officer report) was no longer required.

The Heritage Officer, Jonathan Duck, was present at the meeting, and reiterated the Heritage view that it was essential to retain the Listed Building, with the house being in the garden.

Members were aware of the concerns expressed by the agent about the terms of the Section 106 agreement and concluded that this should remain as recommended by the officers if planning permission was granted.

Recommendation A (planning application) as amended was proposed and seconded and carried on being put to the vote. Recommendation B (Listed Building application) was then moved and carried.

It was RESOLVED

(1) That authority be delegated to the Corporate Manager – Growth and Sustainable Planning to grant planning permission subject to the prior completion of a Section 106 Planning Obligation or Undertaking on appropriate terms to his satisfaction to secure the following heads of terms:

- That only 1 dwelling of the three other dwellings (plots 10,11 and 13/Courtyard House) which are currently being completed may be sold before the new plot 12 within the Walled Garden is sold
- Long Term Conservation Plan
- 1 open day per year of the Walled Garden and associated structures
- No sale, lease etc of the Walled Garden and associated structures away from new plot 12
- No subdivision of the Walled Garden
- To ensure only one plot 12 dwelling is built
- Any other obligation within the original S106 Agreement

and that such permission be subject to conditions including:-

- Standard time limit
- Approved plans
- Details of materials
- As recommended by the Heritage Officer in relation to details of the new building
- As recommended by highways
- Removal of new entrance to the Walled Garden from plot 11 and closure of access gate to plot 11

(2) That in the event of the Planning Obligation referred to in Resolution (1) above not being secured to the satisfaction of the Corporate Manger – Growth and Sustainable Planning he be authorised to refuse planning permission on appropriate grounds.

(3) That Listed Building Consent be granted subject to conditions including:-

- Standard time limit
- Approved plans
- Details of materials

- As recommended by the Heritage Officer in relation to details of the new building
- Removal of new entrance to the Walled Garden from plot 11 and closure of access gate to plot 11

165 DC/18/00544 THE WALLED GARDEN, NURSERY LANE, WOOLVERSTONE

WOOLVERSTONE

**Application Nos. DC/18/00544
Paper PL/17/41 – Item 2**

Full Application – erection of detached double garage and associated works and revised curtilage, The Walled Garden, Nursery Lane.

The Case Officer, Elizabeth Flood, informed Members that there were no updates to the report.

It was RESOLVED

That planning permission be granted subject to conditions including:-

- **Standard time limit**
- **Works to the existing garage in accordance with the approved plans to be undertaken within three months**
- **Approved Plans**
- **Parking spaces**

166 DC/18/00978 THE STREET, CAPEL ST MARY

CAPEL ST MARY

**Application No. DC/18/00978
Paper PL/17/41 – Item 3**

Full Application and Application for replacement church building with multi-functional use spaces for church groups and the community, a commercial kitchen, office, plant, WC and storage. The first floor will include the main worship space, a secondary kitchen, meeting, WC and storage spaces, The Street.

The Case Officer, Samantha Summers, in introducing this item, informed Members that there were no updates to the report.

After listening to the comments of the public speakers, and following an initial discussion, Members concluded that they needed further information regarding light assessment and the relationship of ridge heights to neighbouring property before they could proceed to determine the application. A motion to defer consideration on that basis was carried on being put to the vote.

It was RESOLVED

That consideration of Item 3 of Paper PL/17/41 (Application No DC/18/00978) be deferred to a future meeting of the Committee to enable submission of Daylight / Sunlight Assessment and drawing to show overlay of proposed and existing ridge heights in relation to neighbouring property.

167 DC/17/05932 LAND ADJACENT WELL HOUSE, ROUND MAPLE, EDWARDSTONE

EDWARDSTONE

**Application Nos. DC/17/05932
Paper PL/17/41 – Item 1**

Full Application – erection of 2 two-bed dwellings, land adjacent Well House, Round Maple.

The Case Officer, Jamie Edwards, in introducing this item, referred to the Addendum Note to Paper PL/17/05932 which contained the following:-

- Summary of Heritage Comments received following production of the officer report.
- Consequential revision of pages 38-40 of the report covering PART FOUR – CONCLUSION and including a revised officer recommendation.

He also corrected the information on Page 35 in B: Representations which should read 3 (not 4) objections and 8 (not 7) in support.

During the debate on this item, it appeared that Members might be minded to consider granting planning permission. The Case Officer referred to the Heritage Officer's comment that he would be prepared to re-consider his advice to Committee if the applicant was prepared to amend the design of the proposed cart lodges as reported in the Addendum Note and that this could be conditioned in any approval. Gemma Pannell, Area Planning Manager addressed comments made by the agent regarding a recent appeal in Braintree District and confirmed that the reference to 'isolated' was not relevant to this application in that the site was not considered isolated in relation to other dwellings in the locality. However, the three strands of sustainability should be taken into account.

Notwithstanding the officer recommendation of refusal as revised and set out in the Addendum Note, a recommendation of approval with conditions was moved on the grounds that the benefits of the proposed development outweighed the small degree of harm which it represented, and that those benefits included the need for this type of housing and therefore paragraph 14 of the NPPF was engaged. At this point, Jo Hooley, the Legal Adviser to the Committee, referred Members to recent Judicial Review proceedings against Babergh which focussed on the importance of giving considered reasons and clearly identifying the exceptional circumstances which exist in each case.

Further discussion followed as a result of which no additional reasons or exceptional circumstances were identified and the motion to approve proceeded on the basis of the need for this type of housing and the benefits outweighing the harm, as referred to above. The voting was 7 in favour of approval with 7 against. The Chairman exercised his casting vote against approval and the motion was lost.

The revised recommendation of refusal as set out in the Addendum Note was proposed and seconded, resulting in the same equality of votes as before. The Chairman exercised his casting vote in favour of the motion to refuse the grant of permission.

It was RESOLVED

That planning permission be refused for the following reasons:-

- **Policy CS2 of the Babergh Core Strategy (2014) states that planning permission will be permitted only in the Countryside in exceptional circumstances subject to proven justifiable need. CS15 requires new development to demonstrate how the proposal addresses the key issues and objectives identified in the Core Strategy. The site is not well related to the existing settlement, and no supporting evidence has been provided that justifies the need for the proposal, and that the site is a sustainable location. As a result, the proposal does not accord with policies CS2, and CS15.**
- **Whilst 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.**
- **Policy CN06 of the Babergh Local Plan (2006) states that new development should be of an appropriate scale, form, siting and detailed design to harmonise with the existing building and its setting. The excessively large cart lodge causes harm to the grade II listed building, contrary to Policy CN06. Furthermore, with regards to the NPPF the proposal would fail to comply with the requirements of paragraphs 14 and 134, in that the harm caused is not outweighed by the public benefit.**
- **The assessment of the application has identified that the proposal does not comply with the development plan and, notwithstanding that the Council does not have a five-year housing land supply, it is considered that the unsustainable location significantly and demonstrably outweigh the benefits of the development when considered against the Framework as a whole.**

The business of the meeting was concluded at 12.45 p.m.

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Chairman

Agenda Item 4

BABERGH DISTRICT COUNCIL

BABERGH PLANNING COMMITTEE

MINUTES OF THE MEETING OF THE BABERGH PLANNING COMMITTEE HELD IN
ROSE ROOM - ENDEAVOUR HOUSE, 8 RUSSELL ROAD, IPSWICH ON WEDNESDAY,
30 MAY 2018

PRESENT: Peter Beer - Chairman

Sue Burgoyne
Michael Creffield
Derek Davis
Michael Holt
Jan Osborne
Nick Ridley
Ray Smith

David Busby
Luke Cresswell
John Hinton
Adrian Osborne
Stephen Plumb
David Rose

Jennie Jenkins and Lee Parker were unable to be present.

1 SUBSTITUTES AND APOLOGIES

It was noted that in accordance with Committee and Sub-Committee Procedure Rule No 20, substitutes were in attendance as follows:-

Jan Osborne (substituting for Jennie Jenkins)
Nick Ridley (substituting for Lee Parker)

2 DECLARATION OF INTERESTS

David Busby declared a non-pecuniary interest in Application No DC/17/06318/OUT by reason of being a resident of Capel St Mary and a trustee of the Capel St Mary Community Trust.

Michael Creffield subsequently declared a non-pecuniary interest in Application No DC/17/04052 by reason of his daughter being a resident of St Mary's Close Chilton.

3 TO RECEIVE NOTIFICATION OF PETITIONS IN ACCORDANCE WITH THE COUNCIL'S PETITION SCHEME

None received.

4 SITE INSPECTIONS

The Chairman, Peter Beer, informed Committee that he had asked the Case Officer for a presentation to enable Members to decide whether they wished to hold a site inspection for Application No DC/17/04052 – Land north of Waldingfield Road, Chilton. Steven Stroud, Strategic Projects and Delivery Manager introduced a number of photos showing various views of the site and its surroundings, together with the access, and in response to a question, clarified the position of the access in relation to the 30mph speed restriction. Members concluded that a site visit was not required.

It was RESOLVED

That no site inspection be held in respect of Application No DC/17/04052 – Land north of Waldingfield Road Chilton prior to consideration of the application by the Committee.

5 EXCLUSION OF THE PUBLIC (WHICH TERM INCLUDES THE PRESS)

Ian de Prez, Legal Adviser to the Committee, referred to the reason for the proposed exclusion of the public and press, which was to enable the Committee to be given information which was legally privileged and therefore exempt by virtue of paragraph 5 of Part 1 of Schedule 12A, Local Government Act 1972. He referred to the need to protect the Council's position with regard to the forthcoming planning appeal and the reason for excluding the public was accepted by the Committee. The Legal Adviser confirmed that the relevant officers together with the Ward Councillors for Capel St Mary could remain in the meeting for this item.

It was RESOLVED

That the public be excluded from the meeting for the business specified below on the grounds that if the public were present during this item, it is likely that there would be the disclosure to them of exempt information as indicated against the item.

6 COUNSEL'S ADVICE TO COMMITTEE (Exempt information by virtue of paragraph 5 of Part 1)

The Minute relating to the above-mentioned item is excluded from the public record. A summary of the Minute made by the Proper Officer in accordance with sub-section 2 of Section 100(c) of the Local Government Act 1972 is set out below.

The public left the meeting at 9.50 a.m., following which Linda Sheppard, Senior Governance Support Officer, handed out numbered copies of Counsel's advice to the Councillors present at the meeting.

Members were then given time to read the advice. The Chairman asked Members to confirm that sufficient time had been allowed for this purpose, prior to asking Tom Barker, Assistant Director – Planning to introduce this item.

At the conclusion of the Committee's consideration, Members noted the advice given. The papers were collected, to be destroyed.

The public and press were re-admitted to the meeting at this point, at 10.45 a.m.

7 PL/18/1 PLANNING APPLICATIONS FOR DETERMINATION BY THE COMMITTEE

Members had before them an Addendum to Paper PL/18/1 (circulated to Members prior to the day of the meeting) summarising additional correspondence received since the publication of the Agenda, but before noon on the working day before the meeting, together with errata.

In accordance with the Council's arrangements for Public Speaking at Planning Committee, representations were made as detailed below relating to the items in Paper PL/18/1 and the speakers responded to questions put to them as provided for under those arrangements. Questions were not put to Mr Stephens in relation to the comments of the Parish Council which were read out by him in the absence of the Parish Council representative because Mr Stephens, although a Parish Councillor, spoke as an Objector in his personal capacity.

<u>Application No</u>	<u>Representations from</u>
DC/17/06318/OUT	Christine Matthews (Parish Council)
	David Wisely (Objector)
	Stuart McAdam (Agent for Applicant)
	Sue Carpendale (Ward Member)
	Fenella Swan (Ward Member)
DC/18/00856/FUL	Parish Council (read out by Brian Stephens in the absence of the PC representative)
	Brian Stephens (Objector)
	Mike Watson (Supporter)
	Ben Elvin (Agent for Applicant)
DC/17/06250/FUL	Roger Balmer (Agent for Applicant)

It was RESOLVED

That subject to the imposition of conditions or reasons for refusal (whether additional or otherwise) in accordance with delegated powers under Council Minute No 48(a) (dated 19 October 2004) decisions on the items referred to in Paper PL/18/1 be made as follows:-

a CAPEL ST MARY

Application No. DC/17/06318/OUT Paper PL/18/1 – Item 1	Outline application (with some matters reserved) including access – erection of residential development for up to 100 dwellings to be built in phases with associated infrastructure, public open space and details of highway access, 7 Little Tufts and land east of Longfield Road.
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Lynda Bacon, Senior Development Management Planning Officer, in introducing the officer report, referred Members to the information provided in the Addendum. Sam Harvey, Suffolk County Council Highways, was present at the meeting and responded to a question regarding the provisions of the Suffolk Design Guide. She also confirmed that the Highway Authority had not looked at an alternative to the access proposed as none had been put forward.

Members were aware of the previous application on this site, for which the Committee had refused permission, and of the reduction from 150 to 100 in the maximum number of dwellings proposed by the current application, which was referred to by the Planning Officer as a significant reduction. A motion to accept the officer recommendation of approval was proposed and seconded, and after some further discussion, was carried by a small majority on being put to the vote.

It was RESOLVED

(1) That the Corporate Manager – Growth and Sustainable Development be authorised to grant outline planning permission subject to the prior agreement of a Section 106 Planning Obligation on appropriate terms to his satisfaction to secure the following heads of terms:

- **Affordable housing**
- **Provision, management and maintenance of public open space**
- **Stour and Orwell Recreational Amenities Contribution (RAMS)**

and that such permission be subject to conditions including:-

- **Standard Time Limit Condition**
- **Reserved matters to be submitted and agreed**
- **Approved Plans**
- **Sustainability efficiency measures**
- **Archaeological work and monitoring**
- **Surface water drainage**
- **Details of fire hydrants to be submitted**
- **As recommended by Highways**
- **As recommended by Environmental Health**
- **Details of screen walls and fences to be submitted**
- **Construction management plan**
- **Detailed hard/soft landscaping to be submitted with reserved matters**
- **Implementation of landscaping scheme**
- **Secure mitigation and ecology enhancement measures including habitat mitigation**
- **Lighting scheme – biodiversity**

(2) That in the event of the Planning Obligations referred to in Resolution (1) above not being secured, the Corporate Manager – Growth and Sustainable Planning be authorised to refuse planning permission on appropriate grounds.

b HOLBROOK

Application No DC/17/06037/OUT Paper PL/18/1 – Item 2	Outline application – erection of up to 30 dwellings, land to the north of Woodlands Road.
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Members were aware from the Addendum that this application had been withdrawn by the Applicant, and they were asked to note the position.

It was RESOLVED

That it be noted that Application No. DC/17/06037/OUT has been withdrawn by the Applicant.

c GLEMSFORD

Application No. DC/18/00856/FUL Paper DC/18/1 – Item 3	Full Application – conversion of existing agricultural barn, rebuilding of linked yard buildings, removal of redundant buildings and erection of extensions to barn, creation of car park and new access to site to facilitate use for weddings, functions and events, New Street Farm, New Street.
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Ian de Prez confirmed the Monitoring Officer's view that Members did not have a declarable interest with regard to the Applicant's agent, Ben Elvin, who was previously employed as a Planning Officer for Babergh/Mid Suffolk.

The Case Officer, Samantha Summers, in introducing this item, drew Members' attention to the views of BMSDC Environmental Health dated 29 May 2018 as set out in the Addendum. Members also had before them an amended recommendation of approval which took into account the Environmental Health comments and the Agent's Response to Representations, both of which were included with the Addendum.

Sam Harvey, Suffolk County Council Highways was present for this item and answered Members' questions about the adequacy of the proposed parking places and brown signage, and road user safety aspects of the proposal.

Members were concerned that the proposals would have adverse impacts on the amenity and tranquillity of the area including the effects of noise pollution on health and quality of life, and that these impacts would result in harm which would outweigh the benefits identified, in contravention of paragraph 123 of the NPPF and of CS15 in relation to sustainability and safeguarding amenity. For these reasons, and because it had not been shown that the large number of conditions put forward would mitigate the adverse effects, it was proposed and seconded that planning permission be refused, notwithstanding the officer recommendation for approval.

It was RESOLVED

That planning permission be refused for the following reasons:-

- 1. Paragraph 123 of the NPPF directs planning decisions to avoid noise giving rise to significant adverse impacts upon health and quality of life, to identify and protect areas of tranquillity, and to mitigate, and reduce to a minimum, other adverse impacts on health and quality of life arising from new development, including through the use of conditions. Policy CS15 of the Core Strategy and Policy CS18 of the Local Plan require all new development to demonstrate the principles of sustainable development, and to safeguard amenity.**

2. The application is not supported by evidence considered sufficient to demonstrate that the development would adequately safeguard amenity and it has not been adequately demonstrated that sufficient controls could be imposed in order to mitigate adverse impacts.
3. The benefits posed would not outweigh the harm identified, contrary to the aforementioned policies.

d TATTINGSTONE

Application No DC/17/06250/FUL Paper PL/18/1 – Item 4	Full Application – demolition of existing dwelling and garage, erection of 4 dwellings, creation of new vehicular accesses, associated garages, landscaping and parking, Summercourt, The Heath.
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The Case Officer, Lynda Bacon, advised Members that there were no new issues arising from the comments of the Ward Member, Alastair McCraw which were set out in full in the Addendum. An amended street scene drawing submitted by the applicant, as referred to in the Addendum, had been included in the power point presentation, showing improved spacing and revised location of the garaging.

It was RESOLVED

- That planning permission be granted subject to conditions including:-
- Standard time limit
- Accord with approved plans
- As recommended by Highways
- Accord with Arboricultural Report
- Accord with Tree Bat Roost Assessment
- Secure mitigation and ecology enhancement measures
- Lighting scheme – biodiversity
- Construction Management Plan
- Construction hours
- Implementation of landscaping scheme
- Withdrawal of PD rights

Notes:-

1. There were short comfort breaks after the conclusion of Items 1 and 3.
2. Councillors Hinton and Rose left the meeting at 12.30 p.m. and 12.45 p.m. respectively and were not present when the vote was taken on Item 3, or for the consideration of, and vote on, Item 4.

The business of the meeting was concluded at 1.55 p.m.

.....
Chair



PL/18/6

BABERGH DISTRICT COUNCIL

PLANNING COMMITTEE

25 JULY 2018

SCHEDULE OF APPLICATIONS FOR DETERMINATION BY THE COMMITTEE

Item	Page No.	Application No.	Location	Officer	Decision
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APPLICATIONS REQUIRING REFERENCE TO PLANNING COMMITTEE

1.	17-47	DC/18/00929	BURES ST MARY - The Slaughter House and Land Adjacent, Cuckoo Hill	JD	
	48-74	Appendix	Site Survey Analysis		
2.	75-87	DC/17/04239	HADLEIGH - Land Adjoining Hadleigh Hall, Pound Lane	GW	

Philip Isbell
Corporate Manager – Growth and Sustainable Planning

BABERGH DISTRICT COUNCIL

PLANNING COMMITTEE

SCHEDULE OF APPLICATIONS MADE UNDER THE TOWN AND COUNTRY PLANNING ACT 1990, AND ASSOCIATED LEGISLATION, FOR DETERMINATION OR RECOMMENDATION BY THE PLANNING COMMITTEE

This Schedule contains proposals for development which, in the opinion of the Corporate Manager – Growth and Sustainable Planning, do not come within the scope of the Scheme of Delegation to Officers adopted by the Council or which, although coming within the scope of that scheme, she/he has referred to the Committee to determine.

Background Papers in respect of all of the items contained in this Schedule of Applications are:

1. The particular planning, listed building or other application or notification (the reference number of which is shown in brackets after the description of the location).
2. Any documents containing supplementary or explanatory material submitted with the application or subsequently.
3. Any documents relating to suggestions as to modifications or amendments to the application and any documents containing such modifications or amendments.
4. Documents relating to responses to the consultations, notifications and publicity both statutory and non-statutory as contained on the case file together with any previous planning decisions referred to in the Schedule item.

DELEGATION TO THE CORPORATE MANAGER - GROWTH AND SUSTAINABLE PLANNING

The delegated powers under Minute No 48(a) of the Council (dated 19 October 2004) includes the power to determine the conditions to be imposed upon any grant of planning permission, listed building consent, conservation area consent or advertisement consent and the reasons for those conditions or the reasons to be imposed on any refusal in addition to any conditions and/or reasons specifically resolved by the Planning Committee.

PLANNING POLICIES

The Development Plan comprises saved policies in the Babergh Local Plan adopted June 2006. The reports in this paper contain references to the relevant documents and policies which can be viewed at the following addresses:

The Babergh Local Plan: <http://www.babergh.gov.uk/planning/planning-policy/adopted-documents/babergh-district-council/babergh-local-plan/>

National Planning Policy Framework:

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf>

LIST OF ABBREVIATIONS USED IN THIS SCHEDULE

AWS	Anglian Water Services
CFO	County Fire Officer
LHA	Local Highway Authority
EA	Environment Agency
EH	English Heritage
NE	Natural England
HSE	Health and Safety Executive
MoD	Ministry of Defence
PC	Parish Council
PM	Parish Meeting
SPS	Suffolk Preservation Society
SWT	Suffolk Wildlife Trust
TC	Town Council

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Agenda Item 8a

Committee Report

Item No: 1

Reference: DC/18/00929

Case Officer: John Davies

Ward: Bures St Mary.

Ward Member/s: Cllr Lee Parker.

RECOMMENDATION – REFUSE S73 APPLICATION

Description of Development

Application under Section 73 of the Town and Country Planning Act - Erection of 6 no. two-storey dwellings, following demolition of existing commercial buildings and hard standing, and construction of private access driveway (scheme to utilise existing vehicular access to public highway) - Variation of condition 2 of planning permission B/14/01103 as amplified by submission of covering letter from agent dated 26/3/18 and annotated Proposed Setting Out and Landscaping Plan (1471.21E) and Existing Site Survey Plan (1471.06) all received 26/3/18. As further amended in by submission of revised layout plan 1471/21F and additional cross-section plan 1471/22.

Location

The Slaughter House and Land Adjacent, Cuckoo Hill, Bures St Mary, Suffolk

Parish: Bures St Mary

Expiry Date: 28/04/2018

Application Type: FUW - Full App Without Compliance of Condition

Development Type: Minor Dwellings

Applicant: The Stemar Group Ltd

Agent: Mr John Jackson

PART ONE – REASON FOR REFERENCE TO COMMITTEE

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

The Head of Economy considers the application to be of a controversial nature having regard to the planning reasoning expressed by the Parish Council; the extent and planning substance of comments received from third parties and the location, scale and nature of the application.

Details of Previous Committee / Resolutions and any member site visit

Planning permission for the original development was granted by Planning Committee at its meeting in February 2015.

A Member site visit took place on 23 May 2018.

