

# Public Document Pack



<b>COMMITTEE:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>WEDNESDAY, 15 JULY 2020 9.30 AM</b>
<b>VENUE:</b>	<b>VIRTUAL TEAMS VIDEO MEETING</b>

<b>Members</b>		
<u>Conservative</u> Melanie Barrett Peter Beer (Chair) Mary McLaren Adrian Osborne	<u>Independent</u> Sue Ayres John Hinton Lee Parker Stephen Plumb (Vice-Chair)  <u>Liberal Democrat</u> David Busby	<u>Labour</u> Alison Owen  <u>Green</u> Leigh Jamieson

This meeting will be broadcast live to Youtube and will be capable of repeated viewing. The entirety of the meeting will be filmed except for confidential or exempt items. If you attend the meeting and make a representation you will be deemed to have consented to being filmed and that the images and sound recordings could be used for webcasting/training purposes.

The Council, members of the public and the press may record/film/photograph or broadcast this meeting when the public and the press are not lawfully excluded.

## **AGENDA**

### **PART 1**

#### **MATTERS TO BE CONSIDERED WITH THE PRESS AND PUBLIC PRESENT**

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/19/34 TO CONFIRM THE MINUTES OF THE MEETING HELD ON 3 JUNE 2020 5 - 12**

**4 PL/19/35 TO CONFIRM THE MINUTES OF THE MEETING HELD ON THE 17 JUNE 2020 13 - 22**

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

6 **SITE INSPECTIONS**

In addition to any site inspections which the Committee may consider to be necessary, the Chief Planning Officer will report on any other applications which require site inspections.

7 **PL/19/36 PLANNING APPLICATIONS FOR DETERMINATION BY THE COMMITTEE** 23 - 28

An Addendum to Paper PL/19/36 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/19/02877 LAND EAST OF LONGFIELD ROAD AND LITTLE TUFTS, CAPEL ST MARY, IP9 2UD** 29 - 48

b **B/15/01196 LAND TO THE REAR OF 1-6, THE STREET, KERSEY** 49 - 122

**Notes:**

1. The next meeting is scheduled for Wednesday 29 Jul 2020 commencing at 9.30 a.m.
2. The Council has adopted Public Speaking Arrangements at Planning Committees, a link is provided below:

[Public Speaking Arrangements](#)

[Temporary amendments to the Constitution](#)

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).

Those wishing to speak must contact the Governance Officer on the details below to receive instructions on how to join the meeting.

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.

### **Date and Time of next meeting**

Please note that the next meeting is scheduled for Wednesday, 29 July 2020 at 9.30 am.

### **Webcasting/ Live Streaming**

The Webcast of the meeting will be available to view on the Councils Youtube page:

[https://www.youtube.com/channel/UCSWf\\_0D13zmegAf5Qv\\_aZSg](https://www.youtube.com/channel/UCSWf_0D13zmegAf5Qv_aZSg)

For more information about this meeting, including access arrangements and facilities for people with disabilities, please contact the Committee Officer, Robert Carmichael - [committees@babberghmidsuffolk.gov.uk](mailto:committees@babberghmidsuffolk.gov.uk) - 01449 724930

### **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.

### **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.

### **Evacuating the building in an emergency: Information for Visitors:**

If you hear the alarm:

1. Leave the building immediately via a Fire Exit and make your way to the Assembly Point (Ipswich Town Football Ground).
2. Follow the signs directing you to the Fire Exits at each end of the floor.
3. Do not enter the Atrium (Ground Floor area and walkways). If you are in the Atrium at the time of the Alarm, follow the signs to the nearest Fire Exit.
4. Use the stairs, not the lifts.
5. Do not re-enter the building until told it is safe to do so.

# Agenda Item 3

## BABERGH DISTRICT COUNCIL

Minutes of the meeting of the **PLANNING COMMITTEE** held in the Virtual Meeting on Wednesday, 3 June 2020- 09:30

### **PRESENT:**

Councillor: Peter Beer (Chair)  
Stephen Plumb (Vice-Chair)

Councillors: Sue Ayres  
David Busby  
Leigh Jamieson  
Adrian Osborne  
Lee Parker  
Melanie Barrett  
John Hinton  
Mary McLaren  
Alison Owen

### **Ward Member(s):**

Councillors: John Nunn  
Elisabeth Malvisi  
Alastair McCraw

### **In attendance:**

Officers: Principal Planning Officer (EF)  
Development Management Planning Officer (SS)  
Area Planning Manager (MR)  
Planning Lawyer (IDP)  
Governance Officer (RC)

### **128 SUBSTITUTES AND APOLOGIES**

None received.