PART TWO – APPLICATION BACKGROUND, POLICIES AND CONSULTATION SUMMARY

History

- B/11/01553/FUL – Planning permission refused for the erection of 6 no. dwellings with associated garages and bin store and private drive served by existing access (following demolition of existing commercial buildings and hard standing) -Refused on grounds of conflicts between residential use and garage use, lack of affordable housing and contribution to open space.
- B/11/01555/CAC – Conservation area consent granted for the demolition of buildings.
- B/86/00115/FUL – Planning permission granted for change of use of buildings to form 7 industrial starter units, construction of parking areas and ground water storage tanks.
- B/84/00537/FUL –Planning permission refused for the erection of three two-storey dwellings, garages and access
- B/80/00975/FUL – Planning permission granted for alterations and extension to slaughterhouse

Planning permission was granted on 13 February 2015 under reference B/14/01103 for the erection of 6 no. two-storey dwellings, following demolition of existing commercial buildings and hard standing, and construction of private access driveway (scheme to utilise existing vehicular access to public highway). The Applicant was R. Matthews and the agent was David Butt Associates Ltd. It was approved at a Planning Committee meeting on 11/2/15.

The report to Planning Committee included the following table setting out details of each dwelling:

Plot No.	Dwelling Type	Max. Ridge Height	Max. Eaves Height	Max. Width	Max. Depth	Garage
1	2 bedroom Semi-detached	8.5 Metres	5 Metres	4.7 Metres	6.7 Metres	No
2	2 bedroom semi-detached	8.5 Metres	5 Metres	4.7 Metres	6.7 Metres	No
3	3 bedroom detached	8.5 Metres	5 Metres	*9.8 Metres	*8.6 Metres	Yes
4	3 bedroom detached	8.5 Metres	5 Metres	*12.9 Metres	*9.9 Metres	Yes
5	3 bedroom attached via garage	8.5 Metres	5 Metres	*9.8 Metres	*8.5 Metres	Yes
6	3 bedroom attached via garage	8.5 Metres	5 Metres	*9.8 Metres	*8.5 Metres	Yes

*Does not include attached garage.

The decision notice listed the following approved plans :

- Site levels drawing- 3368:24 (received 27 August 2014)- (This plan was entitled 'Sections thro' site existing and proposed')
- Site Location Plan -received 13 November 2014
- Plots 1 and 2 drawing 3368:22 - received 13 November 2014
- Plot 3 drawing 3368:21 Rev.B -received 2 January 2015
- Revised Site Layout Drawing- 3368:18 Rev.G received 27 January 2015
- Plot 4 drawing – 3368:20 Rev.A received 27 January 2015
- Plot 5 drawing – 3368:21 Rev.B received 27 January 2015
- Plot 6 drawing- 3368:21 Rev.A received 27 January 2015

It is relevant to note that the approved Site Layout Plan (3368:18 Rev.G) did not include any proposed ground or finished floor levels. The only drawing which showed levels was 3368:24 (existing and proposed site section).

The approval was subject to conditions covering the following matters:

Condition 1- Time limit; Condition 2- Approved plans listing; Condition 3- Facing materials to be agreed; Condition 4- Access design comply with plans; Condition 5- Access surfacing; Condition 6- Drainage onto highway; Condition 7- manoeuvring and parking of vehicles; Condition 8- parking provision; Condition 9- contamination; Condition 10- contamination; Condition 11- contamination; Condition 12- contamination; Condition 13- surface water management; Condition 14- archaeology.

Those conditions requiring submissions to be agreed by the LPA were approved as follows:

Condition 3- 15/12/17; Condition 6- 16/10/17; Condition 9 – 15/5/17 and 8/2/18; Condition 13- 16/10/17; Condition 14- 15/5/17.

In March 2017 (2/3/17) a Non Material Amendment application was submitted describing the proposal as 'Minor Changes to windows and internal layouts to conform to building regulations.' The application was submitted by Mr John Jackson of Architectural Design Associates on behalf of the Stemar Group.

The application was accompanied by 6 drawings as follows:

Proposed Site Plan/Proposed Landscaping Plan 1471.07

Plots 1 and 2 -Proposed Plans and Elevations- 1471.01

Plot 3- Proposed plans and Elevations- 1471.02

Plot 4- Proposed plans and Elevations- 1471.03

Plot 5- Proposed plans and Elevations- 1471.04

Plot 6- Proposed plans and Elevations- 1471.05

The application described in the decision letter as minor amendments to layout and design of dwellings previously approved.

The plans depict minor revisions to the layout of the site – to delete some of the landscaping to provide additional room for the parking and manoeuvring of vehicles; to add or reposition garden sheds for each of the plots; and, to change the bay windows of Plots 5 and 6 from the front elevation to a side elevation. The submitted Site Plan 1471.07 did not include any proposed ground or finished floor levels details.

The minor amendment application was approved by letter dated 12 May 2017.

Summary of Policies

BABERGH CORE STRATEGY 2014

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

BABERGH LOCAL PLAN (ALTERATION NO.2) 2006

CN01 - Design Standards
CN06 - Listed Buildings - Alteration/Ext/COU
CN08 - Development in/near conservation areas
CR04 - Special Landscape Areas
HS28 - Infilling/Groups of dwellings
TP15 - Parking Standards - New Development

SUPPLEMENTARY PLANNING DOCUMENTS

None relevant

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

A Member site visit took place on 23 May 2018

Details of any Pre Application Advice

Officers advised the Applicant to apply for a material variation of the approved plans under S.73 but did not offer any view on whether such an application would be recommended for approval.

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

Bures St Mary Parish Council

Comments

"The Parish Council objected to this plan when the application was first made.

The development has an adverse effect on the residential amenity of neighbours and the failure to work to plan has added to the adverse impact by increasing the overlooking and loss of privacy.

The visual impact of the houses has increased through the levels of the development not being to the agreed plan. This is totally unacceptable and destroys the character of the neighbourhood which is one of low level mainly Victorian buildings. The development is overbearing and out-of-scale with the surroundings. All this is in a Conservation area adjacent to listed property White Horse House and close to Spout House, another listed property.

In addition to the increased impact of this development, issues have been raised which should be addressed by Babergh Planning Department and District Council as a matter of grave concern and urgency. The developer has provoked neighbours by claiming that planning for the site had been agreed many years prior to this application and that a payment had been made to allow the social housing element of the plan to be removed. Whilst it is understood that there is no evidence of these claims there is clear defamation of the name of Babergh District Council adding to a lack of confidence in the local authority planning department. Therefore the Parish Council is strongly opposed to this planning application."

Further Comments:

Further to Bures St. Mary Parish Council's comments of the 22nd March I submit the following survey to give additional weight to the Parish Council's objection to planning application DC/18/00929.

This survey has been undertaken by Randall Surveys LLP on behalf of residents whose properties are adjacent to the development site.

Ref : Height Survey of New Build Properties known as Apple Tree Mews

We have undertaken a precise remote survey of the adjacent properties. The level datum used has been tied in to the existing site levels as shown on Dwg. 3368.18 Rev E

We reference one further drawing

Dwg 3368.24 Sections thro Site existing and proposed submitted with original planning application B/14/01103

This drawing from the original planning application provides a direct level/height comparison between the new build (Plot 6) and White Horse House

The results of our survey observations are as follows.

Existing roof pitch level of White Horse House = 39.76m

Existing as-built level of roof pitch for Plot 6 = 42.36m

Existing as-built level of roof pitch for Plots 1 & 2 = 42.40m

Existing roof pitch of existing dwelling (Byron House) adjacent to Plots 1 & 2 = 39.77m

Dwg No. 3368.24 shows the Roof pitch of Plot 6 in relation to the roof pitch of White Horse House.

Plot 6 roof pitch is 2.60m higher than the roof pitch of White Horse House.

This conflicts with the information shown on Dwg No. 3368.24.

The Parish Council trusts that this survey will be given full consideration when the planning application DC/18/00929 is determined."

"The Parish Council considers that the latest information is still materially and substantially inaccurate and misleading. The applicant has failed in its response to the agenda items raised by Babergh District Council Planning Committee members at the recent Cuckoo Hill site meeting of 23rd May. The Agent's submitted drawings for re-consultation are considered a possible misrepresentation or incompetence at best. We list our findings of inaccuracies against the 7 agenda items of the site meeting held at Cuckoo Hill.

1. Clarification of proposed boundary works – the drawings misleadingly show a separate boundary between White Horse House and Plot 6 where there is none. Part of the wall of White Horse House is the boundary between this property and the development and it is currently being used as a retaining wall with the increased ground level of hard core and soil against it. The garden gate of White Horse House is not shown on the drawings. Drawing a gap between White Horse House and the boundary and failing to show the garden gate to the access road is misleading and serves to diminish the actual effect of this new development on the Grade II listed property.
2. Clarity of 'step' – this has not been addressed. Photographs previously taken by Alan Beales and submitted by Mrs Clare Frewin show that the levels have been built up. This was not permitted under the planning permission. With the increased ground level a new party retaining wall needs to run the full length of the south boundary to be fully effective.
3. Provide N-S section through White Horse House and Plots 6 and 3 - the size and height of Plot 6 and 3 as shown on the drawings do not reflect a correct representation of size and height of the buildings. White Horse House is a smaller lower building than the house on plot 6. The drawing is deceptive.
4. Provide N-S and W-E sections through Byron House and Plots 1 and 2 – the new drawings show steps leading up to Plots 1 and 2 which were not shown on the original drawings. The existence of steps on the drawings now gives clarity to all previous concerns that the house levels have been raised. St Edmunds Lane is inaccurately shown on the drawings in relation to Byron House.
5. Measures to address overlooking concerns – the laurel hedging will not address this owing to the excessive heights of the houses.
6. Clarity that on-site surface water drainage measures implemented – although the Agent has confirmed in his statement that measures have been implemented, the Parish Council has grave concerns regarding on site water drainage at Cuckoo Hill.
7. Future timetable – The schedule of works has not been provided to the neighbouring properties either in the past or since the site meeting.

We also include a further letter from Randall Surveys LLP outlining their recent height survey of the new build properties and the adjacent properties. We trust that this and all previous objections will be given full consideration when planning application DC/18/00929 is determined."

Extract from Randall Survey letter:

"Dwg 3368.24 – Sections thro' Site existing and proposed submitted with original planning application B/14/01103

Dwg No. 1471.22 – Proposed Site Sections submitted with planning application DC/18/00929

DWG 3368.24 from the original planning application provides a direct level/height comparison between the new build (Plot 6) and White Horse House as does Dwg No 1471.22

The results of our survey observations are as follows.

Existing roof pitch level of White Horse House = 39.76m

Existing as-built level of roof pitch for Plot 6 = 42.36m

Existing as-built level of roof pitch for Plots 1 & 2 = 42.40m

Existing roof pitch of existing dwelling (Byron House) adjacent to Plots 1 & 2 = 39.77m

Dwg No. 3368.24 shows the Roof pitch of Plot 6 in relation to the roof pitch of White Horse House.

Dwg No. 1471.22 shows the Roof pitch of Plot 6 in relation to the roof pitch of White Horse House.

Plot 6 roof pitch is 2.60m higher than the roof pitch of White Horse House.

This conflicts with the information shown on Dwg No. 3368.24 and on the most recently submitted drawing Dwg No.1471.22”

Heritage Team

“The scheme was approved under reference B/14/01103 with very scant Heritage Team comments, in support of the proposals. However, I am concerned that the scheme is an overdevelopment of the site, and seriously imposes upon the setting of White Horse House, on Cuckoo Hill and compromises the character and appearance of this part of the Conservation Area - primarily because of the increase in land levels across the site, west to east, and from south to north, from Cuckoo Hill to the northern edge of the site. Therefore, the apparent increase in ridge height amplifies the inappropriately scaled development, to the further detriment of this part of the Conservation Area, and the setting of the House, which has been severely damaged by this scheme. Anything that amplifies the scale and bulk of these properties, particularly that on plot 6, only serves to diminish the setting, and therefore the significance, of White Horse House, contrary to the requirements of the P(LBCA)A1990 and the policies within both the NPPF and the Local Plan. The Heritage Team therefore objects to the apparent increase in height of the property at plot no.6.”

The Heritage team further clarified their position on the 12/6/18 stating that the scale of the development causes a high level of ‘**less than substantial**’ harm. In regard to the NPPF, **less than substantial** harm is a very high bar. Such developments are notably harmful to the significance of a property, and this harm must be weighed against any public benefit – which in this instance is the increase in the height of the ridge of the property.

SCC - Highways

The Highway Authority has no objection to the variation of Condition 2 as the change of drawing does not have any highway impact.

Natural England

Natural England currently has no comment to make on the variation of condition 2.

SCC - Archaeological Service

No response.

Suffolk Wildlife Trust

No response.

Environmental Health - Land Contamination

No objection raised from perspective of land contamination.

Historic England

On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

B: Representations

The following comments were received in objection to the original application:

- Houses as built are not in accordance with the approved plans (exceeded by 8 feet) and have an adverse impact on privacy of neighbours in Cuckoo Hill.
- The case should be referred to Planning Committee as they took the original decision and not delegated powers.
- Developers should not be allowed to benefit from their actions and houses should be lowered in height.
- Houses are too tall for the site and ruins the SLA and Conservation Area.
- Loss of part of hedge along St Edmunds Lane
- Adverse impact on Grade 2 listed building should be protected
- How were developers allowed to get away with this breach of planning permission?
- Enforcement action should be taken against the increase in height. Increase is greater than in case where enforcement action was taken in East Bergholt and therefore in interest of consistency action must be taken
- There should be a Members' visit to see the site before any decision
- Increase in heights in excess of 1 metre are completely out of character and dominate the surrounding homes
- Harm to a country land (St Edmunds Terrace) and conservation area due to loss of hedge and increase in height of dwelling.
- Development dwarfs the surrounding houses including listed buildings and in the conservation area due to developer not excavating the site properly for financial gain.
- Loss of affordable housing in the scheme- needed in the village.
- Development should be enforced to comply with the approved scheme.
- S.73 application is not appropriate where fundamental changes are made to a permission.
- Submitted plans do not provide amended levels nor accurately represent the development as it presently stands.
- Address of the site is incorrect.
- Development causes harm to setting of Grade II listed building, the conservation area and SLA.
- Plot 6 in particular looms over White Horse House and is both overbearing and over-powering and is also sited too close.
- Countryside views from top of Cuckoo Hill are blighted by new roofs and houses and style of new building is not in keeping or harmony with surrounding properties.
- Why is there no social housing provided in the scheme?
- There are highway concerns about the safety of the access in Cuckoo Hill.
- Construction on site has caused considerable disruption to residents as a result of contractors' vehicles constructing driveways and parking on verges, generating litter in the street, abusive behaviour, working on Saturdays and Sundays .
- Site is in an elevated position and any increase in height affects listed building and character of the conservation area.
- Why have there not been any checks on the build to avoid this situation?
- Dwellings stand out from other properties around them and ruin this area of the village
- White Horse House (Formerly the Old White Horse pub) has a modern roof looking over its roof top
- None of the former buildings on the site were as large as these houses
- Style and size of these properties are completely out of character with surrounding area and take no account of existing buildings, parking and traffic.
- Developer should not be allowed to get away with these changes to the approved plans
- Why were footings 2 metres higher than approved plans allowed to be laid?
- Application under s.73 should not be allowed to be considered as Applicant seeks to change the layout of the development and the site levels.
- If this development is allowed other developers will also 'flout' the rules.
- Development is 2 metres higher than the accepted plans and therefore the houses dominate the neighbouring properties.

- Development is too high and affects view from my house (Old Manse, High Street).
-

Further notifications were carried out in response to the revised /additional plans received in June 2018 and the following comments were received:

- Increase of approximately a metre in height as described in Applicant's letter is not acceptable to describe an increase of 1260mm
 - Reference to Byron House being in the wrong place does not excuse the misleading impression those drawings gave
 - Planning Committee should take a hard line on this
 - The developer made a big mistake in how the development was laid out and Council should have acted faster to stop it
 - Laurel hedge planting could be removed, may not stop overlooking and roots could damage walls
 - Correct amount of soil and rubble should have been removed in first place to create the correct levels
 - Houses behind White Horse House and 7 Cuckoo Hill built higher than original ground level
 - Laurel hedge as proposed will not provide privacy
 - Houses are not in keeping with the village
 - Ongoing problem of unfinished, partly demolished former Slaughter house building walls on southern boundary.
 - Development of Plots 1 and 2 remain incorrectly sited in relation to Byron House
 - Proposed section drawing between Plot 6 and White Horse House is misleading in showing similar ridge heights
 - Laurel hedge will not mitigate overlooking of White Hall House which is overlooked by 8 windows
 - Need for a retaining wall along southern boundary wall as old building walls have been compromised and could collapse
 - White Horse House side gate not shown on plans
 - The end wall of White Horse House is being used without permission as the site boundary and has been damaged during the works on site, sections of brick have been removed.
-

PART THREE – ASSESSMENT OF APPLICATION

1. The Site and Surroundings

- 1.1. The site is that of a former animal slaughter house on the edge of the village of Bures St Mary. It is 0.24 hectares in size and formerly contained a number of commercial buildings, which prior to demolition were last in Class B1 commercial use (light industrial). The bulk of the site is set back from and served by an access road onto Cuckoo Hill. The site is positioned behind existing frontage residential buildings onto Cuckoo Hill namely White Horse House and 6 and 7 Cuckoo Hill. The eastern boundary adjoins land forming part of the curtilage of 8 Cuckoo Hill. The site backs onto St Edmunds Lane and adjoins in the north-west corner a two storey dwelling known as Byron House. Adjoining the access road to the west of the site and fronting Cuckoo Hill is Pilgrims Garage, which is a car repair business.
- 1.2 Land levels rise northward across the site from Cuckoo Hill such that the application site is on a higher level than the frontage buildings. Ground levels also rise across the site from west to east.
- 1.3 Vehicular and pedestrian access is taken via a private access road located in-between Pilgrim's Garage and White Horse House. The site backs onto St Edmunds Lane, but is banked up from it and site levels rise steeply to a height of approximately 2.5 metres above road level and there is no direct means of access from this side.

- 1.4 The site is situated within the Built Up Area Boundary (BUAB) of Bures St Mary, a Core Village as defined in the Babergh Local Plan 2011-2031, Core Strategy & Policies (2014).
- 1.5 The entire site and its surrounds are situated within the Bures St Mary Conservation Area. White Horse House is a Grade II listed building. The front portion of the site (including the access and land immediately to the rear of neighbouring dwellings fronting the road) is also within a designated site of archaeological interest.
- 1.6 The site (and the Village as a whole) is situated within a Special Landscape Area (SLA).
- 1.7 The approval of 6 dwellings commenced on site in late 2017 and works have continued to a position where all the dwellings have been constructed to roof level and are being fitted out internally. The dwellings closest to Cuckoo Hill are Plots 6 and 5, whose frontages face northwards into the site and whose rear elevations face White Horse House and 6/7 Cuckoo Hill respectively. Plots 1/2 are a semi-detached pair in the north-west corner of the site adjacent to Byron House. Plot 3 is a detached dwelling facing south next to plots 1/2 which is in turn next to Plot 4 in the north-east corner of the site.

2. The Proposal

- 2.1 The submitted application under S.73 is for a minor material amendment and was given reference DC/18/00929. The application form was accompanied by a plan entitled 'Proposed Setting Out and Landscaping Plan' and numbered 1471.21E. The applicant sought approval to substitute drawing number 3368.24 (approved under B/14/01103) by a new drawing numbered 1471.21E.
- 2.2 The Application seeks approval for a minor material amendment relating to site levels. Planning Practice Guidance advises there is no statutory definition of a material minor amendment, but states that it is likely to include an amendment where its scale and /or nature results in a development which is not substantially different from the one which has been approved. It is therefore a matter of planning judgment to assess the differences between the scheme as built and what was expected to have been built based on the approved plans.
- 2.3 The variation in the approved plans relates to the site levels on which the development has been constructed. However, it should be noted that the Section 73 application relates to the entirety of the development as under construction.
- 2.4 On the 23/3/18 the agent submitted a covering letter and additional plans comprising:
 - o Updated Plan number 1471.21E marked up with additional information showing the existing floor levels, proposed ground levels and finished ground floor levels of the properties under construction.
 - o A copy of an existing levels survey plan from which 'existing' spot levels were taken. (This plan was originally produced by David Butt Associates Ltd and numbered 430-01 dated July 2003. It was re-numbered by John Jackson as 1471.06 and titled 'Existing Site Survey Plan'. This plan was not listed as part of the approved drawings on the decision notice of 20.2.2015, but was a submitted plan at the time as it is on the website.
- 2.5 In May 2018 the Applicant submitted a covering letter and site plan (reference 1471.21F) stating that the applicant had commissioned a full site survey by J Taylor Site Surveying Ltd to cross check the permitted finished floor levels, as against the built floor levels and the existing ground levels of the site as set out in the following table.

Plot Number	Existing Floor Levels	Finished Floor Levels App Ref: 18/00929 Dwg 1471.21F (surveyed)	Height to Eaves soffit from FFL (surveyed)	Height to Ridge from FFL (Surveyed)
Plot 1	34.06	33.907 (7mm high)	4783mm	8444mm
Plot 2	34.21	33.907 (7mm high)	4783mm	8444mm
Plot 3	34.10	34.490 (10mm low)	4728mm	8412mm
Plot 4	34.38	35.094 (6mm low)	4765mm	8433mm
Plot 5	34.18	34.499 (1mm low)	4737mm	8441mm
Plot 6	32.65 - 32.99	33.909 (9mm high)	4733mm	8452mm

2.6 The letter concluded as follows:

“It is demonstrated by the site survey and drawing attached for approval that there are very minor variations in finished floor levels from the permitted scheme and now sought to be regularised in this s73 application. The millimeter variations are unlikely to be discernible to the eye and will have no material impact on adjacent residential amenity as already permitted by planning permission B/14/01103. The final storey heights correspond with the permitted drawings of the same permission.”

2.7 In June 2018 the Applicant submitted a letter enclosing a revised site plan (1471.21F) which showed details of boundary works to the southern boundary comprising retained boundary walls and new 1.8m fences, proposed planting in the form of a 2.6m high laurel screen hedge in the gardens of Plots 5 and 6, clarifying stepped entrances and re-positioning Byron House on the site plan. An additional Proposed Site Sections plan was also submitted (ref.1471.22) showing three site sections one of which supersedes the approved site section drawing 3368.24. The letter also included a table as follows setting out for each plot differences in ground levels, permitted and surveyed ridge heights:

House Number	Permitted House Levels – Indicative Drwgs 3368.24G and 3368.24	Surveyed House Levels – Actual May 2018	Difference	Permitted Ridge Heights NMA Drwgs 1471.01-1471.07	Surveyed Ridge Heights May 2018
Plots 1 and 2	Not shown	33.907		8.5m	8444mm
Plot 3	33.40	34.490	+1.09m	8.5m	8412mm
Plot 4	Not shown	35.094		8.5m	8433mm
Plot 5	34.15	34.499	+0.349	8.5m	8441mm
Plot 6	32.65- 32.99	33.909	+0.919-1.26m	8.5m	8452mm

The covering letter states that the survey establishes that all house heights (to ridge) are within millimetres less than the height of the permitted dwellings. The plots are erected in the approved locations. The final house levels are at most approximately a metre higher than indicated on pre-survey drawings but are appropriate to the context of the development, the hillside location, the technical drainage requirements for a sloping site and adjacent residential properties.” The letter also points out that the developer constructing the approved development was not responsible for the original approved scheme drawings which included some inaccuracies.

- 2.8 In early June the Enforcement Team commissioned Survey Solutions to carry out a full measured survey of the site including measurements of current ground levels, building ridge heights, distances between houses and to boundaries. At the same time Enforcement Officers carried out further surveys of building heights and separation distances. The report setting out the results and conclusions of these surveys is appended to this report.
- 2.9 This report reviews the plans submitted by the Applicant for the current application in relation to the approved plans (the 2014 approved plans and the 2017 non-material amendment and summarises the results of the recent surveys carried out by external surveyors on behalf of the Council and the results of Enforcement Officers' surveys. These are referred to hereafter collectively as the 'BDC Survey'. It is acknowledged that the layout plan referred to in the report 1471/21F has been superseded by Revision G, however the levels data on both plans is the same. This report will then go on to look at the implications of those results particularly with regard to their impact on matters notably the character and appearance of the surrounding area, the setting of the listed building and on the Conservation Area, together with impacts on the residential amenity of neighbours.

3. Assessment of Amendments to Approved Plans

Assessment of Ground Levels

- 3.1 The BDC Survey found that levels within the site access are consistent with the 2003 survey indicating that those areas of the site which have not changed in the period between the surveys have been measured as having the same levels now as previously, which gives confidence that the baseline datum point is consistent across both surveys and that both sets of measurements are equally reliable.
- 3.2 Comparisons of levels in 2003 (when the buildings were still in place) and now show that there has been some 'cut and fill' to make the site more level than it was previously. The Report's view is that the 'cut' has been taken from the north-western area of the site – the location of Plots 1 and 2, as well as Plot 3 – with the 'fill' being in and around the location of Plots 4 and 6. There may also be some 'fill' in and around the location of Plot 5 but it is not possible to be conclusive due to the absence of useable data on the 2003 survey for the area which were at the time occupied by buildings.

Site Sections Drawing 3386/24

- 3.3 The 'site sections' drawing submitted with and approved under the 2014 planning application showed a section north-south through the site and the 'Proposed' section showed White Horse House together with Plots 6 and 3. It indicated that ground levels were to be raised slightly to the south of Plot 6 (by 170mm, from 32.75m to 32.92m) and lowered slightly to the north of Plot 6 (by 70mm, from 32.99m to 32.92m), and lowered significantly for the area of Plot 3 (by 700mm, from 34.10m to 33.40m).
- 3.4 Comparison of the spot heights on the 2014 'site sections' drawing with appropriate spot heights on the BDC survey indicates levels for Plot 3 have been lowered by between 80mm (from 34.09 down to 34.01) and 510mm (from 34.10 down to 33.59), whereas levels for Plot 6 have been increased by approximately 470mm (from 32.99 up to 33.46) at the front (north) elevation and approximately 630mm (from 32.75 up to 33.38) at the rear (south) elevation.
- 3.5 The indication on the site sections drawing was to level the gradient on site for the areas to be occupied by Plot 6 and Plot 3, and for the levelling works to marginally raise ground levels for the area to be occupied by Plot 6 and provide a reduction in ground levels for the area to be occupied by Plot 3.

The BDC survey shows that ground levels for the area occupied by Plot 3 have actually been lowered by *less* than indicated on the site sections plan, whilst the ground levels for the area occupied by Plot 6 have actually been *raised* significantly instead of marginally.

3.6 Summary of Findings on Ground Levels:

- The approved 2014 plans indicated ground levels would be significantly reduced for the area of Plot 3 and marginally increased across the area of Plot 6. Proposals in the current application are to retain existing ground levels at the front of Plot 3 and marginally increase levels at the rear, whilst reducing levels marginally to the rear of Plot 6 and retaining them at the front – essentially, to build on the site without any significant adjustment to the ground levels.
- The layout drawing submitted with the current application proposes different ground levels to those on the 2014 site sections drawing – such that Plot 3 would be built at levels up to 1.2m above those proposed on the 2014 plan, and Plot 6 would be constructed on ground levels 0.3m lower at the rear and up to 0.4m higher at the front.
- The BDC survey confirms that the proposed ground levels for Plot 3 – depicted on Dwg. Ref. 1471.21F – have been achieved on site, but those proposed for Plot 6 have not – the building being on ground levels between 410mm and 650mm higher than indicated on the current (proposed) layout plan.
- Concerns raised by local residents in relation to levels at the southern boundary are not substantiated by the survey – the indication being that levels are lower (albeit, marginally) than before the site was redeveloped, though it should be noted that there are limited comparable reference points due to the absence of data on the 2003 survey (due to presence of buildings).

Building Dimensions

- 3.7 The approved scheme included a site sections drawing 3368/24 and the ‘Proposed’ section through the site showed White Horse House at a ridge height of 7.64m and the ridges of Plots 6 and 3 at 7.24m and 7.09m respectively. In contrast, the submitted elevation drawings for these plots showed the ridge heights at 8.57m and 8.68m, which were 1.33m and 1.59m higher than the section drawing for each plot. The ridge heights shown on the plans the subject of the 2017 NMA application were consistent with the approved elevation plans. It can be concluded that the ‘proposed’ section drawing submitted with the 2014 application was inaccurate and misleading in its representation of the heights of Plots 3 and 6 of the proposed development.
- 3.8 The BDC survey measured the ridge and eaves heights of all the units and compared them with the approved NMA drawings and found that the dwellings, as built on site, are higher to the ridge than indicated on the drawings approved under the 2017 NMA application by between 190mm (Plot 1) and 440mm (Plot 4). There were also differences in eaves heights of between 470mm and 650mm.
- 3.9 The above results were based on measurements from ground to ridge level. However, it is normal practice to measure heights from a fixed dpc level normally 150mm above the ground which is normally more reliable. Such measurements were taken on site by Enforcement Officers and the Report made adjustments to the surveyed measurements and the Officers measurements to check their consistency. The results confirmed that the measurements were broadly comparable and an accurate assessment of the heights of the buildings as built.

- 3.10 These measurements show up significant differences in levels with the site sections drawing . The difference between the height of Plot 6 indicated on the proposed sections drawing and the height of the dwelling as measured by the survey is 1.64m, whilst the difference between the height of Plot 3 indicated on the proposed sections drawing and the height of the dwelling as measured by the survey is 1.95m. The conclusion to be drawn from this additional analysis must be that the sections drawing is highly inaccurate and, as a result, the dwellings now appear to be over 1.5 metres taller than was indicated on the 'proposed' site sections drawing submitted in 2014.

Independent survey commissioned by local residents and the Parish Council

- 3.11 Surveyors contracted by residents neighbouring the development have analysed levels data from the 2003 survey submitted with the 2014 application, and building heights as indicated on the site sections drawing accompanying the 2014 application. The analysis focusses on the height of Plot 6 relative to White Horse House and indicates that the roof ridge of Plot 6 is 2.60 m higher than the ridge of White Horse House and the roof ridge of Plots 1 and 2 is 2.63m above the ridge of Byron House.
- 3.12 The survey commissioned by the Council also included readings of the ridge heights of both White Horse House and Byron House. Analysis of the survey results in respect of these neighbouring dwellings showed that the ridge heights of Plot 6 and Plots 1 and 2 were 2.61m and 2.61 m higher than White Horse House and Byron House respectively. The Council's survey therefore concurs with that of the residents.
- 3.13 As detailed earlier, measurements scaled off the site sections drawing indicate White Horse House as being between 7.49m and 7.64m in height (existing section and proposed section respectively). Measurements of Plot 6 scaled off the proposed site sections drawing provide a ridge level of 7.24m. With the rise in ground levels within the site, the indication from the site sections drawing is that the ridges of White Horse House and Plot 6 would be approximately equal in height. However, elevations drawings submitted with the 2014 application – accompanying the site sections drawing – show the dimensions of Plot 6 to be 8.57m to the ridge, 1.33m taller than shown on the site sections drawing.
- 3.14 Data from the survey commissioned by the Council indicates the height of White Horse House, from ground level to ridge, to be 7.41m, whilst the height from ground level to ridge of Plot 6 is 9.58m – a difference of 2.17m. The difference between the ground levels for White Horse House and those for Plot 6 (0.44m) brings the difference between ridges up to the 2.6m suggested by the survey commissioned by the residents.

Summary of Findings on Dimensions:

- The 'proposed' section drawing submitted with the 2014 application was inaccurate and, importantly, misleading in its representation of the heights of Plots 3 and 6 of the proposed development. The elevations drawings submitted with the 2014 application showed the ridge heights of the dwellings to be over 8.5 metres, whilst the sections drawing showed the ridge heights for Plot 3 to be around 7.1 metres and the ridge for Plot 6 to be approx. 7.24 metres.
- The BDC survey concurs with the residents' survey that Plot 6 is 2.6m higher than White Horse House, but taking account of differences in ground level between the sites the actual difference is 2.17m

- The BDC survey shows floor levels of the dwellings are accurate (max. +30mm) compared to the indication on Dwg. 1471.21F – the only exception is Plot 3, where the floor level is approx. 220mm lower than indicated on the plan.
- Ground levels are shown by the Council's survey to be mostly accurate (max. +/-80mm) compared to the indication on Dwg. 1471.21F – several exceptions exist in this case: Plot 3 ground levels are 230mm lower at the front of the building, and 270mm lower at the rear, than indicated on the drawing; Plot 4 ground levels are 340mm lower at the rear of the building than indicated on the drawing; and, ground levels for Plot 6 are 640mm higher at the front of the building, and 510mm higher at the rear, than shown on the drawing.
- From floor level to ridge, the Council's survey reveals the buildings to be between 40mm and 250mm lower in height than indicated by the elevations drawings submitted with the 2017 NMA application. However, the NMA drawings give no indication of DPC, so it is assumed they depict the dimensions of the buildings from ground level. In that case, the dwellings are between 190mm and 440mm higher than shown on the NMA plans.

Setting Out Dimensions of Layout

- 3.15 Officers have carried out a comparative assessment of the approved layout drawing (3368/18G) and the approved layout drawing when the NMA was determined in 2017 (1471/07). Anomalies in the positions of some buildings were identified which could not be explained by an increase in the size of the building and were put down to a reduction in the overall size of the site. It was concluded that, comparison of the layout plan submitted with the 2014 application and the drawing provided with the 2017 NMA application indicates a number of differences in terms of the position of the dwellings relative to the site boundaries. Where comparison can be made between the 2017 and 2018 layout plans (all measurements bar those to the northern boundary) the results are closely comparable.
- 3.16 The results show that the greatest differences in site dimensions are those with reference to the northern boundary. That being the case it may be that the position of the northern boundary on the 2017 drawing is closer to the southern boundary than on the original 2014 plan. That change means Plots 1 to 4 appear closer to the northern boundary, whilst also pushing their position closer to the southern boundary. In contrast, the position of Plot 6, relative to the southern boundary, remains consistent across both the 2014 and 2017 drawings.
- 3.17 The report now sets out a tabulated assessment of levels, dimensions and layout changes for each plot based on the submitted plans and documents and the BDC Survey.

Plot No. 1	
Existing ground level(s) on plot (2003 Survey)	34.06m
Proposed Ground Levels (s.73 Application)	33.60m (rear) and 33.50m (front)
BDC Survey of Ground Level(s) (Tables 1.1 and 1.2)	33.54m to 33.62m
Officer comment:	Surveyed ground levels on site are below former levels.
Approved levels (Drawing 3368/24) (If shown)	n/a

Proposed FFLs (s.73 Application)	33.90m
BDC Survey FFL (Table 2.6)	33.91m
Officer Comment:	FFL built on site accords with proposed plans
Ground to Ridge height from NMA approval plans (Table 2.5) (A)	8650mm
Ground to Ridge height from BDC Survey (Table 2.5) (B)	8840mm
Difference in height between (A) and (B)	+190mm
FFL to Ridge height (Applicant's survey)	8550mm
Applicant's ridge height above FFL + DPC (BDC Survey Table 2.6) (C)	8550mm+370mm= 8920mm above GL
Difference in height between (A) and (C)	+270mm
Officer comments:	The building has been constructed to a ridge height between 190 and 270mm above the approved elevation on the NMA approval.
Eaves height from NMA approval plans	4860mm
Eaves height above Ground Level (Table 2.5)	5330mm
Officer comment:	The eaves height is 470mm higher than the approved plan.
Setting Out Differences compared to S.73 Site Plan (Tables 3.5-3.8)	180mm and 460mm further from West boundary 130mm closer to south 380mm further from North boundary The south-west corner of the building is shown on Plan 1471.21G as 3.5m forward of the rear elevation of Byron House.
Officer comments:	The surveys indicate that Plot 1 has moved south but only by a margin of less than 1 metre. Byron House has been repositioned further north on its plot as it was deemed to be incorrectly sited on the approved plans. The impact of Plot 1 on Byron House will be assessed later in the report.

Plot No. 2	
Existing ground level(s) on plot (2003 Survey)	34.21m
Proposed Ground Levels (s.73 Application)	33.60m (rear) and 33.60m (front)
BDC Survey of Ground Level(s) (Tables 1.1 and 1.2)	33.43 to 34.21
Officer comment:	Surveyed ground levels on site are at/below former levels.
Approved levels (Drawing 3368/24) (If shown)	n/a

Proposed FFLs (s.73 Application)	33.90m
BDC Survey FFL (Table 2.6)	33.91m
Officer Comment:	FFL built on site accords with proposed plans
Ground to Ridge height from NMA approval plans (Table 2.5) (A)	8650mm
Ground to Ridge height from BDC Survey (Table 2.5) (B)	8920mm
Difference in height between (A) and (B)	+270mm
FFL to Ridge height (Applicant's survey)	8550mm
Applicant's ridge height above FFL + DPC (BDC Survey Table 2.6) (C)	8550mm+ 450mm=9000mm above GL
Difference in height between (A) and (C)	+350mm
Officer comments:	The survey suggests the building has been constructed to a ridge height between 270 and 350mm above the approved elevation on the NMA decision. However as Plot 2 is a semi-detached dwelling with the same ridge height as Plot 1 this is corrected to the same increase as Plot 1 i.e. an increase between 190 and 270mm.
Eaves height from NMA approval plans	4860mm
Eaves height above Ground Level (Table 2.5)	5420mm
Officer comment:	The eaves height is 560mm higher than the approved plan. This is corrected to 470mm higher given the same eaves line as Plot 1.
Setting Out Differences compared to S.73 Site Plan (Tables 3.5-3.8)	No significant differences identified.
Officer comments:	No comments

Plot No. 3	
Existing ground level(s) on plot (2003 Survey)	34.10m
Proposed Ground Levels (s.73 Application)	33.60 to 34.6m (front); 34.30 (rear)
BDC Survey of Ground Level(s) (Tables 1.1 and 1.2)	33.92m to 35.03m
Approved levels (Drawing 3368/24) (If shown)	33.40
Officer comment:	BDC Survey found levels to be approx. 610mm higher at the front and 850mm higher at the back than the 2014 approval.
Proposed FFLs (s.73 Application)	34.5
BDC Survey FFL (Table 2.6)	34.28
Officer Comment:	FFLs built on site accord with proposed plans

Ground to Ridge height from NMA approval plans (Table 2.5) (A)	8680mm
Ground to Ridge height from BDC Survey (Table 2.5) (B)	9040mm
Difference in height between (A) and (B)	+360mm
FFL to Ridge height (Applicant's survey)	8585mm
Applicant's ridge height above FFL + DPC (BDC Survey Table 2.6) (C)	8585mm+ 400mm= 8985mm
Difference in height between (A) and (C)	+305mm
Officer comments:	The building has been constructed to a ridge height up to 360mm above the approved elevation on the NMA approval.
Eaves height from NMA approval plans	4860mm
Eaves height above Ground Level (Table 2.5)	5510mm
Officer comment:	The eaves height is 650mm higher than the approved plan
Setting Out Differences compared to S.73 Site Plan (Tables 3.5-3.8)	No significant differences identified
Officer comments:	None

Plot No. 4	
Existing ground level(s) on plot (2003 Survey)	34.38m
Proposed Ground Levels (s.73 Application)	34.60 (side); 34.90 (rear)
BDC Survey of Ground Level(s) (Tables 1.1 and 1.2)	34.09
Approved levels (Drawing 3368/24) (If shown)	n/a
Officer comment:	Surveyed ground levels on site are below former levels.
Proposed FFLs (s.73 Application)	35.1
BDC Survey FFL (Table 2.6)	35.08
Officer Comment:	FFL built on site accords with proposed plans
Ground to Ridge height from NMA approval plans (Table 2.5) (A)	8670mm
Ground to Ridge height from BDC Survey (Table 2.5) (B)	9110mm
Difference in height between (A) and (B)	+440mm
FFL to Ridge height (Applicant's survey)	8585mm
Applicant's ridge height above FFL + DPC (BDC Survey Table 2.6) (C)	8585mm+ 590mm= 9175mm
Difference in height between (A) and (C)	+505mm

Officer comments:	The building has been constructed to a ridge height up to 505mm above the approved elevation on the NMA approval.
Eaves height from NMA approval plans	4850mm
Eaves height above Ground Level (Table 2.5)	5470mm
Officer comment:	The eaves height is 620mm higher than the approved plan
Setting Out Differences compared to S.73 Site Plan (Tables 3.5-3.8)	Between 130 and 140mm closer to east boundary.
Officer comments	Plot 4 is marginally closer to east boundary.

Plot No. 5	
Existing ground level(s) on plot (2003 Survey)	n/a
Proposed Ground Levels (s.73 Application)	34.00 (front); 32.200 (rear)
BDC Survey of Ground Level(s) (Tables 1.1 and 1.2)	n/a
Approved levels (Drawing 3368/24) (If shown)	n/a
Officer comment:	No existing survey levels as plot formerly a building.
Proposed FFLs (s.73 Application)	34.5
BDC Survey FFL (Table 2.6)	34.47
Officer Comment:	FFL built on site accords with proposed plans
Ground to Ridge height from NMA approval plans (Table 2.5) (A)	8670mm
Ground to Ridge height from BDC Survey (Table 2.5) (B)	8950mm
Difference in height between (A) and (B)	+280mm
FFL to Ridge height (Applicant's survey)	8585mm
Applicant's ridge height above FFL + DPC (BDC Survey Table 2.6) (C)	8585mm+ 430mm= 9015mm
Difference in height between (A) and (C)	+345mm
Officer comments:	The building has been constructed to a ridge height up to 345mm above the approved elevation on the NMA approval.
Eaves height from NMA approval plans	4860mm
Eaves height above Ground Level (Table 2.5)	5360mm
Officer comment:	The eaves height is 500mm higher than the approved plan
Setting Out Differences compared to S.73 Site Plan (Tables 3.5-3.8)	Building up to 1 m closer to south boundary. Up to 170mm closer to east boundary.

Officer comments	Plot 5 is significantly closer to south boundary at a distance of around 14.0m.
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Plot No. 6	
Existing ground level(s) on plot (2003 Survey)	32.65 to 32.99
Proposed Ground Levels (s.73 Application)	34.60 (rear); 33.07 (front)
BDC Survey of Ground Level(s) (Tables 1.1 and 1.2)	32.97-33.69 (rear); 32.92-33.82 (front)
Approved levels (Drawing 3368/24) (If shown)	32.92
Officer comment:	Surveyed ground levels on site are well above former levels. Applicant acknowledges increase of ground level up to 1.26m. The BDC survey indicates the levels implemented on site for Plot 6 to be between approximately 410mm and 650mm higher than those proposed on the layout drawing submitted with the current (2018) application.
Proposed FFLs (s.73 Application)	33.9
BDC Survey FFL (Table 2.6)	33.9
Officer Comment:	FFL built on site accords with proposed plans
Ground to Ridge height from NMA approval plans (Table 2.5) (A)	8670mm
Ground to Ridge height from BDC Survey (Table 2.5) (B)	8880mm (NB: Para. 2.27 refers to ridge height of 9580mm based on ground level of 32.76m)
Difference in height between (A) and (B)	+210mm (+910mm)
FFL to Ridge height (Applicant's survey)	8585mm
Applicant's ridge height above FFL + DPC (BDC Survey Table 2.6) (C)	8585mm+ 420mm= 9005mm
Difference in height between (A) and (C)	+335mm
Officer comments:	The building has been constructed to a ridge height up to 910mm above the approved elevation on the NMA approval.
Eaves height from NMA approval plans	4750mm
Eaves height above Ground Level (Table 2.5)	5340mm
Officer comment:	The eaves height is 590mm higher than the approved plan.
Setting Out Differences compared to S.73 Site Plan (Tables 3.5-3.8)	Rear cross wing is up to 280mm closer to south boundary.
Officer comment	Plot 6's rear wing is closer to south boundary but not the main range.

4. Impacts on the Surrounding Area

- 4.1 Saved policy CN01 (Design standards) states that all new development is required to be of appropriate scale, form, detailed design and materials having regard to its location with particular attention to the scale, form and nature of adjacent development. This is echoed in Policy HS28 which deals with infill development and states that development should be refused where the proposal represents over-development or is of a scale, density or form out of keeping with adjacent dwellings. These policies are particularly relevant to the current application given its 'backland' and infill nature with adjoining development on at least two sides.
- 4.2 The approved plans were judged acceptable as a regeneration of a brownfield site by a scheme which was of a traditional Suffolk vernacular design and submitted plans, most notably section drawing 3368:24, which misleadingly showed the dwellings to be respectful in scale and separation of neighbouring properties. Notwithstanding the sloping nature of the site in two directions the proposed development was shown as consistent in height with frontage properties and less intrusive than the existing commercial buildings on the site which they replaced.
- 4.3 The development, as constructed to date, is larger than what the decision makers expected as can be seen in the above tables and this is a combination of a misleading plan which didn't show the true heights of the buildings and construction of the site on raised levels and to building heights in excess of what had been approved. Given this scenario it considered that the development does not accord with saved policies CN01 or HS28 nor the design statements in the NPPF.

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

Setting of Listed Building

- 5.1. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 5.2 Case law has indicated that decision makers should give 'considerable importance and weight' to the desirability of preserving the setting of a listed building when carrying out the balancing exercise as set out at Paragraph 134 of the NPPF between a proposal considered to give rise to less than substantial harm as against the public benefits of the proposal.
- 5.3 Government guidance on the conservation and enhancement of the historic environment is set out under Paragraphs 126-141 of the NPPF.
- 5.4 Para. 128. states that in In determining applications, LPAs should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting and Para 129. States that LPAs should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) . They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Para 132. Notes that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and the more important the asset, the greater the weight should be. Significance can be harmed through, inter alia, development within the setting of a heritage asset.