### **129 DECLARATION OF INTERESTS**

Councillor Melanie Barrett declared a local non-pecuniary interest in application DC/18/05177 as she knew the former owners of the site.

### **130 PL/19/30 TO CONFIRM THE MINUTES OF THE MEETING HELD ON 30 APRIL 2020**

It was Resolved that the Minutes of the meeting held on the 30 April 2020 were confirmed as a true record and would be signed at the next practicable opportunity.

### **131 TO RECEIVE NOTIFICATION OF PETITIONS IN ACCORDANCE WITH THE**

## COUNCIL'S PETITION SCHEME

None received.

### 132 SITE INSPECTIONS

None requested.

### 133 PL/19/31 PLANNING APPLICATIONS FOR DETERMINATION BY THE COMMITTEE

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/19/31 and the speakers responded to questions put to them as provided for under those arrangements.

Application Number	Representations From
DC/19/03126	Graham Round (Acton Parish Council) John Purser (Objector) Robert Eburne (Applicant) Cllr John Nunn (Ward Member) Cllr Elisabeth Malvisi (Ward Member)
DC/18/05177	Sarah Keys (Brantham Parish Council) Sophie Gittins (Agent) Edward Gittins (Agent) Cllr Alastair McCraw (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/19/31 be made as follows:-**

### 134 DC/19/03126 LAND SOUTH OF TAMAGE ROAD, ACTON

#### 134.1 Item A

Application Proposal	DC/19/03126 Planning Application – Erection of 100 dwellings, vehicular access, open space and associated infrastructure.
Site Location	<b>ACTON-</b> Land South of Tamage Road, Acton
Applicant	Bloor Homes Eastern

134.2 The Case Officer presented the application to the Committee outlining the proposal before Members and the layout of the site, and the officer recommendation of approval with conditions.

- 134.3 The Case Officer responded to Members' questions on issues including: the proposed fencing and border walls.
- 134.4 Members considered the representation from Graham Round of Acton Parish Council.
- 134.5 The Parish Representative responded to Members' questions on issues including: pedestrian routes available in the area, whether a wildlife survey had been undertaken by the Parish Council, and the current status of the Neighbourhood Plan.
- 134.6 Members considered the representation from John Purser who spoke as an Objector.
- 134.7 The Objector responded to Members' questions on issues including: the location of the play area.
- 134.8 Members considered the representation from the Applicant Robert Eburne.
- 134.9 The Applicant responded to Members' questions on issues including: the proposed placement of the play area, the proposed CIL funding, the engagement with the community, the proposed landscape management and ecological mitigations, electric car charging points, and the Affordable Housing provision.
- 134.10 Members considered the representation from the Ward Member Councillor John Nunn.
- 134.11 The Area Planning Manager advised Members that at the previous meeting that the application had been heard, the item had not been refused but had been deferred.
- 134.12 Members considered the representation from the Ward Member Councillor Elisabeth Malvisi.
- 134.13 The Area Planning Manager advised Members that there had been no material change in planning guidance or regulations associated with the Covid 19 pandemic and this could not be used as a reason for refusal.
- 134.14 Members debated the application on the issues including: the proposed Section 106 Agreement, what the anticipated CIL contribution would be, the proposed location of the play area, the response from the Heritage Team, the footpaths in the area, the sustainability of the site, the response from the Highway Authority, and the density of the site.
- 134.15 Councillor Osborne proposed that the application be approved as detailed in the officer recommendation. Councillor Melanie Barrett seconded the motion.