- 5.5 Para. 134 states that where a development proposal will 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, including securing its optimum viable use.
- 5.6 Saved Policy CN06 states that proposals for new work within the setting of a listed building should among other things:
- be of an appropriate scale, form, siting and detailed design to harmonise with the existing building and its setting; and
 - retain a curtilage area and/or setting which is appropriate to the listed building and the relationship with its surroundings;
- 5.7 White Hall House is a Grade 2 listed building. According to the Listing description it was formerly the White Horse Inn and dates from sometime in the 17th to 18th Centuries and comprises a two storey timber framed and plastered house faced in red brick on the south front.
- 5.8 At the time of the original planning approval for the development the advice of the Heritage Team was to commend the development as it resulted in the removal of industrial buildings which would improve the setting of White Horse House. This was echoed in the Committee report which stated as follows: *"It is considered that the demolition of several of the former industrial buildings on the site has significantly enhanced the setting of 'White Horse House'. The proposed dwellings are set back from the listed building (Plot 6 being the closest at approximately 9 metres from the rear wall of 'White Horse House') and their construction is considered to create an appropriate special setting for the listed building."*
- 5.9 The Applicant has commented on the impact of the s.73 application on the setting of the listed building as follows: "This S73 application and particularly the siting and details of Plot 6, which are not altered by it, do not alter the appropriate special setting created for the listed building. This application must be considered in relation to the impact of the buildings that previously occupied the site and not lost by the removal of these harmful buildings and their proximities to a designated heritage asset. This S73 application only seeks to clarify the final finished floor levels in respect of details that were at best 'light' at the determination of the application and does not alter any other approved detail of the scheme."
- 5.10 The Heritage Team comments on the impact of the works, the subject of the application, on the setting of White Horse House are as follows:
- "the scheme is an overdevelopment of the site, and seriously imposes upon the setting of White Horse House...primarily because of the increase in land levels across the site...Therefore, the apparent increase in ridge height amplifies the inappropriately scaled development, to the further detriment of this part of the Conservation Area, and the setting of the House, which has been severely damaged by this scheme. Anything that amplifies the scale and bulk of these properties, particularly that on plot 6, only serves to diminish the setting, and therefore the significance, of White Horse House, contrary to the requirements of the P(LBCA)A1990 and the policies within both the NPPF and the Local Plan. The Heritage Team therefore *objects* to the apparent increase in height of the property at plot no.6. "
- 5.11 The Heritage Team has also confirmed that the scale of the development causes a high level of 'less than substantial' harm to the setting of the listed building.

In assessing the impact on the setting of the listed building it is important to have regard to the precise relationship of the development to the listed building at White Horse House. The main impact on setting arises from the nearest new dwelling which is Plot 6, the rear of which faces the rear elevation of White Horse House. The approved site section drawing (3368/24) showed the ridge height of Plot 6 as being broadly at the same level as White Horse House. The Applicant's recently submitted cross section drawing (1471.22) which superseded the previous section shows Plot 6 as 0.5m higher than White Horse House. However, this is not representative of the actual position visible at the site nor is it in any way consistent with the BDC and Resident Survey results.

- 5.12 The recent BDC survey has shown that both the original and more recent section drawings are not accurate, and both show the height of Plot 6 as less than it really is. The latest section also shows White Horse House as having a ridge height of over 8.5 metres when the BDC survey shows it as being 7.41m (Paragraph 2.26). In fact, the recent surveys on behalf of residents and the Council have shown the height of Plot 6 to be 2.6m higher than White Hall House. However, of this increase 1.43m is the difference in height between the height of Plot 6 on the proposed section (7.24m) and the height as approved on the elevation drawing of the NMA application (8.67m) and has to be discounted as it has already been approved. This leaves an increase of around 1.17m as the increase derived from raised ground levels and an increase in building height as identified in Table 2.5 of the Enforcement Report. Whilst Plot 6 is the closest dwelling to the listed building being directly behind it, Plot 5 to the right of Plot 6 is also in the backdrop of views and makes a contribution to the adverse impact on White Horse House. The rest of the development is also within its rear setting albeit further back and therefore to a lesser degree. Accordingly, the main impacts on White Horse House are Plots 6 and 5 and it is considered that these units by reason of their close relationship and height are over-bearing and dominating to a degree which is considered to cause unacceptable harm to the setting of the listed building. The LPA is required under Paragraph 134 of the NPPF to weigh the above expressed harm against the public benefits of the development. The public benefits of the regeneration of a disused, former commercial site and the provision of new housing weighed heavily in favour of the development when it was approved in 2015 and it was judged that the new dwellings would create an appropriate special setting for the listed building. However, in carrying out this exercise again it is considered that the height and oppressive relationship of Plot 6 and Plot 5 to the rear of the listed building are such as to outweigh the public benefits of the development particularly noting that considerable importance and weight should be given to the desirability of preserving the setting of a listed building when carrying out the balancing exercise.

Impact on the Conservation Area

- 5.13 A conservation area is an area of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance (Section 69 of the 1990 Planning (Listed Buildings and Conservation Areas) Act). As a designated heritage asset the guidance set out the heritage section of the NPPF apply to conservation areas as well as listed buildings.

- 5.14 A conservation area is an area which has been designated because of its special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. Decision-takers should be mindful of the specific legal duties of the local planning authority with respect to the special attention which shall be paid to the desirability of preserving or enhancing the character and appearance of the Conservation Area, as set out in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 5.15 In the report to Committee for application B/14/01103 the development was described as being of 'traditional' form and appearance using materials from the local palette. The design with their simple forms, narrow roof spans and detailing including chimneys, steeply pitched roofs and natural materials were deemed reflective of the local vernacular and considered acceptable within the village conservation area. The proposed layout of the site was considered acceptable and respected the pattern of existing development in the vicinity of the site. Accordingly, it was considered that the proposed re-development of the site (which includes the demolition and removal of the remnants of the commercial buildings and hard standing on the site) would enhance the character of the Bures St Mary Conservation Area.
- 5.16 The comments of the Heritage Team on the impact of the current proposals on the Conservation Area are that the increase in land levels and consequential raised ridge levels constitutes an over-development and compromises and causes detriment to the character and appearance of this part of the Conservation Area. They have also indicated that the scale of the development causes a high level of 'less than substantial' harm to the Conservation Area.
- 5.17 The Cuckoo Hill development is in a 'backland' location set well back from Cuckoo Hill and, as originally approved, it should have been largely screened by existing frontage buildings. The main views are therefore from the access in Cuckoo Hill and other viewpoints above and in between the front buildings. There are limited street views of the development from points higher up or lower down Cuckoo Hill. The plot which has the most significant impact on views is Plot 6 as it is the closest house to Cuckoo Hill and closest to the access and most prominent in views from that opening in the street scene. However, Plot 5 can also be seen to the right of Plot 6 as well as the units towards the rear of the site (Plots 1-4). The increase in height of Plots 5 and 6 is considered to be the most significant in relation to impact on the Conservation Area most notably because of the way these units 'dominate' the frontage buildings and appear uncomfortably oppressive in height in their backdrop. The increased height of Plot 6 together with Plot 5 are therefore judged to be harmful to the character and appearance of the Conservation Area. The LPA is required under Paragraph 134 of the NPPF to weigh the above expressed harm to the Conservation Area against the public benefits of the development.
- 5.18 The LPA is required under Paragraph 134 of the NPPF to weigh the above expressed harm against the public benefits of the development. The public benefits of the regeneration of a disused, former commercial site and the provision of new housing weighed heavily in favour of the development when it was approved in 2015 and it was judged that the new dwellings would enhance the conservation area. However, in carrying out this exercise again it is considered that the increased height and oppressive relationship of Plot 6 and Plot 5 to the street scene in Cuckoo Hill and wider area are such as to outweigh the public benefits of the development.

6. Impacts on Residential Amenity

- 6.1 Paragraph 17 of the NPPF sets out a number of core planning principles to underpin decision-taking, including, seeking to secure a good standard of amenity for all existing and future occupants of land and buildings. The proposals have been assessed having regard to impacts on the living conditions or residential amenity of immediate neighbours including impacts on sunlight, daylight, privacy and outlook.
- 6.2 **White Horse House** is a two storey dwelling with a small rear yard at the back leading to a side garden. The rear elevation and side garden formerly faced a commercial site yard and driveway respectively before the commercial use ceased and the buildings were demolished. White Horse House has a rear ground floor kitchen window which faces onto a rear boundary wall and there are no other openings on the rear of the building.
- 6.3 The impact of the approved development on the residential amenity of White Horse House is mainly related to Plot 6, which is sited behind the dwelling. The original Committee Report referred to Plot 6 as being the closest at approximately 9 metres from the rear wall of 'White Horse House' and the 'proposed' cross section on plan 3368/24 showed the height of Plot 6 as being broadly similar to the ridge height of White Horse House.
- 6.4 The Committee report stated with regard to the general impact of the development that:
- "the six dwellings have been carefully positioned and designed within the proposed development such that there would be no unacceptable overlooking between the existing (neighbouring) and proposed dwellings (including private garden areas) and there would be no dominating impacts or overshadowing as a result of the proposals."
- 6.5 The siting and separation distance of Plot 6 in relation to the southern boundary with White Horse House has been found, following on- site surveys to be within a reasonable tolerance of the approved plans and no demonstrable breach to have taken place in this respect.
- 6.6 The assessment of building and ground level heights reviewed earlier in this report as part of the BDC Survey indicated that the ground level of Plot 6 was over a metre higher than the expected level and the building has been constructed at least 120mm higher than approved.
- 6.7 The impact of these changes on the amenity of White Horse House comprises increased potential overlooking from rear facing windows in Plot 6 towards the rear elevation and side garden of White Horse House. This includes potential overlooking from raised ground floor patio doors from the living room as well as rear facing first floor bedrooms.
- 6.8 The increased height of Plot 6 to White Horse House also gives rise to visual intrusion and loss of outlook impacts particularly experienced from the side garden area which would not have been so intense and significant if the development had been implemented in accordance with the proposed cross-section or to a lower overall height in accordance with the NMA plans.
- 6.9 As noted earlier in the report the 'proposed' cross-section drawing was not accurate as it did not show the true height of Plot 6, which was in reality significantly higher than it was represented. The increase in height is significant given the close relationship between the buildings and which can be clearly seen on site. The windows in the rear elevation of Plot 6 on ground and first floor levels potentially give views into the kitchen and side garden of White Horse House.

To mitigate this potential the Applicant proposes 1.8m fences and additional planting in the form of a 2.6m high laurel hedge to be planted 1 metre in from the southern and western garden boundaries. At first floor level windows facing White Horse house and garden are to bedrooms and have been approved in the original permission albeit at a level of around 1 metre lower. The proposed laurel hedge boundary screening would provide a degree of enclosure to the neighbours' privacy. However, it would still not fully mitigate the impact of the height and visual intrusion that Plot 6 would have on the outlook and amenity of the neighbours. In addition, concerns have been raised by neighbours regarding the efficacy of this measure given the need to retain and maintain it in place and possible impacts of root damage to walls. Therefore it is judged, notwithstanding the proposed hedge, that there would be material harm to neighbour amenity.

- 6.10 **6 and 7 Cuckoo Hill**- These are a pair of semi-detached two storey buildings, the rear of which face the rear elevation of Plot 5. Both dwellings have only very narrow rear yards and only very small window openings facing towards the development none of which serve habitable rooms. Prior to the demolition of the former slaughterhouse buildings on the site these properties faced the gabled end elevation of one of the buildings which rose to an apex of 7m in height.
- 6.11 The re-positioning of the footprint of Plot 5 one metre closer to the southern boundary as found in the BDC Survey is a significant alteration. However, given the separation of Plot 5 from the southern boundary with Nos 6 and 7 and the lack of garden areas and windows to any habitable rooms it is considered that there would be no adverse impact on amenity.
- 6.12 **'Eversley'** – this is a chalet bungalow set back from the road which has a rear elevation and patio garden which is positioned to the south-east of Plot 5. There is an oblique angled relationship between the sites. Prior to the development the former slaughterhouse building abutted the side boundary to a ridge height of 7 metres and there were windows on the boundary. Whilst noting that Plot 5 is 1 metre closer to the southern boundary and higher than approved, it is not considered that it is visually intrusive given the former presence of buildings on the boundary.
- 6.13 **Byron House** is a one and a half storey dwelling with access from St Edmunds Lane and it is located immediately to the west of the semi-detached dwellings (Plots 1 and 2) . The rear garden of Byron House is adjacent to the frontage of Plot 1 and is enclosed by timber fencing.
- 6.14 The approved layout plan and all layout plans subsequently submitted until the latest plan Revision G showed the siting of Plots 1/2 as sitting wholly within the limits of the side elevation of Byron House. However, as constructed, the front elevation of Plots 1/2 is approximately 3 metres forward of the back wall of Byron House. The relocation of Byron House on the latest plan further north and closer to St Edmunds Lane rectifies the mapping error as the BDC Survey has not found that Plots 1/2 have been set out to such an incorrect degree within the parameters of the development site. The development of Plots 1/2 as constructed gives rise to potential visual intrusion/loss of outlook to the occupiers of Byron House which was not evident to the decision-makers at the time the original application was determined. In addition, the ridge height of these units has been found to have been increased by up to 270mm. However, Plots 1/2 were approved as full two storey houses and Byron House is a one and a half storey house so there was always going to be a significant difference in height between the dwellings and the submitted cross-section drawing 1471.22 shows the height difference between Plots 1/2 and Byron House to be nearly 3 metres. Officers appreciate the concerns raised by the occupiers of Byron House and it is regrettable that the mapping error was not identified before the development

commenced. However, it is not an impact that has been directly caused by changes to the siting of the dwellings within the development site albeit the surveys have indicated the dwellings were positioned further south by a small margin.

- 6.15 Officers have assessed the impact of Plots 1/2 on the neighbours' amenity and find that the only harm that could be judged to have been caused is a loss of outlook and visual intrusion arising from the height and massing of the flank elevation of Plot 1 which extends at least 3 metres behind Byron House but at a distance rising from 2 to 3 metres from the boundary. Notwithstanding that this is not an impact directly arising from the implementation of the development it is not considered that the harm arising would have been so harmful as to justify refusal of the application.

7. Planning Obligations/CIL

- 7.1 The original application was approved prior to the adoption of the CIL charging regime.

PART FOUR – CONCLUSION

8. Planning Balance and Conclusion

- 8.1 The purpose of this application is to seek approval under S.73 for amended plans on the basis that they constitute a minor material amendment to the approved development. The development comprises 6 dwellings on a brown field, former commercial site which is adjacent to a listed building, forms part of the Bures Conservation Area and is adjacent to existing residential neighbours. The site is also on a hill where land levels rise to the north and west. Following the discharge of relevant conditions work started on site in late 2017 and it became apparent that the development was not being constructed in accordance with approved plans with respect to ground levels and the Enforcement Team investigated complaints on these grounds.
- 8.2 The S.73 application was submitted to regularise the differences in levels and plans showing existing and proposed ground levels and finished floor levels were submitted. Officers have assessed the submission and have carried out extensive surveys of the development under construction to assess ground levels, building dimensions and site layout. This included an independent survey the results all of which are set out in the appended Enforcement Report.
- 8.3 The results of the assessments lead Officers to conclude that raised ground levels and building heights and amended layout variously with respect to Plots 5 and 6 give rise to material detrimental harm to the setting of a Grade 2 listed building known as White Hall House. It is also considered that those same changes together with other changes in the heights of other plots, albeit to a lesser degree given their location further north on the site, give rise to a material adverse impact on the character and appearance of the Bures Conservation Area. These impacts are judged to give rise to a high level of less than substantial harm within the meaning of Paragraph 134 of the NPPF and are not justified by public benefits related to the regeneration of the site.
- 8.4 Given the close relationship of the development to adjacent residential neighbours', consideration has been given to adverse impacts on amenity arising from unauthorised changes to the approved development. It has been found that the development of Plots 5 and 6 have an adverse impact on the amenity of the residents of White Hall House with particular regard to overlooking, loss of outlook and visual intrusion.

8.5 As described above this Section 73 application relates to the entirety of the development as under construction and to be completed. The various elements of that cannot be split away where there are both acceptable and unacceptable elements of the development. It is therefore necessary to make a decision in the round on the application before you. Mindful that the NPPF requires planning authorities to place significant weight on the need to support economic growth, which housebuilding activity represents, and to look for solutions working with applicants it is appropriate to note that the application as presently framed is of such unacceptable impact that it cannot be considered sustainable development in the round. With that national guidance in mind it will be open to the applicant to seek to put forward a revised proposal or proposals which might allow for distinct consideration of the various elements on their own merits. The impacts of the present application are, nonetheless, of such clear import that a decision and any expedient follow up steps to safeguard the heritage environment and local amenity are now appropriate in order to progress towards a resolution.

8.6 For the above reasons it is recommended that the application be refused.

RECOMMENDATION

That authority be delegated to the Corporate Manager - Growth & Sustainable Planning to Refuse the s.73 Application for the following reasons:-

In determining this planning application the Council has not only had regard to the NPPF and its own Adopted Core Strategy and Policies but has been able to experience its physical impacts by virtue of the fact that it has been largely constructed. The retrospective nature of the application has afforded the unusual opportunity to gauge such impacts not theoretically from drawings but from seeing the development 'as built' within the context of surrounding existing development.

In assessing that impact the Council has concluded that the application would not have been approved in the form it has now been built had a planning application for a development in this form been submitted ahead of construction.

In determining this application, the Council has noted and had full regard to the earlier planning permission [ref; B/14/14/01103] granted on 13 February 2015. That development was not implemented in accordance with the approved drawings and it is the current application that seeks to regularise that breach.

The Council finds the current application unacceptable and consequently refuses it for reasons that will now be explained.

In summary the two storey detached houses as built on plots 5 and 6 and as shown on drawing number 1471/21G and 1471.22 are unacceptable for the significant harm they cause to:

- (i) the residential amenity enjoyed by the property known as White Horse House immediately to the south; and
- (ii) the character of the Conservation Area; and,
- (iii) the setting of the adjacent Grade II listed building – 'White Horse House'

Specifically:

Harm to Residential Amenity

As a result of:

- (a) the ground level on plot 6 being raised beyond those previously approved; and,
- (b) the consequent rise in finished floor level of the plot ; and,
- (c) the overall increase in height of the buildings on plots 5 and 6 beyond that previously approved.

The house on plot 6 as well as Plot 5 immediately to the east now have an unacceptably overbearing and over-scaled relationship with the adjacent modest-sized traditional vernacular property 'White Horse House'. They now loom over White Horse House and result in a significant and unacceptable level of harm to the outlook experienced from the rear of that property and its associated private garden space. The increase in height of the position of first floor windows to the rear of the house on plot 6 now results in an unacceptable perception from White Horse House of being overlooked and of the privacy of its amenity space being infringed.

The unacceptable harm identified above is contrary to paragraphs 17, 56, 57 & 64 of the NPPF in so far as the houses on plots 5 and 6 as built [in the opinion of the Council]:

- does not secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings; does not contribute positively to making the place better (56);
- has not achieved high quality (57);
- does not establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit (58);
- does not respond to local character and history, and reflect the identity of local surroundings and materials (58)

and therefore, as advised in paragraph 64 the Council is refusing the development on the ground, inter alia, of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

The development is considered to be contrary to saved policies CN01, CN06, CN08, HS28 of the Babergh Local Plan (Alteration No.2) 2006 and Policy CS15 of the Babergh Core Strategy and Policies (2014).

Failure to preserve or enhance the character of the Conservation Area

The house on plot 6 when viewed from Cuckoo Hill is unduly prominent within the street scene rising as it does above White Horse House which forms part of a charming group of properties within the heart of the Conservation Area. In addition, the houses on plots 5 and 6 will be even more prominent and intrusive during the autumn and winter months when the trees that in part currently soften its impact are bare. This level of visual dominance harms the character of the conservation area which currently can be defined as comprising predominantly small scale linear frontage development on Cuckoo Hill.

The unacceptable harm identified above is contrary to paragraph 131 of the NPPF in so far as the houses on plots 5 and 6 as built in the opinion of the Council:

- do not sustain and enhance the significance of the heritage asset that is a Conservation Area; (131)
- do not make a positive contribution to local character and distinctiveness. (131)

In carrying out the balancing exercise under Paragraph 134 of the NPPF it is considered that the increased height and oppressive relationship of Plot 6 and Plot 5 to the street scene in Cuckoo Hill and wider area are such as to outweigh the public benefits of the development.

The development is considered to be contrary to saved policy CN08 of the Babergh Local Plan (Alteration No.2) 2006 and Policy CS15 of the Babergh Core Strategy and Policies (2014) .

Harm to the Setting of the listed White Horse House

White Horse House is a 2 storey C17-C18 timber -framed house, formerly a public house, with an asymmetrical plain tile roof. The roof to the rear has a long raking sweep from the ridge reflecting the fact that it has its eaves over the single storey element.

The house on plot 6 has been constructed in ways described in (a) – (d) [incl.] above that have resulted in significant and unacceptable harm being caused to the setting of the adjacent listed building as a result of the new houses unduly overbearing scale and juxtaposition in relation to White Horse House. Whilst intimate relationships between buildings can be found in the conservation area these tend to be visually harmonious. In this particular case the new house dwarfs the older listed building significantly detracting from its place in the street disturbing and disrupting the composition of the properties that line Rd in the heart of the Conservation Area. This dominance is something that would not have been an issue with the previously approved scheme where the relationship between it and its listed neighbour had been carefully considered when approving that scheme.

The unacceptable harm identified above is contrary to paragraphs 131 & 134 of the NPPF in so far as the house on plot 6 as built in the opinion of the Council:

- does not sustain and enhance the significance of the heritage asset that is the Grade II listed building – White horse House (131)
- does not result in sufficient public benefits to the overall housing stock in Babergh District and the regeneration of a former commercial site to outweigh the less than substantial harm caused to the setting of the Grade II listed White Horse House particularly noting that considerable importance and weight should be given to the desirability of preserving the setting of a listed building when carrying out the balancing exercise.




The development is considered to be contrary to saved policy CN06 of the Babergh Local Plan (Alteration No.2) 2006 and Policy CS15 of the Babergh Core Strategy and Policies (2014) .

Application No: DC/18/00929




Parish: Bures St Mary



Location: The Slaughter House and Land Adjacent, Cuckoo Hill

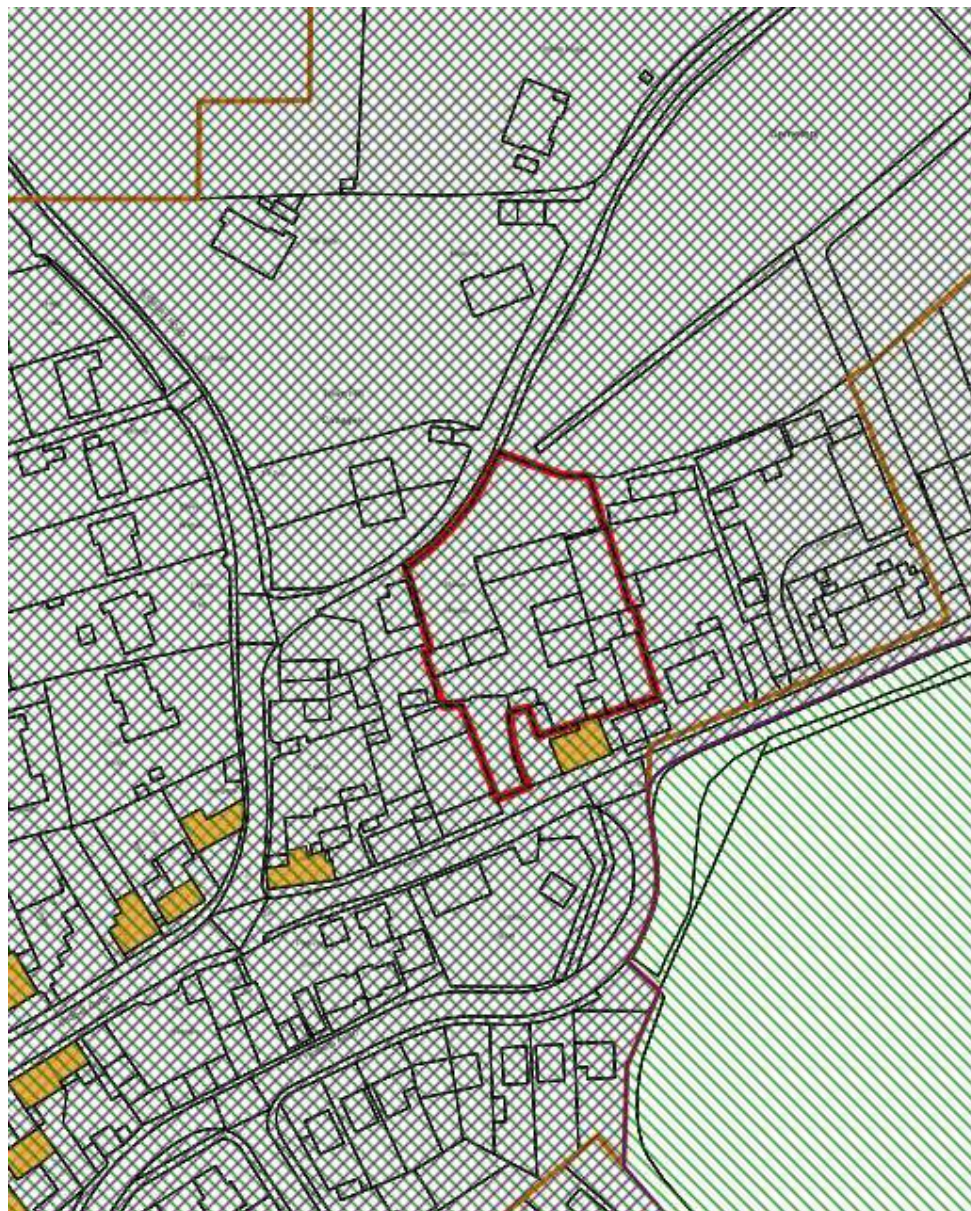
Legend

-  Area of Outstanding Natural Beauty
-  Special Landscape Area
-  Conservation Area

Listed Buildings

-  Grade 1
-  Grade 2
-  Grade 2 *

-  The Site
-  Built up Area Boundary



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Cuckoo Hill, Bures St Mary – Apple Tree Mews development**Planning Enforcement case ref: 17/00439/NFP****Development Management case ref: DC/18/00929**

Report on analysis of the site survey commissioned by the Council and comparison with the details submitted as part of the applications submitted in 2014 (ref. B/14/01103), 2017 (Non-Material Amendment under ref. B/14/01103) and 2018 (DC/18/00929), plus site measurements taken by Planning Enforcement Officers on 6 June 2018.

Part 1 – Levels:

Analysis of the site survey data (original 2003 survey vs BDC commissioned 2018 survey) reveals the following:

- 1.1. Levels within the site access are consistent across both surveys – indicating that those areas of the site which have not changed in the period between the surveys have been measured as having the same levels now as previously. This is important as it gives confidence that the baseline datum point is consistent across both surveys, leading to the conclusion that both sets of measurements are equally reliable.

Table 1.1: The principal findings from the comparison of surveys are detailed in the tables below:

Plot No.	Spot Height Location	2003 Level (m)	2018 Level (m)	Difference (m)
1	South-West corner	33.55	33.54	-0.01
1	North-West corner	34.52	33.55	-0.97
2	North-East corner	34.21	33.55	-0.66
2	South-East corner	33.43	33.46	+0.03
3	South-West corner	33.92	33.59	-0.33
3	Front of plot	34.09	34.02	-0.07
3	North-West corner	34.34	34.03	-0.31
4	West edge	34.09	34.47	+0.38
6	Front of plot	33.07	33.82	+0.75
6	Front of plot	33.07	33.46	+0.39
6	West of plot	32.65	32.38	-0.27
6	West of plot	32.39	32.48	+0.09
6	South of plot	32.62	33.38	+0.76
6	South of plot	33.28	33.69	+0.41

Boundary	North-West	32.39	32.37	-0.02
Boundary	North-East	34.50	34.73	+0.23
Boundary	East	34.55	34.30	-0.25
Site	Centre	33.21	33.69	+0.48
6	Garden (rear) – Drain	33.01	33.61	+0.60
Boundary	South-East	34.18	33.92	-0.26
Boundary	South	32.98	32.92	-0.06
Boundary	South	32.77	32.68	-0.09

NB. The reference points at the southern boundary of the site are quite close because the 2003 survey only included two spot levels due to the presence of buildings.

NB. The drain cover located in the 'garden' area to the south of Plot 6 is of note because a drain cover was present in a similar location on the 2003 survey.

- 1.2. My assessment of the results from this analysis is that there has been some ‘cut and fill’ to make the site more level than it was previously. It is my view that the ‘cut’ has been taken from the north-western area of the site – the location of Plots 1 and 2, as well as Plot 3 – with the ‘fill’ being in and around the location of Plots 4 and 6. My response to Mrs Frewin’s stage 1 complaint indicated that the greatest change to FFLs was for these two plots, so the survey has confirmed our original findings. There may also be some ‘fill’ in and around the location of Plot 5 but it is not possible to be conclusive due to the absence of useable data on the 2003 survey for the area that building now occupies.
- 1.3. It is prudent, I believe, to point out that there are some barriers to a precise and full analysis of the changes to site levels given that the original survey was taken with the previous buildings in place – so no levels were provided for the areas covered by buildings – and the spot heights on the survey we commissioned are not in exactly the same places as those on the 2003 survey. I have, in my analysis, sought to match as closely as possible spot height locations from the 2003 survey with spot height locations on the 2018 survey. There are some areas of the site where this is simply not possible because the 2003 survey does not provide data – principally, the southern and eastern portions of the site which were occupied by the old buildings.

Analysis of the ‘site sections’ drawing submitted with the 2014 application (ref. B/14/01103)

- 1.4. The ‘site sections’ drawing (ref. 3368:24) submitted with the 2014 planning application has been cited by local residents when raising their concerns about the development as built.
- 1.5. In terms of levels, the site sections drawing indicates ground levels are to be raised slightly to the south of Plot 6 (by 170mm, from 32.75 to 32.92) and lowered slightly to the north of Plot 6 (by 70mm, from 32.99 to 32.92), and lowered significantly for the area of Plot 3 (by 700mm, from 34.10 to 33.40).
- 1.6. Comparison of the spot heights on the 2014 ‘site sections’ drawing with appropriate spot heights on the survey commissioned by BDC indicates levels for Plot 3 have been lowered by between 80mm (from 34.09 down to 34.01) and 510mm (from 34.10 down to 33.59), whereas levels for Plot 6 have been increased by approx. 470mm (from 32.99 up to 33.46) at the northern elevation and approx. 630mm (from 32.75 up to 33.38) at the southern elevation.
- 1.7. The indication on the site sections drawing is that the intention was to level the gradient on site for the areas to be occupied by Plot 6 and Plot 3, and for the levelling works to marginally raise ground levels for the area to be occupied by Plot 6, and provide a reduction in ground levels for the area to be occupied by Plot 3. The survey commissioned by BDC shows that ground levels for the area occupied by Plot 3 have actually been lowered by less than indicated on the site sections plan, whilst the ground levels for the area occupied by Plot 6 have actually been raised significantly instead of marginally.

Analysis of the data on the layout drawing submitted with the current (2018) application:

- 1.8. The ‘proposed setting out and landscaping plan’ submitted with the current application, Dwg. Ref. 1471.21F, indicates ‘existing’ ground levels and ‘new’ ground levels for the site, and ‘finished floor levels’ (FFL) for each of the dwellings.
- 1.9. The ‘existing’ levels indicated on Dwg. 1471.21F can be matched to those shown on the levels drawing submitted with the 2014 application (Dwg. Ref. 430-1). Dwg. 1471.21F also shows those levels to be retained (‘new’ levels), and these can be compared to the ‘existing’ levels

(from the 2003 survey) and the current ground levels indicated by the survey commissioned by the Council.

Table 1.2: Comparison of the ‘existing’ ground levels on Dwg 430-1 (2003), the ‘retained’ ground levels on Dwg 1471.21F (2018) and the surveyed ground levels (2018) indicates the following:

Plot No.	Spot Height Location	2003 Level (m) ("existing") (E)	Dwg 1471.21F ("retained") (R)	2018 Level (m) ("surveyed") (S)	Difference (m) (R vs S)
1	South-West corner	33.50	33.50	33.57	+0.07
1	North-West corner	34.60	34.60	33.62	-0.98
2	North-East corner	34.21	33.90	34.03	+0.13
2	South-East corner	33.92	33.60	33.46	-0.14
3	South-West corner	34.04	[not shown]	33.88	[-0.16]
3	Front of plot	34.09	[not shown]	34.01	[-0.08]
3	North-West corner	35.03	34.30	34.25	-0.05
4	West edge	34.09	34.60	34.47	-0.13
6	Front of plot	33.17	33.17	33.82	+0.65
6	Front of plot	32.49	32.49	32.92	+0.43
6	West of plot	32.43	32.43	32.38	-0.05
6	West of plot	32.11	[not shown]	32.48	[+0.37]
6	South of plot	32.50	32.50	32.97	+0.47
6	South of plot	33.28	33.28	33.69	+0.41
Boundary	North-West	32.39	32.39	32.37	-0.02
Boundary	North-East	34.50	34.50	34.73	+0.23
Boundary	East	34.55	34.20*	34.30	+0.10
Site	Centre	33.21	33.17*	33.69	+0.52
6	Garden (rear) – Drain	33.01	[not shown]	33.61	[+0.60]
Boundary	South-East	34.18	34.00*	34.02	+0.02
Boundary	South	32.98	32.98	32.92	-0.06
Boundary	South	32.77	32.77	32.68	-0.09

NB. Levels shown in *italics* are reduced ‘new’ levels; levels shown in **bold** are raised ‘new’ levels; levels marked with an asterisk are the closest available level for comparison; results within brackets are the difference between the 2003 survey and the 2018 survey, in the absence of a reference on the 2018 layout drawing.

- 1.10. The results of this analysis indicate that none of the levels on site, for the reference points used, match those indicated as either existing, retained or proposed on the layout drawing submitted with the current (2018) application. For some, the difference is marginal and could be accepted as being within a reasonable tolerance. For others, the difference between ‘proposed’ and ‘actual’ levels is significant and, as such, due consideration should be given to whether or not they result in a materially different development to that proposed on the drawings submitted with the current application.
- 1.11. It is also worth considering the proposals on the layout plan submitted with the current application (and the results of the survey commissioned by the Council) in comparison with the details on the site sections plan submitted with, and approved under, the 2014 application.
- 1.12. The 2014 site sections plan indicates, for Plot 3, that levels would be reduced from approx. 34.10 to 33.40, at the front and back of the dwelling. The layout plan with the current application indicates levels at the front of Plot 3 to be between 33.60 (front of Plot 2) and 34.60 (front of Plot 4), and levels at the rear of Plot 3 to be 34.30. These levels are between 0.20m

and 1.2m higher than was proposed in 2014. The survey commissioned by the Council indicates levels for Plot 3 to be 34.01 at the front and 34.25 to the rear – approx. 610mm higher at the front, and approx. 850mm higher at the back, than was proposed in 2014.

- 1.13. The survey commissioned by the Council also confirms the levels implemented on site for Plot 3 to be approximately equal to those proposed on the layout drawing submitted with the current (2018) application.
- 1.14. For Plot 6, the 2014 site sections plan indicates levels would be raised at the rear from 32.75 to 32.92, and lowered at the front from 32.99 to 32.92. The layout plan with the current application indicates levels at the rear of Plot 6 to be 32.60, and levels at the front of Plot 6 to be 32.49 (west) and 33.07 (east). These levels are approx. 320mm lower at the rear of the plot than was indicated on the 2014 plan, and between 430mm lower and 150mm higher at the front than was indicated on the 2014 plan.
- 1.15. The survey commissioned by the Council indicates the levels implemented on site for Plot 6 to be between approximately 410mm and 650mm higher than those proposed on the layout drawing submitted with the current (2018) application.

Finished Floor Levels:

- 1.16. The ‘proposed setting out and landscaping plan’ submitted with the current application, Dwg. Ref. 1471.21F, indicates ‘finished floor levels’ (FFL) for each of the dwellings. Drawings submitted with previous applications did not provide this information.

Table 1.3: Comparison of the ground levels proposed (or ‘retained’) on Dwg. Ref. 1471.21F with the Finished Floor Levels (“FFL”) proposed on the drawing provides the following results:

Plot	FFL	Ground (front)	Difference	Ground (rear)	Difference
1	33.90	33.50	+0.40	33.60	+0.30
2	33.90	33.60	+0.30	33.90	+0.00
3	34.50	34.10*	+0.40	34.30	+0.20
4	35.10	34.60	+0.50	34.90	+0.20
5	34.50	34.20	+0.30	34.00	+0.50
6	33.90	32.78**	+1.12	32.60	+1.30

NB * – average of ground levels in front of Plot 2 and Plot 4 in the absence of a level proposed directly in front of Plot 3

NB ** – average of two proposed ground level points indicated at the front of Plot 6

- 1.17. These results indicate that proposed FFLs are, for most of the Plots, between 300mm and 500mm above ground levels at the front, and up to 500mm above ground level at the rear. Building Regulations require FFL to be a minimum of 150mm above ground level.
- 1.18. The exception within these results is Plot 6, which has a proposed FFL which is over 1.1 metres above ground level at the front of the Plot, and 1.3 metres above ground level at the rear of the Plot.

Table 1.4: Comparison of the ground levels and the floor levels recorded by the survey commissioned by the Council provides the following results:

Plot	Floor Level	Ground (front)	Difference	Ground (rear)	Difference
1	33.91	33.54	+0.37	33.55	+0.36
2	33.91	33.60	+0.31	33.90	+0.01
3	34.28	33.87*	+0.41	34.03	+0.25
4	35.08**	34.52	+0.56	34.56	+0.52
5	34.47**	34.28	+0.19	34.02	+0.45
6	33.90**	33.42*	+0.48	33.11*	+0.79

NB * – average of four ground levels recorded by the survey for the relevant elevation of the plot.

NB ** – Threshold level

- 1.19. These results indicate that the floor levels for most of the dwellings are approximately equal to that detailed on the proposed drawing with the current (2018) application. The exception being Plot 6 where the difference between floor levels and ground levels is substantially less than shown on the plan.

Conclusion:

- 1.20. The plans submitted with the 2014 application indicated ground levels would be significantly reduced for the area to be occupied by Plot 3 and marginally increased across the area to be occupied by Plot 6. Proposals in the current application are to retain existing ground levels at the front of Plot 3 and marginally increase levels at the rear, whilst reducing levels marginally to the rear of Plot 6 and retaining them at the front – essentially, to build on the site without any significant adjustment to the ground levels.
- 1.21. The survey commissioned by the Council indicates that ground levels are different for all the reference points used for comparison. Some of the differences are marginal, or within an acceptable tolerance, whilst others are more substantial. In particular, levels around Plot 6 have increased, according to the survey, by between 410mm and 650mm.
- 1.22. Levels around Plot 6 have been cited by local residents as being of particular concern. The site sections plan submitted with the 2014 application indicated levels would be increased slightly (170mm) at the rear of Plot 6 and reduced marginally (70mm) at the front. The current proposals are to build at existing levels, and the survey indicates levels have been increased across the Plot 6 area. On that basis, the concerns raised by the local community are substantiated and need to be addressed.
- 1.23. In contrast, concerns raised by local residents in relation to levels at the southern boundary are not substantiated by the survey – the indication being that levels are lower (albeit, marginally) than before the site was redeveloped, though it should be noted that there are limited comparable reference points due to the absence of data on the 2003 survey (due to presence of buildings).
- 1.24. It should be noted that layout plans submitted with the original 2014 application, and those submitted with the 2017 NMA application, did not include ground level details within the development site. The 'site sections' drawing submitted with the original 2014 application is the only plan for that application which makes reference to ground levels, so it is unsurprising that it has been cited by local residents as being representative of their expectation of how the development would appear once built.

- 1.25. Unfortunately, the proposed levels indicated on the site sections drawing have not been achieved during development of the site, and actual levels – particularly for Plot 6 – are now significantly higher than indicated on the drawing – up to 750mm higher depending on which reference point is used for comparison.
- 1.26. The layout drawing submitted with the current application proposes different ground levels to those on the 2014 site sections drawing – such that Plot 3 would be built at levels up to 1.2m above those proposed on the 2014 plan, and Plot 6 would be constructed on ground levels 0.3m lower at the rear and up to 0.4m lower at the front.
- 1.27. The survey commissioned by the Council confirms that the proposed ground levels for Plot 3 – depicted on Dwg. Ref. 1471.21F – have been achieved on site, but those proposed for Plot 6 have not – the building being on ground levels between 410mm and 650mm higher than indicated on the current (proposed) layout plan.
- 1.28. On that basis, it may be reasonable to conclude that parts of the development as built are materially different to that indicated on the drawings accompanying the current application, and may have a different impact on the locality and the residential amenity of existing residential properties compared to those proposals, and compared to the development illustrated on the previously approved plans.

Part 2 – Dimensions:

Analysis of the application plans (2014 application ref. B/14/01103 vs 2017 NMA under ref. B/14/01103) in respect of the dimensions of the dwellings reveals the following:

- 2.1 The spot heights included on the site sections drawing (ref. 3368:24) submitted with the 2014 application, and approved under Planning Permission ref. B/14/01103, have been plotted on the 2003 levels survey also submitted with the 2014 application, and subsequently approved as forming part of the permission. The line of the ‘cut’ through the site illustrated by the section drawing goes through the centre of the site on a north-south axis. I have assumed the dwellings indicated on the ‘proposed’ section to be Plots 3 and 6, given that the section ‘view’ cuts through the areas which would be occupied by those dwellings.

Table 2.1: The ‘existing’ section drawing provides the following information:

Drawing Ref	Description	Property	Ridge Height (m)
3368:24	Existing Section	White Horse House	7.49
		South-East building	6.72
		Eastern building	7.24 (south end)
		Eastern building	6.70 (north end)

Table 2.2: The ‘proposed’ section drawing provides the following information:

Drawing Ref	Description	Property	Ridge Height (m)	Eaves Height (m)
3368:24	Proposed Section	White Horse House	7.64	n/a
		Plot 6	7.24	4.28
		Plot 3 (main)	7.09	4.02
		Plot 3 (cross wing)	6.18	4.21

Table 2.3: Comparison of the ‘proposed’ section drawing from the 2014 application with the ‘plans and elevations’ drawings also submitted with the 2014 application provides the following:

Drawing Ref	Description	Ridge Height (m)	+/- vs 3368:24 (m)	Eaves Height (m)	+/- vs 3368:24 (m)
3368:19	Plot 6 Elevations	8.57	+1.33	4.80	+0.52
3368:21	Plot 3 Elevations	8.68 (main)	+1.59	4.58	+0.56
3368:21	Plot 3 Elevations	7.75 (cross wing)	+1.57	4.58	+0.37

Table 2.4: Comparison of the ‘proposed’ section drawing from the 2014 application with the ‘plans and elevations’ drawings submitted with the 2017 NMA application provides the following:

Drawing Ref	Description	Ridge Height (m)	+/- vs 3368:24 (m)	Eaves Height (m)	+/- vs 3368:24 (m)
1471.05	Plot 6 Elevations	8.67	+1.43	4.75	+0.47
1471.02	Plot 3 Elevations	8.68 (main)	+1.59	4.73	+0.71
1471.02	Plot 3 Elevations	7.66 (cross wing)	+1.48	4.73	+0.52

- 2.2 The conclusion drawn from the above analysis is that the elevations drawings submitted with the 2014 application and those submitted with the 2017 NMA application provide broadly the same height dimensions for the proposed dwellings.
- 2.3 In addition, it can also be concluded that the ‘proposed’ section drawing submitted with the 2014 application was inaccurate and, importantly, misleading in its representation of the heights of Plots 3 and 6 of the proposed development.

Analysis of the site survey data (2018 BDC commissioned survey) and the approved drawings (2017 NMA application under ref. B/14/01103) in respect of the height dimensions of the dwellings reveals the following:

Table 2.5: The BDC commissioned survey measurements indicate the ridge and eaves heights, and the difference when compared to the NMA drawings, to be as follows:

Plot	Ridge – 2018 Survey (m)	Ridge – NMA Drawing (m)	Difference (m)
1	8.84	8.65	+0.19
2	8.92	8.65	+0.27
3	9.04	8.68	+0.36
4	9.11	8.67	+0.44
5	8.95	8.67	+0.28
6	8.88	8.67	+0.21

Plot	Eaves – 2018 Survey (m)	Eaves – NMA Drawing (m)	Difference (m)
1	5.33	4.86	+0.47
2	5.42	4.86	+0.56
3	5.51	4.86	+0.65
4	5.47	4.85	+0.62
5	5.36	4.86	+0.50
6	5.34	4.75	+0.59

- 2.4 The results above indicate that the dwellings, as built on site, are higher to the ridge than indicated on the drawings approved under the 2017 NMA application by between 190mm (Plot 1) and 440mm (Plot 4).
- 2.5 The measurements analysis from the survey is to ground level. It is assumed that the NMA drawings depict dimensions from ground level. There is no indication on the approved NMA drawings that the dimensions of the dwellings are from anything other than ground level.
- 2.6 Our usual practice for measuring the dimensions of buildings is to go from DPC (Damp Proof Course) – because it is a fixed point; ground levels around buildings may be uneven; ground levels around buildings may be ‘made up’ after the build is complete; plans submitted with proposals usually indicate ground as being flat and level; Building Regs require DPC to be a minimum of 150mm above ground level.
- 2.7 In order to compare the measurements taken on site by Planning Enforcement Officers with the data provided by the survey it is necessary to calculate the difference between ground level and DPC, and then remove that from the overall height measured by the survey.
- 2.8 The survey has provided floor levels for the plots, where possible – Plots 1 to 3. Floor levels can be expected to be broadly the same as DPC. Where the measurement of floor levels has not been possible, a ‘threshold’ level has been provided on the survey instead – this is applicable for Plots 4, 5 and 6. The threshold is expected to be approx. 18mm above floor level.