134.16 **RESOLVED**

**That authority be delegated to the Chief Planning Officer to GRANT planning permission:**

**(1) Subject to the prior agreement of a Section 106 Planning Obligation on appropriate terms to the satisfaction of the Chief Planning Officer to secure:**

**• Affordable housing**

**This shall include**

- Rented 75%= 25**
- Shared ownership 25%= 10**
- Properties shall be built to current Housing Standards Technical requirements March 2015 Level 1. All ground floor 1 bed flats to be fitted with level access showers, not baths.**
- The council is granted 100% nomination rights to all the affordable units on initial lets and 75% on subsequent lets**
- All affordable units to be transferred freehold to one of the Councils preferred Registered providers.**
- Adequate parking provision is made for the affordable housing units including cycle storage for all units.**
- Commuted sum option available to be paid instead of on site provision should the LPA agree to such request.**
- On-site open space and public open space including management of the space to be agreed and requirement for public access at all times.**
- Bus improvements: £55,000**
- Contribution to school transport: £165,347.00**
- Contribution to improvements to the PRoW of £12,500, if not improved via Chilton Woods development.**

**(2) That the Chief Planning Officer be authorised to GRANT Planning Permission upon completion of the legal agreement subject to conditions as summarised below and those as may be deemed necessary by the Chief Planning Officer:**

- Standard time limit (3yrs for implementation of scheme)**
- Approved Plans (Plans submitted that form this application)**
- Phasing Condition (To allow phasing of the development and allows spreading of payments under CIL)**
- Archaeological investigation**
- Provision of fire hydrants**
- As requested by the Highway Authority including details of bin/recycling presentation points**
- As requested by the Flood and Water Officer**
- Provision of Electric Car charging facilities**
- Biodiversity mitigation and enhancement measures**
- Energy and renewal integration scheme to be agreed**
- Rainwater harvesting to be agreed**
- Construction Plan to be agreed.**
- Level access to enable wheelchair access for all dwellings/buildings.**



- As requested by the arboricultural officer
- Landscaping management
- Details of landscaping

(3) And the following informative notes as summarised and those as may be deemed necessary:

- Proactive working statement
- SCC Highways notes
- Support for sustainable development principles

(4) That in the event of the Planning obligations or requirements referred to in Resolution (1) above not being secured and/or not secured within 6 months, the Chief Planning Officer be authorised to refuse the application on appropriate grounds.

**135 DC/18/05177 BRANTHAM PLACE, CHURCH LANE, BRANTHAM, MANNINGTREE, SUFFOLK, CO11 1QA**

135.1 A short comfort break was taken after the completion of DC/19/03126 but before the commencement of DC/18/05177.

135.2 Item B

Application	DC/18/05177
Proposal	Planning Application – Erection of 15 dwellings including 7 affordable units. Conversion of existing dwelling to provide 6 apartments. Alterations to 2 vehicular accesses.
Site Location	<b>BRANTHAM-</b> Brantham Place, Church Lane, Brantham, Manningtree, Suffolk, CO11 1QA
Applicant	Granville Developments

135.3 The Case Officer presented the application to the Committee outlining the proposal before Members, the layout of the site and the officer recommendation of approval.

135.4 The Case Officer responded to Members' questions on issues including: the trees on the site, and the ecology on the site.

134.5 Members considered the representation from Sarah Keys who spoke on behalf of Brantham Parish Council.

134.6 The Parish Council representative responded to Members' questions on issues including: engagement with the community.

134.7 Members considered the representation from Sophie and Edward Gittins who spoke as the Agents.

134.8 The Agents responded to Members' questions on issues including: the sewage disposal on the site, the environmental sustainability of the housing, and electric car charging points.

134.9 Members considered the representation from Councillor Alastair McCraw who spoke as the Ward Member.

134.10 Members debated the application on the issues including: the identified need for development in Brantham, the response from Suffolk Police, the provision for over 55 accommodation.

134.11 Councillor Melanie Barrett proposed that the application be approved as detailed in the officer recommendation with the additional condition of electric car charging points to be installed.

134.12 Councillor David Busby seconded the motion.

134.13 Councillor Melanie Barrett proposed that a recorded vote be taken. Two further Members indicated that they supported the proposal as required.

134.14

For	Against	Abstain
Cllr Sue Ayres Cllr Melanie Barrett Cllr Peter Beer Cllr David Busby Cllr John Hinton Cllr Leigh Jamieson Cllr Mary McLaren Cllr Adrian Osborne Cllr Alison Owen Cllr Lee Parker Cllr Stephen Plumb		

134.15 **RESOLVED**

- (1) **Subject to the prior agreement of a Section 106 Planning Obligation on appropriate terms to the satisfaction of the Chief Planning Officer to secure:**
  - **Affordable housing**
  - **On site open space including management of the space to be agreed and requirement for public access at all times.**
  - **RAMS financial contribution**
  - **£25,000 contribution for surfacing of the PROW 016**
- (2) **That the Chief Planning Officer be authorised to grant Planning Permission upon completion of the legal agreement subject to**

conditions as summarised below and those as may be deemed necessary by the Chief Planning Officer:

- Reduced 18-month time limit to implement
- Approved Plans
- Phasing
- Details of materials
- Highways
- Details of implementation, maintenance, and management of surface water drainage scheme
- Details of sustainable urban drainage system components and piped networks
- Secure mitigation and ecology enhancement measures
- Ecology – in accordance with Ecological Appraisal
- EPS Licence of Bats • LEMP
- Wildlife Sensitive Design Scheme
- Construction Management Plan
- Construction/clearance hours
- No burning
- Surface water management strategy
- Hard and soft landscaping including boundary treatments
- Hedgehog fencing scheme to be agreed
- Arboriculture - utility service details within RPAs
- Arboriculture – hard landscaping within RPAs
- Programme of archaeological work
- No occupation until archaeological assessment complete
- Fire hydrant provision details
- Sustainable efficiency measures

(3) And the following informative notes as summarised and those as may be deemed necessary:

- Pro-active working statement
- SCC Highways notes

(4) That in the event of the Planning obligations or requirements referred to in Resolution (1) above not being secured and/or not secured within 6 months that the Chief Planning Officer be authorised to refuse planning permission for the following reason:

Inadequate provision of infrastructure contributions which would fail to provide compensatory benefits to the sustainability of the development and its wider impacts, contrary to the development plan and national planning policy.

**Additional Condition:**

Electric vehicle charging points.

The business of the meeting was concluded at 12.48 pm.

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Chair

# Agenda Item 4

## BABERGH DISTRICT COUNCIL

Minutes of the virtual meeting of the **PLANNING COMMITTEE** held on Wednesday, 17 June 2020 at 09:30 a.m.

### **PRESENT:**

Councillor: Peter Beer (Chair)  
Stephen Plumb (Vice-Chair)

Councillors: Susan Maria Ayres B.Ed Hons Melanie Barrett  
David Busby John Hinton  
Leigh Jamieson Mary McLaren  
Adrian Osborne Alison Owen

### **Ward Member(s):**

Councillors: Clive Arthey  
Bryn Hurren  
Margaret Maybury

### **In attendance:**

Guest(s): Roger Loose (Boxford Parish Council)  
Andrew Good (Objector)  
Ed Barrett (Applicant)  
Robin Morley (Cockfield Parish Council)  
Mark Webster (Objector)  
Dave King (Agent)

Officers: Principal Planning Officer (MR)  
Planning Lawyer (IDP)  
Professional Lead – Housing Enabling (JAT)  
Governance Officer (RC)

### **136 APOLOGIES AND SUBSTITUTIONS**

Apologies of absence were received from Councillor Lee Parker.

### **137 DECLARATION OF INTERESTS**

There were no declarations of interest declared.

### **138 PL/19/32 TO CONFIRM THE MINUTES OF THE MEETING HELD ON 3 JUNE 2020**

The Governance Officer advised Members that the minutes from the meeting on 03 June 2020 were not ready for confirmation.

Further to this the Governance Officer advised that they would be reported to the

next Planning Committee meeting.

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

The Governance Officer advised Members that a petition had been received regarding planning application DC/20/00330.

The petition had been signed by 96 valid signatories supporting the following statement:

“We the undersigned petition the planning committee at Babergh District Council to reject to Catesbury Estates application DC/20/00330 to build new homes on Land to the East of Sand Hill, Boxford”.

**140 SITE INSPECTIONS**

None requested.

**141 PL/19/33 PLANNING APPLICATIONS FOR DETERMINATION BY THE COMMITTEE**

The Chair welcomed everyone to the virtual meeting, outlined the procedure and etiquette to be followed and introduced the officers present.

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/19/33 and the speakers responded to questions put to them as provided for under those arrangements.

Application No.