Table 2.6: Calculations to establish the DPC level are detailed below:

Plot	Reference	Level Measurement (m)	Ground Measurement (m)	Difference (m)
1	Floor	33.91	33.54	+0.37
2	Floor	33.91	33.46	+0.45
3	Floor	34.28	33.80	+0.40
4	Threshold	35.08 (-0.02)	34.47	+0.59
5	Threshold	34.47 (-0.02)	34.02	+0.43
6	Threshold	33.90 (-0.02)	33.46	+0.42

Table 2.7: Calculations to establish the heights of the buildings from DPC to Ridge are provided below:

Plot	Ridge – 2018 Survey (m)	Less DPC* – 2018 Survey (m)	Calculated Building height (m)	On-Site Measurements (m)	Difference (m)
1	8.84	0.37	8.47	8.16	+0.31
2	8.92	0.45	8.47	8.17	+0.30
3	9.04	0.40	8.64	n/a	n/a
4	9.11	0.59	8.52	n/a	n/a
5	8.95	0.43	8.52	8.19	+0.33
6	8.88	0.42	8.46	8.40	+0.06

* refers to the difference between ground levels and floor or threshold levels provided by the 2018 survey. (Threshold levels reduced by 0.02m to calculate a 'floor' level for Plots 4, 5 and 6)

- 2.9 On-site measurements taken by the Planning Enforcement Officers were to 'ridge eaves' – the point below the principal roof ridge measurable from the ground using a laser distometer. Measurements could not be taken to the actual ridge due to the absence of scaffolding or a cherry picker to provide access. The exception to this is Plot 6 – scaffolding was in place during the on-site measurements so a 'true' reading from DPC to the ridge was taken using a tape measure.
- 2.10 For Plots 3 and 4, measurements could not be taken to the 'ridge eaves' because the dimension is not measurable – one end of the building includes a chimney, whilst the other end is the location of the garage. In addition, scaffolding had been removed and no cherry picker was available on site. Instead, measurements were taken to the ridge eaves of the cross wing – referred to as the 'gable ridge eaves'.
- 2.11 Discussions with colleagues in our Building Control team have indicated an expectation that the bargeboards, roof tiles and ridge tile would normally amount to around 200mm in combination. Scaled measurements of the bargeboards, roof tiles and ridge tile depicted on the NMA drawings indicate a difference of 370mm to 400mm between 'ridge eaves' and the ridge. For the purposes of comparison, an 'allowance' of 300mm has been added to the measurement to the 'ridge eaves' taken by the Enforcement team on site.

Table 2.8: Calculations to compare survey data and on-site measurements are provided below:

Plot	Calculated Building height (m) *	On-Site Measurements (m)	Roof allowance	Calculated Ridge Height (m)	Difference (m)
1	8.47	8.16	+0.30	8.46	+0.01
2	8.47	8.17	+0.30	8.47	+0.00
3 **	7.71	7.19	+0.30	7.49	+0.22
4 **	7.53	7.23	+0.30	7.53	+0.00
5	8.52	8.19	+0.30	8.49	+0.03
6	8.46	8.40	n/a	8.40	+0.06

* Survey ridge measurement less survey floor level measurement

** Measurement to gable ridge for comparison to on-site measurements

- 2.12 Having regard to the above calculations, it is apparent that – with the exception of Plot 3 – the survey measurements and the on-site measurements are comparable and broadly in line with one another. This gives confidence that the survey data and on-site measurements are accurate and confirm the dimensions of the buildings constructed on site.
- 2.13 Given that the on-site measurements from DPC to ridge are comparable with the survey measurements between floor level and ridge, it is reasonable to conclude that if officers had taken measurements on site of the difference between ground level and DPC they would also be comparable to the data provided by the survey. That being the case, it is also reasonable to conclude that the survey data provides an accurate representation of the total height of the buildings, as constructed, from ground level to ridge.
- 2.14 The conclusion, on that basis, must therefore be that – as indicated above – the buildings on site have been constructed to a height which is greater than that depicted on the approved plans, submitted with the NMA in 2017, by between 190mm (Plot 1) and 440mm (Plot 4).
- 2.15 Consideration should be given to the fact that the approved plans provide for the buildings to have an overall height in excess of 8.6m. For Plot 1, an increase of 190mm amounts to a 2.2% change, whereas for Plot 4 an increase of 440mm equates to a difference of 4.8%.
- 2.16 The Planning Enforcement team normally consider a difference between approved plans and actual build of more than +100mm to be greater than what could reasonably be deemed as an acceptable tolerance under normal construction circumstances, and would advise the developer to seek to regularise the anomaly through a planning application. The question then is whether or not the differences give rise to an acceptable or unacceptable impact on the locality and/or existing residential amenity and, from there, whether or not such an application should be granted or refused.

Analysis of the 'site sections' drawing submitted with the 2014 application (ref. B/14/01103)

- 2.17 As outlined above, the survey has discovered that the buildings constructed on site are of a height which is greater than was indicated on the approved elevations drawings – by up to 440mm, compared to the 2017 NMA drawings. That difference is even greater when the survey measurements for the dwellings are compared to the site sections drawing submitted with the 2014 application. The difference between the height of Plot 6 indicated on the proposed sections drawing and the height of the dwelling as measured by the survey is 1.64m, whilst the difference between the height of Plot 3 indicated on the proposed sections drawing and the height of the dwelling as measured by the survey is 1.95m.

- 2.18 The conclusion to be drawn from this additional analysis must be that the site sections drawing is woefully inaccurate and, as a result, the dwellings now appear to be at least 1.5metres taller than was indicated on the ‘proposed’ site sections drawing submitted in 2014.

Independent survey commissioned by local residents and the Parish Council

- 2.19 Surveyors contracted by residents neighbouring the development have analysed levels data from the 2003 survey submitted with the 2014 application, and building heights as indicated on the site sections drawing accompanying the 2014 application. The analysis focusses on the height of Plot 6 relative to White Horse House, and indicates the following:

Table 2.9: Independent survey – Plot 6 relative to White Horse House:

Existing roof pitch level of White Horse House	39.76m
Existing as-built level of roof pitch for Plot 6	42.36m
Difference	+2.60m

- 2.20 The analysis conducted by the surveyors contracted by the neighbours also refers to the heights of Plots 1 and 2 relative to the neighbouring dwelling – Byron House. The conclusions drawn are as follows:

Table 2.10: Independent survey – Plots 1 & 2 relative to Byron House:

Existing roof pitch of Byron House	39.77m
Existing as-built level of roof pitch for Plots 1 & 2	42.40m
Difference	+2.63m

- 2.21 The survey commissioned by the Council also included readings of the ridge heights of both White Horse House and Byron House. Analysis of the survey results in respect of these neighbouring dwellings is as follows:

Table 2.11: Council survey – Plot 6 relative to White Horse House:

Existing roof pitch level of White Horse House	39.73m
Existing as-built level of roof pitch for Plot 6	42.34m
Difference	+2.61m

Table 2.12: Council survey – Plots 1 & 2 relative to Byron House:

Existing roof pitch of Byron House	39.77m
Existing as-built level of roof pitch for Plots 1 & 2	42.38m
Difference	+2.61m

- 2.22 The conclusions of both the survey commissioned by the residents and that produced on behalf of the Council are that the ridges of the new dwellings on Plots 3 and 6 are approx. 2.6m higher than the existing neighbouring dwellings.
- 2.23 The surveyor contracted by the residents specifically states that the results conflict “with the information shown on Dwg No. 3368:24” – the site sections drawing submitted with the 2014 planning application.
- 2.24 As detailed earlier, measurements scaled off the site sections drawing indicate White Horse House as being between 7.49m and 7.64m in height (existing section and proposed section respectively). Measurements of Plot 6 scaled off the proposed site sections drawing provide a ridge level of 7.24m. With the rise in ground levels within the site, the indication from the site

sections drawing is that the ridges of White Horse House and Plot 6 would be approximately equal in height.

- 2.25 Elevations drawings submitted with the 2014 application – accompanying the site sections drawing – show the dimensions of Plot 6 to be 8.57m to the ridge, 1.33m taller than shown on the site sections drawing.
- 2.26 Data from the survey commissioned by the Council indicates the height of White Horse House, from ground level to ridge, to be 7.41m, whilst the height from ground level to ridge of Plot 6 is 9.58m – a difference of 2.17m. The difference between the ground levels for White Horse House and those for Plot 6 (0.44m) brings the difference between ridges up to the 2.6m suggested by the survey commissioned by the residents. However, the 2.6m figure is slightly misleading in that ground levels within the site were already higher than those at White Horse House. The site sections drawing does show the ground level to be higher for the Plot 6 area than that for White Horse House. Regardless, the expectation of anyone viewing the site sections drawing would be that Plot 6 was due to be of comparable height to White Horse House.
- 2.27 The site survey accompanying the 2014 application shows ground levels at the front of White Horse House to be 32.15, and ground levels within the Plot 6 area of the site to be around 32.75 – approx. 0.6m higher. Nevertheless, the site sections drawing indicates the two dwellings to be of comparable height, whereas the elevations drawing for the 2014 application shows Plot 6 as having a ridge height of 8.57m, and the site survey shows Plot 6 as having a height from ground level to ridge of 9.58m.
- 2.28 The survey data indicates the ridge height of White Horse House to be lower than that indicated on the site sections drawing, and the dimensions of Plot 6 to be greater than shown on the site section and elevations drawings accompanying the 2014 application. Changes to ground levels within the site, and the difference between DPC and ridge height, further serve to make the Plot 6 dwelling appear very much larger than indicated on the site sections drawing.

Part 3 – Layout:

Analysis of the approved site layout drawings (2014 ‘original’ application under ref. B/14/01103, and 2017 NMA application under ref. B/14/01103), the proposed layout plans (2018 Variation of Condition application ref. DC/18/00929) and the measurements taken on site by the Planning Enforcement team, and the survey commissioned by BMSDC

Table 3.1: Comparison of layout drawing submitted with the 2014 application and the equivalent submitted with the 2017 NMA indicates the following:

Plot	Dimension	Dwg. 3368:18 G (2014)	Dwg. 1471.07 (2017)	Difference
1	To South workshop	14.51	14.30	-0.21
1	To West boundary	3.06	3.18	+0.12
1	To West boundary	2.43	2.35	-0.08
1	To North boundary	8.21	7.11	-1.10
3	To North boundary	13.85	12.97	-0.88
4	To North boundary	17.63	16.90	-0.73
4	To North-East boundary	11.84	11.93	+0.09
4	To East boundary	2.74	2.89	+0.15
4	To East boundary	4.43	5.25	+0.82
5	To East boundary	2.46	2.45	-0.01
5	To East boundary	1.43	1.43	+/-0.00
5	To South boundary	15.30	14.99	-0.31
5	To South boundary	11.72	11.47	-0.25
5 garage	To South boundary	10.14	9.59	-0.55
6 wing	To South boundary	8.88	8.82	-0.06
6 wing	To South boundary	8.54	8.49	-0.05
6 gable	To South boundary	10.26	10.20	-0.06

Plot	Dimension	Dwg. 3368:18 G (2014)	Dwg. 1471.07 (2017)	Difference
2	To Plot 3 garage	2.99	3.02	+0.03
2	To Plot 3 dwelling	6.12	6.10	-0.02
3	To Plot 4 garage	0.74	0.75	+0.01
3	To Plot 4 dwelling	5.73	5.57	-0.16
3	To Plot 6 dwelling	12.82	12.04	-0.78
4	To Plot 5 dwelling	6.27	6.27	+/-0.00

- 3.1. These results appear to indicate that minor changes to the layout of the development were introduced by the drawings submitted with the 2017 NMA application. However, there appear to be some discrepancies within the results. For example, Plot 1 is shown as being closer to the northern boundary but also closer to the adjacent workshop to the south – this suggests the building has expanded and has a larger footprint on the NMA drawing than depicted on the original layout plan. Similarly, Plot 3 is shown as being closer to the northern boundary, and closer to Plot 6 opposite. Strangely, Plot 4 is apparently closer to the northern boundary, but the same distance from Plot 5 opposite, and Plot 5 is closer to the southern boundary.

Table 3.2: Comparison of layout drawing submitted with the 2014 application and the equivalent submitted with the 2017 NMA indicates the following, in terms of the floor plan dimensions of the dwellings:

Plot	Dimension	Dwg. 3368:18 G (2014)	Dwg. 1471.07 (2017)	Difference
1	Front to back	6.73	6.63	-0.10
1	Side to side	9.38	9.29	-0.09
3	Cross wing (front to back)	8.61	8.64	+0.03
3	Side to side	9.83	9.62	-0.21
4	End to end	9.86	9.69	-0.17
4	Cross wing (front to back)	8.60	8.61	+0.01
5	Cross wing (front to back)	8.61	8.62	+0.01
5	Side to side	9.94	9.62	-0.34
6 Garage	Front to back	7.32	7.34	+0.02
6	Cross wing (front to back)	8.56	8.62	+0.06
6	Main build (front to back)	5.57	5.54	-0.03
6	Side to side	9.86	9.63	-0.23

- 3.2. These results appear to indicate that the dwellings have a different footprint on the NMA drawing than on the original layout. However, whilst some of the differences appear to be more substantial, others are negligible. A proportion of the differences may be explained by the way the plans are drawn – the original layout drawing shows floor plans (i.e. the extent of the walls of the dwellings), whilst the NMA drawing shows roof plans (i.e. to include the eaves, extending beyond the walls of the buildings). However, the assessment of the drawings has sought to ensure measurements are taken from equivalent points – from the outside edge of the walls of the dwellings – to ensure the readings are comparable.
- 3.3. The layout drawing submitted with the NMA application does not indicate any particular changes to the floor plans, shape, or orientation, of the dwellings. The measurements scaled off the drawings appear to show some changes to the position of some of the dwellings, but that is only noticeable when measurements are scaled off the plans – to all intents and purposes, the plans appear to show the same layout for the development.
- 3.4. The layout drawing submitted with the current ‘variation of condition’ application shows changes to the detail of the footprint of Plots 3 to 6, but measurements scaled from the plan indicate overall building dimensions, position relative to the boundaries, and proximity to adjacent plots to be closely comparable to the 2017 NMA drawing.
- 3.5. Overall, it is reasonable to conclude that there is insufficient difference in the measurements taken from the original plans and the NMA drawings to state categorically that the footprint dimensions of the buildings have been adjusted. In addition, the differences highlighted by the calculations are insufficient to account for the anomalies in the comparison of layout measurements. Using the same example as above, the comparison of layout plans appears to indicate Plot 1 is closer to the adjacent workshop to the south by approx. 0.2m and closer to the northern boundary by approx. 1.1m – suggesting the dimensions of the building have been enlarged by a total of 1.3m. Whereas, the comparison of the dimensions of Plot 1 suggests the building is smaller by approx. 0.1m.
- 3.6. Another possibility – besides the dimensions of the dwellings changing – is that the dimensions of the site have changed.

Table 3.3: Comparison of layout drawings submitted with the 2014 application and the equivalent submitted with the 2017 NMA indicates the following, in terms of the dimensions of the whole site:

Dimension	Dwg. 3368:18 G (2014)	Dwg. 1471.07 (2017)	Difference
East to West (south)	33.05	32.20	-0.85
East to West (north)	45.82	44.90	-0.92
North-East to North-West	46.13	45.15	-0.98
East boundary	50.65	49.29	-1.36
North to South-East	62.80	60.74	-2.06
North to South-West	61.87	59.84	-2.03
West boundary	21.89	21.22	-0.67

- 3.7. These results suggest that the site dimensions have contracted during the drawing of the layout plan submitted with the 2017 NMA application. To confirm if this is the case measurements of the extremities of the site were also taken using a single static point off site – the roadside edge of the site access.

Table 3.4: Comparison of layout drawing submitted with the 2014 application and the equivalent submitted with the 2017 NMA indicates the following, in terms of the dimensions of the whole site measured from a single point:

From	To	Dwg. 3368:18 G (2014)	Dwg. 1471.07 (2017)	Difference
Roadside	South-West corner	37.18	36.16	-1.02
Roadside	North-West corner	57.26	55.61	-1.65
Roadside	North point	76.38	73.97	-2.41
Roadside	North-East corner	71.86	69.82	-2.04
Roadside	South-East corner	33.31	32.45	-0.86
Roadside	South point	14.54	14.14	-0.40

- 3.8. These results confirm that the site is shown as slightly smaller on the NMA layout drawing than on the plan submitted with the original application.
- 3.9. Measurements scaled off the current (2018) layout drawing are comparable to those from the NMA (2017) plan. However, not all measurements could be replicated on the 2018 layout because the plan does not include the full extent of the site to the northern, and north-eastern, boundaries.
- 3.10. Measurement of the site area on the 2014 and 2017 layout plans also indicates the site has contracted. The 2014 plan gives a site area of 2115.31 sq m, whilst the 2017 NMA drawing provides a site area measurement of 1991.03 sq m – some 124.28 sq m less. Measurement of the full site area is not possible on the layout plan submitted with the current (2018) application because the drawing does not include the northern extremities of the site.
- 3.11. In summary, comparison of the layout plan submitted with the 2014 application and the drawing provided with the 2017 NMA application indicates a number of differences in terms of the position of the dwellings relative to the site boundaries. Where comparison can be made between the 2017 and 2018 layout plans (all measurements bar those to the northern boundary) the results are closely comparable.
- 3.12. It should be noted, however, that there also appear to be differences between the 2014 and 2017 plans in terms of the dimensions of the site as a whole, and the area within the confines

of the site. These differences in the site dimensions appear to account for almost all of the discrepancies between the plans – the only anomaly being the reduction in distance between Plots 3 and 6.

- 3.13. The results in the tables above show that the greatest differences in site dimensions are those with reference to the northern boundary. That being the case it may be that the position of the northern boundary on the 2017 drawing is closer to the southern boundary than on the original 2014 plan. That change means Plots 1 to 4 appear closer to the northern boundary, whilst also pushing their position closer to the southern boundary. In contrast, the position of Plot 6, relative to the southern boundary, remains consistent across both the 2014 and 2017 drawings.
- 3.14. For the purposes of comparison with the measurements taken on site by Planning Enforcement Officers and the surveyors contracted by the Council, the analysis will principally use the layout plan submitted with the current (2018) application as that appears to be the drawing the developer is working to, as there is little difference in the scaled measurements taken from that drawing and the layout plan submitted with the 2017 NMA application. Reference will also be made to the 2017 NMA layout drawing as it forms part of the most recently approved permission, and includes the full extent of the site.

Table 3.5: Comparison of the measurements scaled off the layout drawing submitted with the current (2018) application and those taken on site in equivalent locations by Planning Enforcement indicate:

Plot	Dimension	Dwg. 1471.21F (2018)	Enforcement Measurements	Difference
1	To South workshop	14.23	14.10	-0.13
1	To West boundary	3.14	3.36	+0.18
1	To West boundary	2.33	2.79	+0.46
1	To North boundary	7.01	7.39	+0.38
3	To North Boundary	n/a	n/a	n/a
4	To North boundary	n/a	n/a	n/a
4	To North-East boundary	n/a	n/a	n/a
4	To East boundary	2.88	2.75	-0.13
4	To East boundary	5.31	5.17	-0.14
5	To East boundary	2.36	2.29	-0.07
5	To East boundary	1.40	1.21	-0.19
5	To South boundary	14.98	14.00	-0.98
5	To South boundary	11.49	10.69	-0.80
5 garage	To South boundary	9.67	9.07	-0.60
6 wing	To South boundary	8.81	8.55	-0.26
6 wing	To South boundary	8.40	8.26	-0.14
6 gable	To South boundary	10.24	10.23	-0.01

Plot	Dimension	Dwg. 1471.21F (2018)	Enforcement Measurements	Difference
2	To Plot 3 garage	3.01	2.90	-0.11
2	To Plot 3 dwelling	6.07	6.01	-0.06
3	To Plot 4 garage	0.99	0.97	-0.02
3	To Plot 4 dwelling	5.85	5.84	-0.01
3	To Plot 6 dwelling	12.55	12.51	-0.04
4	To Plot 5 dwelling	6.30	6.25	-0.05

3.15. These results indicate:

- Plot 1 is further away from the western and northern boundaries than indicated on the 2018 layout plan (Dwg. Ref 1471.21F);
- Plot 4 is marginally closer to the eastern boundary than indicated on the 2018 layout plan;
- Plot 5 is substantially closer to the southern boundary;
- Plot 5 garage is significantly closer to the southern boundary than indicated on the 2018 layout plan.
- Plot 6 is notably closer to the southern boundary when measured from the rear cross-wing, but the difference is insignificant when measured from the western end gable.

3.16. In terms of the location of the buildings relative to each other, the differences between the measurements scaled off the 2018 plan and those taken on site by Officers are largely negligible. The greatest difference – 110mm between Plot 2 and the garage for Plot 3 – is unlikely to be noticeable when viewing the development on site.

3.17. The layout plan submitted with the current Variation of Condition (“VoC”) application (Dwg Ref. 1471.21 Rev F) and the layout drawing provided with the 2017 NMA application (Dwg Ref. 1471.07) are almost entirely consistent with each other – to within 100mm (0.1m). “Almost” because two measurements, between Plots 3 and 4, are showing differences of 0.24m and 0.28m, respectively.

3.18. Given that the measurements scaled off the 2017 plan (Dwg Ref. 1471.07) are broadly the same as those scaled off the 2018 plan (Dwg Ref. 1471.21 Rev F), comparison with the measurements taken on site by Planning Enforcement gives very similar results.

3.19. The majority of the differences arising from the comparison of the measurements scaled off the 2018 plan and those taken on site by Officers are small enough to be considered to fall within a reasonable tolerance. However, some of the results – Plot 1 being approx. 0.5m further away from the west boundary, and Plot 5 being approx. 1m closer to the south boundary – are more than could be considered to be a minor error during the setting out process.

Table 3.6: Comparison of the measurements scaled off the layout drawing submitted with the current (2018) application and those taken on site in equivalent locations by the surveyor contracted by the Council indicate:

Plot	Dimension	Dwg. 1471.21F (2018)	Site Survey (2018)	Difference
1	To South workshop	14.23	13.83	-0.40
1	To West boundary	3.14	3.25	+0.11
1	To West boundary	2.33	2.57	+0.24
1	To North boundary	7.01	n/a	n/a
3	To North Boundary	n/a	n/a	n/a
4	To North boundary	n/a	n/a	n/a
4	To North-East boundary	n/a	n/a	n/a
4	To East boundary	2.88	n/a	n/a
4	To East boundary	5.31	4.55	-0.76
5	To East boundary	2.36	n/a	n/a
5	To East boundary	1.40	1.25	-0.15
5	To South boundary	14.98	13.95	-1.03
5	To South boundary	11.49	10.77	-0.72
5 garage	To South boundary	9.67	8.85	-0.82
6 wing	To South boundary	8.81	8.53	-0.28
6 wing	To South boundary	8.40	8.24	-0.16
6 gable	To South boundary	10.24	10.20	-0.04

Plot	Dimension	Dwg. 1471.21F (2018)	Site Survey (2018)	Difference
2	To Plot 3 garage	3.01	2.93	-0.08
2	To Plot 3 dwelling	6.07	6.05	-0.02
3	To Plot 4 garage	0.99	n/a	n/a
3	To Plot 4 dwelling	5.85	5.72	-0.13
3	To Plot 6 dwelling	12.55	12.48	-0.07
4	To Plot 5 dwelling	6.30	6.24	-0.06

3.20. These results indicate broadly the same issues as those identified by the comparison of measurements scaled off the 2018 layout drawing and the measurements taken on site by Officers – Plot 1 is further away from the western boundary, and Plot 5 is closer to the southern boundary. The survey also suggests Plot 4 is closer to the eastern boundary, in contrast to the measurements taken by Officers – this may be more likely to do with a disparity in measurement point than an indication that the building is actually closer to the boundary.

Table 3.7: Measurements scaled off the drawing detailing the 2018 site survey results, and comparison with the measurements taken on site by Planning Enforcement indicate:

Plot	Dimension	Site Survey (2018)	Enforcement Measurements	Difference
1	To South workshop	13.83	14.10	+0.27
1	To West boundary	3.25	3.36	+0.11
1	To West boundary	2.57	2.79	+0.22
1	To North boundary	n/a	7.39	n/a
3	To North Boundary	n/a	n/a	n/a
4	To North boundary	n/a	n/a	n/a
4	To North-East boundary	n/a	n/a	n/a
4	To East boundary	n/a	2.75	n/a
4	To East boundary	4.55	5.17	+0.62
5	To East boundary	n/a	2.29	n/a
5	To East boundary	1.25	1.21	-0.04
5	To South boundary	13.95	14.00	+0.05
5	To South boundary	10.77	10.69	-0.08
5 garage	To South boundary	8.85	9.07	+0.22
6 wing	To South boundary	8.53	8.55	+0.02
6 wing	To South boundary	8.24	8.26	+0.02
6 gable	To South boundary	10.20	10.23	+0.03

Plot	Dimension	Site Survey (2018)	Enforcement Measurements	Difference
2	To Plot 3 garage	2.93	2.90	-0.03
2	To Plot 3 dwelling	6.05	6.01	-0.04
3	To Plot 4 garage	n/a	0.97	n/a
3	To Plot 4 dwelling	5.72	5.84	+0.12
3	To Plot 6 dwelling	12.48	12.51	+0.03
4	To Plot 5 dwelling	6.24	6.25	+0.01

- 3.21. Layout measurements taken from the 2018 survey commissioned by the Council and those taken by Planning Enforcement on site are close enough to be considered consistent – apart from one anomalous result: the distance of Plot 4 to the eastern boundary, shown by the survey to be 4.55m, and by officer measurements to be 5.16m – a difference of 0.62m. As above, this may be due to a disparity with the measurement point rather than an indication that the building is incorrectly located.
- 3.22. The degree of consistency across the results of the 2018 survey and the Planning Enforcement measurements gives confidence in terms of the reliability of both sets of measurements – in effect, they verify each other. Taking an average of the Officer measurements and the survey readings and comparing the results to the measurements scaled off the 2018 layout plan highlights (and confirms) the conclusions reached from the individual assessments of site measurements versus the layout plan.

Table 3.8: Comparison of average measurements from the results of the on-site measurements taken by Officers and the surveyor contracted by the Council with the readings scaled of the 2018 layout plan:

Plot	Dimension	Dwg. 1471.21F (2018)	Enforcement Measurements	Site Survey (2018)	Enforcement / Survey Average	Difference v Drawing
1	To South Workshop	14.23	14.10	13.83	13.96	-0.27
1	To West boundary	3.14	3.36	3.25	3.31	+0.17
1	To West boundary	2.33	2.79	2.57	2.68	+0.35
1	To North boundary	7.01	7.39	n/a	7.39	+0.38
3	To North Boundary	n/a	n/a	n/a	n/a	n/a
4	To North Boundary	n/a	n/a	n/a	n/a	n/a
4	To North-East Boundary	n/a	n/a	n/a	n/a	n/a
4	To East boundary	2.88	2.75	n/a	2.75	-0.13
4	To East boundary	5.31	5.17	4.55	4.86	-0.45
5	To East boundary	2.36	2.29	n/a	2.29	-0.07
5	To East boundary	1.40	1.21	1.25	1.23	-0.17
5	To South boundary	14.98	14.00	13.95	13.98	-1.00
5	To South boundary	11.49	10.69	10.77	10.73	-0.76
5 garage	To South boundary	9.67	9.07	8.85	8.96	-0.71
6 wing	To South boundary	8.81	8.55	8.53	8.54	-0.27
6 wing	To South boundary	8.40	8.26	8.24	8.25	-0.15
6 gable	To South boundary	10.24	10.23	10.20	10.22	-0.02

Plot	Dimension	Dwg. 1471.21F (2018)	Enforcement Measurements	Site Survey (2018)	Enforcement / Survey Average	Difference v Drawing
2	To Plot 3 garage	3.01	2.90	2.93	2.92	-0.09
2	To Plot 3 dwelling	6.07	6.01	6.05	6.03	-0.04
3	To Plot 4 garage	0.99	0.97	n/a	0.97	-0.02
3	To Plot 4 dwelling	5.85	5.84	5.72	5.78	-0.07
3	To Plot 6 dwelling	12.55	12.51	12.48	12.50	-0.05
4	To Plot 5 dwelling	6.30	6.25	6.24	6.25	-0.05

3.23. These results confirm the findings of the comparisons with the measurements scaled off the 2018 layout drawing, that:

- Plot 1 is further away from the western and northern boundaries;
- Plot 4 is marginally closer to the eastern boundary;
- Plot 5 is substantially closer to the southern boundary;
- Plot 5 garage is significantly closer to the southern boundary;
- Plot 6 is notably closer to the southern boundary when measured from the rear cross-wing, but the difference is insignificant when measured from the western end gable.

3.24. In addition, the results confirm that the position of the buildings relative to each other accords with that indicated on the 2018 layout drawing (and the plan approved under the 2017 NMA).

3.25. Analysis of the approved plans, proposed plans, surveys and site measurements suggests that the layout of the dwellings is consistent with that indicated on the approved plans, in terms of their proximity to one another. However, the position of the layout within the site is not in accordance with the submitted drawings.

- 3.26. Of particular concern is the position of Plot 5 – closer to the southern boundary by approx. 1 metre. However, the concerns raised by the local community in respect of Plot 6 can be assuaged by this analysis as it indicates the position of Plot 6 is not sufficiently different to that indicated on the submitted drawings to be noticeable when viewing the dwelling on site.
- 3.27. It may, therefore, be necessary to assess whether or not the change of location of Plots 1 and 5 within the site results in a materially different development to that indicated on the previously approved (2017 NMA) permission.

Site Sections Plan:

- 3.28. The assessment of the submitted plans has highlighted further issues with the 'site sections' drawing accompanying the original 2014 application. In terms of layout, discrepancies on the site sections drawing (ref. 3368:24) are as follows:
- Plot 6 is shown to be further away from the existing properties (approx. 14m on the sections drawing versus approx. 10m on the layout);
 - Plots 3 and 6 are shown to be closer together within the site (approx. 10m between plots versus approx. 13.5m on the layout drawing);
 - Plot 6 cross-wing is not shown – the gable of the wing is at least 1.5 metres closer to the southern boundary than the main part of the house.
- 3.29. These discrepancies mean the site sections plan further misleads in terms of its depiction of the proposed development, in addition to the discrepancies already highlighted previously with regard to ground levels and the dimensions of the buildings.

Part 4 – Summary:

Levels:

Site Sections Plan – Drawing Ref. 3368:18, B/14/01103:

- 4.1. The indication on the site sections drawing is that the intention was to level the gradient on site for the areas to be occupied by Plot 6 and Plot 3, and for the levelling works to marginally raise ground levels for the area to be occupied by Plot 6, and provide a reduction in ground levels for the area to be occupied by Plot 3. The survey commissioned by BDC shows that ground levels for the area occupied by Plot 3 have actually been lowered by less than indicated on the site sections plan, whilst the ground levels for the area occupied by Plot 6 have actually been raised significantly instead of marginally.

Proposed Setting Out and Landscaping Plan – Drawing Ref. 1471.21F, DC/18/00929:

- 4.2. None of the levels on site, for the reference points used, match those indicated as either existing, retained or proposed on the layout drawing submitted with the current (2018) application.
- 4.3. For some, the difference is marginal and could be accepted as being within a reasonable tolerance – the survey commissioned by the Council confirms the levels implemented on site for Plot 3 to be approximately equal to those proposed on the layout drawing submitted with the current (2018) application.
- 4.4. For others, the difference between ‘proposed’ and ‘actual’ levels is significant – the survey commissioned by the Council indicates the levels implemented on site for Plot 6 to be between approximately 410mm and 650mm higher than those proposed on the layout drawing submitted with the current (2018) application.
- 4.5. As such, due consideration should be given to whether or not they result in a materially different development to that proposed on the drawings submitted with the current application.
- 4.6. Finished Floor Levels (FFLs) for the new dwellings, proposed on the drawing submitted with the current application, are higher than ground levels, for the most part, by significantly more than is required by Building Regulations. The survey commissioned by the Council confirms the differences between ground levels and floor levels proposed under the current application to have been replicated approximately on site – except for Plot 6, where the difference between ground levels and floor levels is around half that indicated on the drawing accompanying the application.

Dimensions:

Site Sections Plan – Drawing Ref. 3368:18, B/14/01103:

- 4.7. The ‘proposed’ section drawing submitted with the 2014 application was inaccurate and, importantly, misleading in its representation of the heights of Plots 3 and 6 of the proposed development.
- 4.8. The elevations drawings submitted with the 2014 application depicted the ridge heights of the dwellings to be over 8.5 metres, whilst the sections drawing showed the ridge for Plot 3 to be around 7.1 metres and the ridge for Plot 6 to be approx. 7.24 metres.
- 4.9. The survey commissioned by the Council indicates the difference between the actual ‘as built’ heights of Plots 3 and 6 to be 1.95 metres and 1.64 metres, respectively, above those shown on the site sections plan.

- 4.10. A survey independently commissioned by the neighbours of the development site has concluded that the new dwellings are approx. 2.6 metres taller than existing dwellings to the south and west of the site. The Council's survey confirms these measurements in terms of the 'pure' height difference between the ridges of the old and new dwellings. However, the suggestion that the new dwellings are 2.6 metres taller takes no account of the rise in ground levels within the development site. The actual difference (according to the Council's survey) between the height of White Horse House from ground level to ridge and Plot 6 of the new development from ground level to ridge is 2.17 metres.
- 4.11. This difference is significant, more so when the site sections drawing depicted the development as having ridges at approximately the same height as the existing White Horse House.

Proposed Setting Out and Landscaping Plan – Drawing Ref. 1471.21F, DC/18/00929:

- 4.12. The survey commissioned by the Council shows floor levels of the dwellings are accurate (max. +30mm) compared to the indication on Dwg. 1471.21F – the only exception is Plot 3, where the floor level is approx. 220mm lower than indicated on the plan.
- 4.13. Similarly, ground levels are shown by the Council's survey to be mostly accurate (max. +/-80mm) compared to the indication on Dwg. 1471.21F – several exceptions exist in this case: Plot 3 ground levels are 230mm lower at the front of the building, and 270mm lower at the rear, than indicated on the drawing; Plot 4 ground levels are 340mm lower at the rear of the building than indicated on the drawing; and, ground levels for Plot 6 are 640mm higher at the front of the building, and 510mm higher at the rear, than shown on the drawing.
- 4.14. From floor level to ridge, the Council's survey reveals the buildings to be between 40mm and 250mm lower in height than indicated by the elevations drawings submitted with the 2017 NMA application. However, the NMA drawings give no indication of DPC, so it is assumed they depict the dimensions of the buildings from ground level. In that case, the dwellings are between 190mm and 440mm higher than shown on the NMA plans.
- 4.15. These differences equate to an increase in the height of the dwellings of between 2.2% and 4.8%. The Planning Enforcement team normally consider a difference between approved plans and actual build of more than +100mm to be greater than what could reasonably be deemed as an acceptable tolerance under normal construction circumstances, and would advise the developer to seek to regularise the anomaly through a planning application.

Layout:

Site Sections Plan – Drawing Ref. 3368:18, B/14/01103:

- 4.16. The 'site sections' drawing accompanying the original 2014 application, when compared to the layout drawing with the same application, shows Plot 6 approximately 4 metres further away from the existing properties, and without a cross wing – the gable of which would be at least 1.5 metres closer to White Horse House than the main part of the new dwelling. In addition, the site sections drawing shows Plots 3 and 6 to be approximately 3.5 metres closer together within the site.
- 4.17. These discrepancies mean the site sections plan further misleads in terms of its depiction of the proposed development, in addition to the discrepancies already highlighted previously with regard to ground levels and the dimensions of the buildings.

Proposed Setting Out and Landscaping Plan – Drawing Ref. 1471.21F, DC/18/00929:

- 4.18. Comparison of the layout plan submitted with the 2014 application and the drawing provided with the 2017 NMA application indicates a number of differences in terms of the position of the dwellings relative to the site boundaries. Where comparison can be made between the 2017 and 2018 layout plans (all measurements bar those to the northern boundary) the results are closely comparable.
- 4.19. It should be noted, however, that there also appear to be differences between the 2014 and 2017 plans in terms of the dimensions of the site as a whole, and the area within the confines of the site. These differences in the site dimensions appear to account for almost all of the discrepancies between the plans.
- 4.20. Layout measurements taken from the 2018 survey commissioned by the Council and those taken by Planning Enforcement on site are close enough to be considered consistent. Council measurements also confirm that the position of the buildings relative to each other accords with that indicated on the 2018 layout drawing (and the plan approved under the 2017 NMA).
- 4.21. However, the position of the layout within the site is not in accordance with the submitted drawings. Of particular concern is the position of Plot 5 – closer to the southern boundary by approx. 1 metre. However, the concerns raised by the local community in respect of Plot 6 can be assuaged by this analysis as it indicates the position of Plot 6 is not sufficiently different to that indicated on the submitted drawings to be noticeable when viewing the dwelling on site.
- 4.22. It may, therefore, be necessary to assess whether or not the change of location of Plots 1 and 5 within the site results in a materially different development to that indicated on the previously approved (2017 NMA) permission.

Part 5 – Conclusions:

Levels:

- 5.1 The current proposals are to build at existing site ground levels. The survey commissioned by the Council confirms that the proposed ground levels for the new dwellings – depicted on Dwg. Ref. 1471.21F – have been largely achieved on site. The exception to this is Plot 6.
- 5.2 Levels around Plot 6 have been cited by local residents as being of particular concern, and the survey indicates levels have been increased across the Plot 6 area – ground levels being between 410mm and 650mm higher than indicated on the current (proposed) layout plan.
- 5.3 On that basis, the concerns raised by the local community are substantiated and need to be addressed.
- 5.4 In contrast, concerns raised by local residents in relation to levels at the southern boundary are not substantiated by the survey – the indication being that levels are lower (albeit, marginally) than before the site was redeveloped, though it should be noted that there are limited comparable reference points due to the absence of data on the 2003 survey (due to presence of buildings).

Dimensions:

- 5.5 The floorplan dimensions of the buildings are consistent across the plans submitted with the various applications for development of the site, and are confirmed by measurements taken on site by the Council's Planning Enforcement Officers.
- 5.6 Measurements taken on site by Enforcement Officers and the survey commissioned by the Council conclude that the dwellings have been constructed with a height which exceeds that depicted on the elevations drawings submitted with the 2017 NMA application – by between 190mm and 440mm, or 2.2% to 4.8%.

Layout:

- 5.7 The layout of the development in terms of the proximity of buildings to one another accords with that depicted on the plans. However, the position of the layout within the confines of the site appears to be different to that shown on the plans, with Plot 1 being around 350mm further away from the western boundary of the site, and Plot 5 being around 1 metre closer to the southern boundary. However, the location of Plot 6 accords with that shown on the drawings.
- 5.8 Taking account of the above findings, it may be reasonable to conclude that the development as built is materially different to that indicated on the drawings accompanying the current application, and will have a different impact on the locality and the residential amenity of existing residential properties compared to those proposals, and compared to the development illustrated on the previously approved plans.

Site Sections Plan:

- 5.9 The site sections plan submitted with the 2014 application contains a number of inaccuracies – even when compared to the other plans and drawings accompanying the 2014 application. The site sections drawing presents the new dwellings (specifically, Plots 3 and 6) as having ridge heights approximately equal to the existing dwelling to the south of the site, White Horse House. The elevations drawings submitted with the 2014 application provided for the dwellings to be around 1.5 metres taller than shown on the site sections plan.

- 5.10 In addition, the layout and form of the new dwellings shown on the site sections plan is inaccurate – the proximity of the new dwellings to one another, and the distance of the new dwellings from existing properties are different to equivalent dimensions on layout drawings; and, the footprints of the new dwellings are different to those shown on the relevant elevations and floorplan drawings.
- 5.11 The effect of these discrepancies is that the development shown on the site sections drawing would not have been what appeared on site, even if there had been no subsequent amendments. In order to be representative of the development proposed in 2014, the site sections drawing should show Plot 6 as being closer to White Horse House by around 4 metres; taller than White Horse House in overall height by more than 1.3 metres; and, wider (front to rear) in overall dimension by the inclusion of the cross wing, bringing the distance to the boundary with White Horse House down by a further 1.5 metres.
- 5.12 In addition, the site sections plan indicated levels would be increased slightly (170mm) at the rear of Plot 6 and reduced marginally (70mm) at the front. The layout drawing submitted with the current application proposes different ground levels to those on the 2014 site sections drawing – such that Plot 6 would be constructed on ground levels 0.3m lower at the rear and up to 0.4m higher at the front.
- 5.13 As the levels for the Plot 6 area have actually been raised throughout, the dwelling as built now appears to be significantly taller than shown on the site sections plan, as well as closer and with a different form, meaning the site sections drawing is even less representative of the proposed development now than it was when it was submitted with the 2014 application.

Agenda Item 8b

Committee Report

Item No: 2

Reference: DC/17/04239

Case Officer: Gemma Walker

Ward: Hadleigh North.

Ward Member/s: Cllr Tina Campbell. Cllr Siân Dawson.

Description of Development

Full Planning Application - Erection of detached, two-and-a-half storey dwelling with detached cart lodge and storage building, construction of access and parking area and associated landscaping.

Location

Land Adjoining Hadleigh Hall, Pound Lane, Hadleigh, IP7 5EQ

Parish: Hadleigh

Site Area: 2200 m²

Conservation Area: In Conservation Area

Listed Building: Affects setting of Listed Buildings

Received: 16/08/2017

Expiry Date: 20/04/2018

Application Type: FUL - Full Planning Application

Development Type: Minor Dwellings

Environmental Impact Assessment: Not required.

Applicant: Mr Bruce Giddy

Agent: Mr Neil Ward

DOCUMENTS SUBMITTED FOR CONSIDERATION

This decision refers to drawing number 1623 100 received 16/08/2017 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:

Floor Plan - Proposed 1623 003 PL1 - Received 02/03/2018

Elevations - Proposed 1623 004 PL1 - Received 02/03/2018

Proposed Site Plan 1623 005 PL4 - Received 02/03/2018

Elevations - Proposed 1623 006 PL1 - Received 02/03/2018

General Details 1623 008 PL2 - Received 02/03/2018

Proposed Site Plan 1623 002 C - Received 02/03/2018

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

PART ONE – REASON FOR REFERENCE TO COMMITTEE

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

The Ward Member has requested that the application be determined by the Planning Committee, which request was agreed by the Delegation Panel.

PART TWO – APPLICATION BACKGROUND

History

There is no relevant planning history for the 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

CN01 - Design Standards
CN03 - Open Space within Settlements
CN06 – Listed Buildings
CN08 - Development in/near conservation areas
CR07 - Landscaping Schemes
TP15 - Parking Standards - New Development

CS01 - Applying the presumption in Favour of Sustainable Development in Babergh
CS02 - Settlement Pattern Policy
CS13 - Renewable / Low Carbon Energy
CS15 - Implementing Sustainable Development

NPPF - National Planning Policy Framework

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

Hadleigh Town Council

Recommend refusal due to concerns raised over the tree management; the ecological report not received, the height of the dwelling and the impact on the surrounding listed buildings.

Hadleigh Town Council (Comments following amendment)

Refusal was recommended

This application was refused by Hadleigh Town Council on the 15th September 2017 because of the height of the dwelling and the impact on the surrounding listed buildings and this remained unchanged. The scale of the building is unsuitable for the site. The Committee wished to commend the comments made in the Babergh District Council Heritage Team Report and also by Historic England.

SCC - Highways

No objection subject to condition to secure parking and manoeuvring.

Environmental Health - Land Contamination

No objection from the perspective of land contamination.

SCC - Archaeological Service

No grounds to consider refusal of permission to achieve preservation in situ of any important heritage assets, subject to the imposition of conditions.

Heritage

The Heritage Team objects to the proposed development - and the principle of development - because of the effect upon the setting of listed buildings and the character and appearance of the CA.

It is clear the site is as sensitive as it could possibly be. As a result of this, the Heritage Team considers any development would be contrary to the requirements of the P(LBCA)A 1990. There is a statutory duty at s16 to have 'special regard to the desirability of preserving the listed building or its setting. The courts have recently interpreted this as making preservation of listed buildings 'presumptively desirable' and requiring preservation to be afforded 'great or considerable weight as a 'high priority'. Any harm to any listed building is to be treated in this way.

The Heritage Team objects to both the current proposed development, and to the principle of development because the contribution that the open land makes to the setting of the various listed buildings is so significant that it cannot be compromised.

Heritage (Comments following amendment)

This application has been amended very slightly, but the Heritage Team comments, dated October 12, 2017 remain entirely pertinent. We object to the proposed development.

Ecology - Place Services

Holding objection due to insufficient ecological information I have reviewed this application and recommend that a further ecological assessment for reptiles is still required to provide certainty to LPA of likely impacts for protected/priority species. This survey was recommended in Place Services initial comments (Sue Hooton, September 2017). A Preliminary Bat Roost Assessment (Eco-Check Ltd, October 2017) for the trees on site has been provided in response of Places initial comments and is considered suitable to determine that bat species will not be present or affected by the proposed works.

Any mitigation measures and reasonable enhancements for protected species and priority species/habitats, recommended within the further ecological assessment, can then be secured as a condition of consent.

Ecology - Place Services (Additional comments following amendment)

No objection subject to conditions to secure biodiversity mitigation and enhancement measures.

Arboricultural Officer

Unable to support the application - TPO Trees in close proximity - Arboricultural report advocates use of precautionary measures, however, impact is unavoidable - not satisfied that relationship of dwelling to trees would provide acceptable living conditions for future occupiers - proximity, orientation and scale of development in relation to the trees is likely to result in pressure to fell due to loss of light and nuisance from leaf and branch fall and such requests will be difficult for the Council to resist and would threaten the value and future of this important natural feature and consequently have a detrimental impact upon the character and appearance of the Conservation Area.

Arboricultural Officer (Additional comments following amendment)

Following our recent meeting regarding potential development near Hadleigh Hall I've received the shade analysis report as discussed with Hayden's. The findings indicate that levels of probable sunlight fall slightly below what is considered an acceptable level. This is perhaps not surprising given the scale of the proposal and its proximity to existing mature trees. However, the discrepancy is relatively minor and will need to be considered on balance against the benefits of the development. Although the relationship between the proposed building and trees will never be ideal I am happier that this impact has been quantified and I feel this will put the Council in a more defensible position should it need to resist future pressure for pruning or felling. The overall sensitivity of the site remains extremely high if harm is to be avoided to these important trees and arboricultural monitoring during development and robust planning conditions will be extremely important.

Historic England

The site lies to the north of the churchyard which is the historic core of the town and contains its most significant and impressive historic buildings; the parish church, Guildhall and Deanery Tower, and is the principal green space within the historic town. The new dwelling would result in the erosion of this open space and harm the significance of these listed buildings and the conservation area. We do not consider there is clear and convincing justification for this level of harm and object to the application on heritage grounds.

Historic England objects to the application on heritage grounds because of the high level of harm the new dwelling would cause to the significance of the surrounding listed buildings and conservation area.

We consider that the application does not meet the requirements of the NPPF, in particular paragraph numbers 8, 14, 131, 60, 61, 132, 137.

Historic England (Additional comments following amendments)

The site lies to the north of the churchyard which is the historic core of the town and contains its most significant and impressive historic buildings: the parish church, Guildhall and Deanery Tower, and it is the principal green space within the historic town. The open green space of the churchyard, application site and grounds to the buildings around the churchyard makes an important contribution to the significance of the surrounding listed buildings and a key contribution to the significance of the conservation area.

The minor revision to the siting of the proposed dwelling has not addressed our concerns regarding the impact of the development on the setting of the nearby highly graded listed buildings and the conservation area. The new dwelling would erode the open space, compromise views from the churchyard where the site is experienced in conjunction with the surrounding listed buildings and undermine the hierarchy of buildings in this area as it is overly large. It would cause a high level of harm to the significance of the surrounding listed buildings and the conservation area. We do not consider there is clear and convincing justification for this high level of harm and continue to object to the application on heritage grounds.

Recommendation

Historic England objects to the application on heritage grounds because of the high level of harm the new dwelling would cause to the significance of the surrounding listed buildings and conservation area.

We consider that the application does not meet the requirements of the NPPF, in particular paragraph numbers 8, 14, 131, 60, 61, 132, 137.

The Hadleigh Society

Object due to:

Loss of historic green open space

Damage to treed setting

Prejudice to long term retention of trees

Adverse impact on Hadleigh Hall

Inappropriate size, layout and siting of dwelling

Introduction of domestic paraphernalia

Historically and visually the site most emphatically ought to remain a green, undeveloped area, unspoilt by buildings, particularly those in a residential use.

The Hadleigh Society (Additional comments following amendments)

Object to the proposal on grounds that the development:-

1. Causes loss of an historic undeveloped green open space
2. Damages the site's fine treed setting
3. Prejudices the long-term retention of trees to be left on the site
4. Has an adverse impact upon the setting of Hadleigh Hall
5. Would create a dwelling of inordinate size out of keeping with this setting
6. Introduces an irrelevant architectural style again out of context with the historic setting
7. Would introduce domestic paraphernalia into an otherwise ecclesiastical and public open space.

B: Representations

Objections received based on the following grounds (summary):

Land used to belong to Hadleigh Hall

Loss of historic green space

Dominant Hadleigh Hall

Loss of privacy and daylight for residents of the Hall

Impact on special character of this area and Hadleigh Conservation Area

Impact of domestication of the entire site on character and appearance

Pressure to remove trees

Scale, massing and height of the proposal would dominate its surroundings and be out of keeping

Loss of local amenity

No justification for setting aside substantial harm to designated heritage assets

Support comments received:

Make use of un-used land

Historic assets are screened from the proposed development

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 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 specific express authorisation the names of any Member of the Council or local government body who has declared a conflict of interest are recorded.

1.0 The Site and Surroundings

- 1.1 The application site is located in the centre of Hadleigh, to the north-west of St Marys Churchyard and to the north of Hadleigh Hall. The site currently forms an overgrown area of land adjacent to the churchyard. The site was separated from Hadleigh Hall when the hall was sub-divided into 16 residential flats, but ultimately forms part of the open space around the Church and Hadleigh Hall.
- 1.2 The application site is within the Hadleigh Conservation Area and enclosed by Listed Buildings, including St Marys Church, the Deanery Tower, Guildhall, Deanery and Hadleigh Hall.
- 1.3 The site has vehicular access from Pound Lane, which currently provides access for other existing residential dwellings.

2.0 The Proposal

- 2.1 Full planning permission is sought for the erection of a detached, two-and-a-half-storey dwelling with detached cart lodge and storage building, construction of access and parking area and associated landscaping.

3.0 Principle of Development

- 3.1 The National Planning Policy Framework (NPPF) contains the Government's planning policies for England and sets out how these are expected to be applied. Planning law continues to require that applications for planning permission are determined in accordance with the Development Plan unless material considerations indicate otherwise. The policies contained within the NPPF are a material consideration and should be taken into account for decision making purposes.
- 3.2 The application site is within the built-up area boundary for Hadleigh, which is designated within the Babergh Core Strategy as a Town to which new development should be directed, such that the principle of the proposal is acceptable in this respect.
- 3.3 Whilst the proposal may be acceptable in principle with regards to the Babergh Local Plan the NPPF nonetheless 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"*. The NPPF sets out three roles for sustainable development at paragraph 7, including as part of the environmental role to contribute to *"protecting and enhancing our natural, built and historic environment"*.
- 3.4 For reasons set out in this report, the proposal causes a high level of 'less than substantial harm' (within the context of the NPPF) to the historic environment, in a particularly sensitive location, failing to either protect or enhance the historic environment of the locality, such that the principle of the proposal is considered contrary to the requirements of the NPPF with particular regards to paragraph 7, 14, 131, 132 and 134.

4.0 **Site Access, Parking and Highway Safety**

The application site is accessed via road from Pound Lane, a narrow lane which provides access to several residential properties and the former Brett Works site. The Brett Works site has consent for 35 retirement apartments, 4 houses, and 25 bungalows (B/16/00760), although the access for this development will be from the High Street rather than Pound Lane, with only pedestrian and emergency access provided to that site via Pound Lane.

- 4.1 Whilst Pound Lane is relatively narrow the intensification as a result of one additional dwelling is not considered to result in impacts on highway safety to consider refusal. Furthermore, the proposal provides four parking spaces, which is in excess of the requirements of the Suffolk Parking Guidance. There is also sufficient space provided to access and egress the site in forward gear, such that the proposal is considered acceptable in this regard. Suffolk County Highways raise no objection to the proposal subject to a condition to ensure the parking is provided.

5.0 **Design and Layout (Impact on Street Scene)**

The proposed dwelling would have two prospects. To the north-west would be the access to the site via road, with parking area and entrance. However, in an attempt to connect the site to the churchyard, rather than disengage with this important vista, the south-east elevation is also public facing, with pedestrian access into the churchyard and from there into Hadleigh.

- 5.1 With regards to Pound Lane, this is a narrow lane, with a limited appreciation of the wider area due to the enclosed nature of the street, with visibility of the rear of buildings in the High Street, such that the parking and access here would be in keeping with the existing character of the area and would not be considered detrimental to the character or appearance of the locality. The Brett Works development would be relatively separate from the application site and not affected by the proposal in that respect.

- 5.2 In respect of the frontage to the south-east, facing the Churchyard, this area is of particular historic importance, including the Church, Hadleigh Hall, Deanery Tower and Guildhall. These are some of the most important buildings within Hadleigh and are three of Hadleigh's four Grade I listed buildings and form the heart of the Conservation Area. Grade I listed buildings form the top 2.5% of all listed buildings. The Deanery, adjacent to the tower, is listed grade II*. Historic England advise:

"The church is a stone building which is essentially built in the gothic Perpendicular style, the pre eminent ecclesiastical style of the period c. 1335/50 to c.1530. The Deanery Tower is a free standing gatehouse built of red Tudor brick in c.1480 for the rector of Hadleigh. A delightful powerful but decorative architectural composition, it has a central gateway framed by polygonal turrets with arched panels and tapered battlements. The Guildhall is a three storey timber framed building with two jetties, built between 1438-51. The buildings are a symbol of the town's prosperity during this period and the power of these institutions and individuals. The church and Deanery Tower were painted by the artist Thomas Gainsborough in c.1750. The buildings therefore have a high architectural and historical significance and an important artistic association. They form a highly attractive and unusual composition charmingly set around the churchyard. The green space around these buildings reflects their status and contrasts with the more densely built High Street. It provides an attractive setting for the buildings. The space also complements the spiritual value of the church."

- 5.3 The proposal would result in the imposition of a substantial building into the space around those historic buildings, and whilst somewhat screened by existing landscaping would be both visible from the churchyard and, by reason of the loss of the space, affect the appreciation of the historic core of Hadleigh, with particular regards to the importance of those heritage assets to the significance of the Conservation Area and Hadleigh. The loss of this space combined with the substantial nature of the building proposed results in a competition with those historic buildings. Furthermore, the

proposal would clash with the existing streetscene towards the High Street/Queen Street, given the modest domestic nature of the surrounding dwellings. The combination of competition with the existing heritage assets and dominance over the existing residential elements is such that the proposal is considered to be out of keeping with the character of the locality.

- 5.4 In the light of this the proposal is considered to conflict with the character and appearance of the locality, with particular regards to the churchyard aspect, with Grade I listed buildings and the Conservation Area, contrary to Local Plan Policies CN06 and CN08 and Core Strategy Policy CS15, by virtue of failing to respect the townscape, heritage assets, important spaces and historic views.

6.0 **Landscape Impact**

The application site is currently an open area of land situated to the west of the churchyard, and although not publicly open space this nonetheless contributes to the setting, appreciation and understanding of the surrounding heritage assets. The proposal would ultimately lead to the permanent loss of this space and the associated reduction in space around the heritage assets, clearly identified as being important to the significance of the Listed Building by Historic England. This landscape impact is considered to be harmful to the character of the locality, and contrary to Local Plan Policies CN01, CN03 and CN06 and Core Strategy Policy CS15.

- 6.1 The site is also host to numerous trees protected both by Tree Preservation Order and as a result of the inclusion of the site within the Conservation Area. The proposal utilises various precautionary measures to avoid damage to the TPO trees in proximity. Following concerns from the Arboricultural Officer the proposal was amended to reduce the proximity to trees and a shade analysis was provided. This indicates that the levels of probable sunlight fall slightly below what is considered to be an acceptable level.

- 6.2 Overall the proposal is not considered to have a such an impact on trees as to result in such pressure to prune or fell the trees in the future to warrant refusal.

7.0 **Environmental Impacts – Ecology and Land Contamination**

- 7.1 Following the provision of additional information our Ecologist advises that the proposal is not considered to have an unacceptable impact on Protected or Priority Species, and biodiversity enhancements can be secured by way of condition. As such the proposal is not considered to be unacceptable in this regard.

- 7.2 Environmental Health raise no objection to the proposal with regards to land contamination and the proposal is considered to be acceptable in this respect.

8.0 **Heritage Issues – Including the Impact on the Character and Appearance of the Conservation Area and On the setting of Neighbouring Listed Buildings**

- 8.1 The Planning (Listed Buildings & Conservation Areas) Act 1990 places a duty on the local planning authority to “*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*”. The application site is situated within an area of several important listed buildings and also within the Conservation Area wherein, the local planning authority also has a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

- 8.2 Local Plan Policies support this duty, and in particular Local Plan Policy CN06 requires that proposals within the setting of a Listed Building should: *“be of an appropriate scale, form, siting and detailed design to harmonise with the existing building and its setting; retain a curtilage area and/or setting which is appropriate to the Listed Building and the relationship with its surroundings....respect those features which contribute positively to the setting of a Listed Building, including space, views from and to the building and historic layout”*
- 8.3 Furthermore Local Plan Policy CN08 requires that proposals should *“preserve or enhance the character of the conservation area or its setting, retain all elements and components, including spaces, which contribute to the special character of the area, be of an appropriate scale, form, and detailed design to harmonise with its setting.”*
- 8.4 As mentioned above, the application site is situated within the heart of Hadleigh, adjacent to the Towns’ most important buildings, the 15th-century church, the Deanery Tower from C.1480, and the Guildhall built between 1438-51, all Grade I listed. Part of the significance of those buildings is derived from the setting around them, with open space including the churchyard, gardens to the deanery and spaces between buildings. The application site forms part of this open space, previously forming part of the grounds of Hadleigh Hall (Grade II listed) and is almost equal in size to the adjacent churchyard, appearing as an extension of the green space and contributing to the openness and space of the setting of each of these buildings. The site also forms part of the Conservation Area, contributing to its setting. Historic England confirm “the area of the site is almost equal in size to the northern side of the churchyard. The grounds are an extension of the green space of the churchyard and thus also contribute to the setting and significance of the surrounding listed buildings and form part of this important area of open space at the heart of the conservation area. This is also true of the large grounds to the west of the Deanery. This is identified in the conservation area appraisal.” Overall this area has an extremely high level of significance in heritage terms, and special regards must be had to the desirability of preserving the listed buildings and their settings.
- 8.5 The proposal would have two main impacts on the setting and significance of the heritage assets around the site, firstly the loss of the space itself, and subsequently the impact of the proposed dwelling. Taking each in turn:
- 8.6 The application site forms an area of open space which contributes to the historical and aesthetic significance of the surrounding listed buildings and Conservation Area. The proposal would result in the permanent loss of this area of open space, which would result in a significant enclosure of those historic buildings. Furthermore, this would bring a development into the heart of the historic core of Hadleigh, compared to its current form, with separation helping to denote and understand the significance of not just one heritage asset, but several, of which 3 are of the most important grading identified by Historic England and are protected by law. As such the loss of this space is considered to result in a high degree of harm to the setting and significance of those heritage assets. It is considered that the loss of that open space would fail to preserve the setting of those buildings, fail to protect or enhance the historic environment, to which we must have special regard for the desirability of preserving, and further would not preserve or enhance the character of the Conservation Area. This would be contrary to the requirements of the Listed Buildings Act, NPPF, Local Plan Policies CN06 and CN08, and Core Strategy Policy CS15.
- 8.7 The second element for consideration is the impact of the proposal itself. The proposed development is for a two-and-a-half-storey dwelling, with cart lodge. It would be a substantial building that would occupy a significant part of the site. Currently the listed buildings, in particular the Church, Guildhall, Deanery Tower and Hadleigh Hall have a dominance in the area by reason of size, and the open space surrounding them, compared to the domestic scale of other surrounding buildings. The buildings in the wider area are subsequently of smaller size, significantly less dominant and with less space surrounding them, creating a clear delineation between the buildings

of importance in Hadleigh, and the more domestic scale. The proposal would compete with that dominance and result in a proposal with a prominence inappropriate to the significance and character of the site, in direct competition with the importance of the heritage assets. The proposal would furthermore clearly and significantly interject into this relationship with a proposal that not only affects the significance of heritage assets as a result of the loss of open space, but which by virtue of the size and competing dominance of the proposal affects the setting, significance and understanding of the heritage assets which form the heart of Hadleigh. This would result in further harm to the setting and significance of these assets.

- 8.8 In the light of this the proposal is considered to result in harm to the appearance, character, setting and significance of the nearby heritage assets, both by reason of the loss of the area of open space, and by reason of the dominance and scale of the proposed building, contrary to Local Plan Policies CN06 and CN08 and Core Strategy Policy CS15.
- 8.9 The NPPF paragraph 132 requires great weight to be given to the conservation of heritage assets, the more important the asset, the greater the weight should be. In this case the proposal affects three Grade I listed buildings, and nearby Grade II* and II listed buildings as well as the setting of the Conservation Area. As such a considerable level of weight must be given to the conservation of those assets and the importance of the harm that has been identified.
- 8.10 Paragraph 132 goes on to state *“heritage assets are irreplaceable, any harm or loss should require clear and convincing justification... Substantial harm to or loss of designated heritage assets of the highest significance notably scheduled monuments, protected wreck sites, battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.”*
- 8.11 Paragraph 134 states that *“Where a development proposal will 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, including securing its optimum viable use.”*
- 8.12 Historic England consider the harm to be high, not rating it in terms of substantial, or less than substantial. The Council's Heritage Officer considers that harm is at the very upper end of 'less than substantial' harm as defined by the NPPF. Given the harm identified it is considered that the proposal would result in harm at the very upper end of 'less than substantial'.
- 8.13 Paragraph 134 of the NPPF requires the weighing of less than substantial harm against the public benefits of the proposal. The proposal offers public benefits by way of the provision of a single dwelling, not offering affordable or local needs housing. Furthermore, this is in a location within a town where other housing could be delivered without such harm and with at least equivalent benefits. The benefits identified by the applicant with regards to bringing the land back into use are not considered a public benefit, making this land absolutely private, separating it further from the heritage assets.
- 8.14 The extent of harm identified is significant, considered to be at the very highest level of 'less than substantial', and it requires a considerable importance attached to it in light of the statutory duties set out under the listed buildings Act. As such, identified public benefits would need to be substantial in order to achieve a favourable weighting against that level of harm, which effectively acts as a presumption against harmful development proceeding without compelling justification (of which there is none). In this instance the public benefits that would follow in allowing the development to proceed would not outweigh the very clear high-level less than substantial harm that has been identified.
- 8.15 As such the proposal would be contrary to the NPPF paragraphs 7, 14, 60, 61, 131, 132 and 134 and the policies of the development plan including CN06, CN08, and CS15.

9.0 Residential Amenity

- 9.1 The proposal, due to the separation retained to neighbouring properties, the landscaping proposed and retained, and the orientation of the proposed dwelling, is such that the proposal is not considered to result in harm to residential amenity with regards to privacy, overlooking or over-shadowing.

PART FOUR – CONCLUSION

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

- 10.1 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.
- 10.2 In this case pre-application advice was sought. During the course of the application several issues have arisen and amended plans been sought.

11.0 Planning Balance

- 11.1 The proposal would result in the loss of open space which forms part of the character and significance of heritage assets at the heart of Hadleigh, causing harm to the significance, setting, understanding and appreciation of these heritage assets. This permanent loss is not considered to be acceptable due to the harm caused to the heritage assets, affecting the setting, space and historic layout of the area and accordingly affecting the heritage assets.
- 11.3 Furthermore the proposed development by reason of its size, prominence and competing dominance would result in further harm having particular regards to the importance of the church, Guildhall, Deanery Tower and Hadleigh Hall due to their size, compared with the domestic scale of surrounding development, so as to result in a prominence inappropriate to the significance and character of this area.
- 11.4 The harm identified would be at the very upper end of 'less than substantial' and would not result in public benefits which would outweigh the harm.
- 11.5 The proposal would furthermore not protect or enhance the historic environment as required by the NPPF and Core Strategy Policy CS15, and indeed is considered to result in harm to the historic environment, in a particularly sensitive location at the heart of Hadleigh. As such the proposal is considered to result in adverse impacts to the environmental strand of sustainable development, which significantly and demonstrably outweighs the limited benefits of the proposal, such that the proposal fails to meet the requirements of the NPPF and the development plan when taken as a whole.

RECOMMENDATION

That Planning Permission be refused for the following reasons:

The proposal results in the loss of the site as an area of open space, forming part of the setting and contributing to the significance of the adjacent Grade I listed Church, Deanery Tower and Guildhall, as well as the Grade II* Deanery, Grade II Hadleigh Hall and the Conservation Area. The proposal would therefore fail to protect, preserve or enhance the character and appearance of the locality, landscape and the setting and significance of the surrounding heritage assets, with particular regards to the churchyard aspect, and listed buildings by virtue of failing to respect the townscape, historic environment, important spaces and historic views, which would result in a high level of harm of less than substantial harm to the setting and significance of the Listed Buildings and the Conservation Area, not outweighed by public benefit. As such the proposal would be contrary to the requirements of the NPPF including with regards to the environmental role of sustainable development and furthermore with particular respect to paragraphs 7, 14, 60, 61, 131, 132 and 134 of the NPPF, Policies CN01, CN03, CN06, CN08, HS01 and HS28 of the Babergh Local Plan (2006) and Policies CS1 and CS15 of the Babergh Core Strategy (2014).




The proposal would further result in the imposition of a substantial domestic property into the setting of the Listed Buildings and Conservation Area. This would detrimentally affect the setting and significance of the Listed Buildings and Conservation Area, having particular regards to the dominance of the heritage assets compared to the smaller scale of properties in the wider setting. The proposal due to its size and significance would compete with this dominance, important to the significance of the heritage assets, and result in a proposal with a prominence inappropriate to the development and intruding upon the significance of the heritage assets and character of this area. This would result in a high level of harm of less than substantial harm to the setting and significance of the Listed Buildings and the Conservation Area, not outweighed by public benefit. As such the proposal would be contrary to the requirements of the NPPF including with regards to the environmental role of sustainable development and furthermore with particular respect to paragraphs 7, 14, 60, 61, 131, 132 and 134 of the NPPF, Policies CN01, CN03, CN06, CN08 of the Babergh Local Plan (2006) and Policies CS1 and CS15 of the Babergh Core Strategy (2014).

Application No: DC/17/04239




Parish: Hadleigh



Location: Land Adjoining Hadleigh Hall, Pound Lane

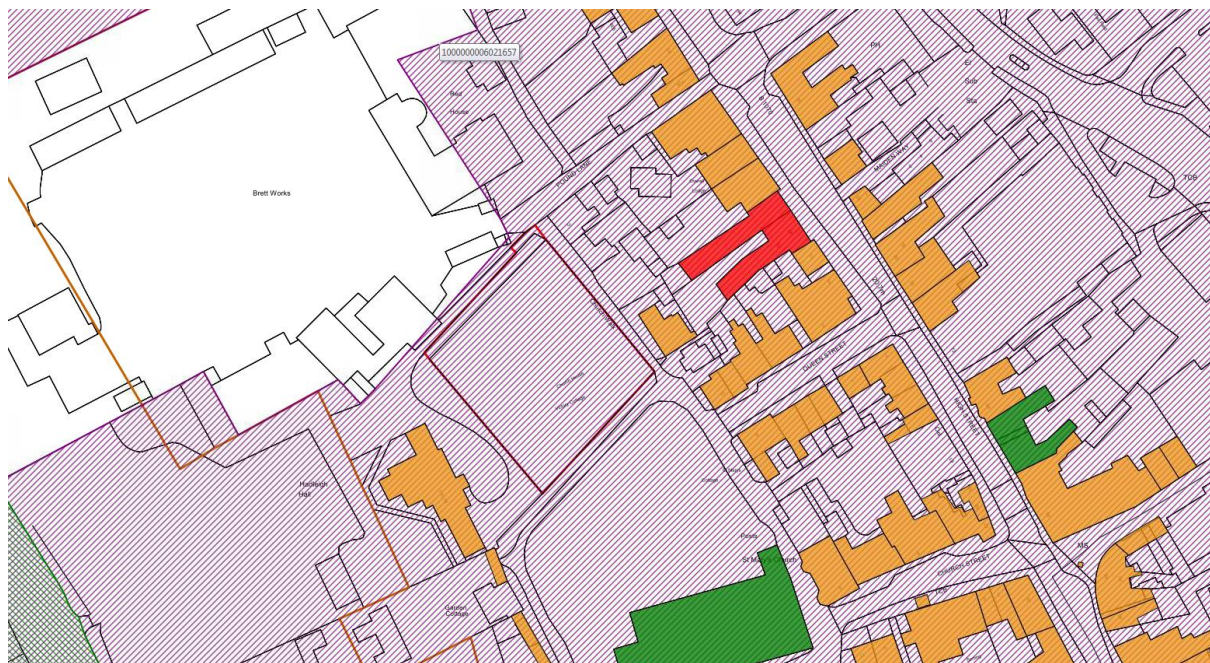
Legend

-  Area of Outstanding Natural Beauty
-  Special Landscape Area
-  Conservation Area

Listed Buildings

-  Grade 1
-  Grade 2
-  Grade 2 *

-  The Site
-  Built up Area Boundary



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Agenda Item 10

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Agenda Item 11

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