Representations from

DC/20/00330

Roger Loose (Boxford Parish Council)  
Andrew Good (Objector)  
Ed Barrett (Applicant)  
Cllr Bryn Hurren (Ward Member)

DC/19/04755

Robin Morley (Cockfield Parish Council)  
Mark Webster (Objector)  
Dave King (Agent)  
Cllr Clive Arthey (Ward Member)  
Cllr Margaret Maybury (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/19/33 be made as follows:-**

**142 DC/20/00330 LAND TO THE EAST OF SAND HILL, BOXFORD, SUFFOLK**

Item 6A

Application: DC/20/00330  
Proposal: Outline Planning Application (Access to be considered all other matters reserved) - Erection of up to 64no. dwellings and provision of land for a community building (Use Class D1)  
Site Location: BOXFORD - Land to the East of Sand Hill  
Applicant: Catesby Development Land Limited

The case officer presented the application to the Committee, outlining the proposal before Members, the previous decision taken by the Committee in October 2019, the layout of the site, the content of the tabled papers, and the officer recommendation of approval.

The case officer responded to Members' questions on issues including: Community Infrastructure Levy (CIL) contributions, sustainability measures proposed in the planning application and the proposed community building.

Members considered the representation from Roger Loose of Boxford Parish Council who spoke against the application.

The Parish Council representative responded to Members' questions on issues including: the need for a community building in the village, whether this site had been identified as a site in the proposed neighbourhood plan, and transport issues within the village including the bus service.

Members considered the representation from Andrew Good who spoke as an Objector.

The Case Officer provided clarification regarding the Planning Policy Officers Report, in particular accessibility to the site.

Members considered the representation from Ed Barrett who spoke as the applicant.

The applicant responded to Members' questions on issues including: the consultation which took place with the village residents, the possible use of the community building, and the number of bungalows included in the application.

Members considered the representation from Ward Member, Councillor Bryn Hurren.

The Ward Member responded to Members' questions on issues including: traffic impact, parking provision near to the primary school, primary school applications and the health provision in the area.

The case officer advised Members regarding the ownership of the proposed

soakaway area of the application.

The case officer then provided clarification to Members regarding the differences between the Swan Street Appeal and this application.

Members debated the application on the issues including: traffic congestion, the allocation of school places within the village and transport to neighbouring schools, the Draft Joint Local Plan, the status of the Boxford Neighbourhood Plan and the weight given to these policies, the bus services in the area, and the use of the proposed D1 building.

Councillor Melanie Barrett proposed that the application be approved as detailed in the officer recommendation.

Councillor Peter Beer seconded the motion.

Councillor Melanie Barret requested a recorded vote.

Councillor Sue Ayres and Councillor Adrian Osborne supported the request for a recorded vote.

For	Against	Abstention
Cllr Sue Ayres	Cllr John Hinton	
Cllr Melanie Barrett	Cllr Leigh Jamieson	
Cllr Peter Beer	Cllr Stephen Plumb	
Cllr Dave Busby		
Cllr Mary McLaren		
Cllr Adrian Osborne		
Cllr Alison Owen		
Total 7	Total 3	Total 0

## **RESOLVED**

**That authority be delegated to the Chief Planning Officer to grant outline planning permission subject to the prior completion of a Section 106 Legal Agreement on terms to their satisfaction to secure the following heads of terms:**

- **35% Affordable Housing:**
  - Affordable Rent = 75% - 16 dwellings**
    - 4 x 1 bed 2-person flats @ 50 sqm
    - 2 x 2 bed 4-person bungalows @ 70 sqm
    - 8 x 2 bed 4-person houses @ 79 sqm
    - 2 x 3 bed 5-person houses @ 93 sqm
  - Rent to Buy = 25% - 6 dwellings**
    - 4 x 2 bed 4-person house @ 79 sqm



- 2 x 3 bed 5-person house @ 93 sqm

- **Highways Improvements consisting of:**
  - Creation of footway from the bottom of Sand Hill, into Cox Hill junction and Ellis Street and an uncontrolled crossing point, inclusive of widening the 'pinch point' on Broad Street
  - £20,000 to be made to SCC for the extension of the 30mph speed limit and the introduction of the 20mph speed zone.
  - £4,000 to complete the legal process to upgrade the PROW footpath to bridleway.
  - £15,000 for construction for new raised bus stop kerbs with shelters.
  
- **Public Open Space consisting of:**
  - An area of no less than 2.03Ha
  - Local Areas for Play (LAP) and / or Local Equipped Areas for Play (LEAP) provision
  - Management Company
  
- **Community Building consisting of:**
  - Unit to be set on an area of no less than 0.08Ha
  - D1 Use Class unit
  
- **Development contribution consisting of:**
  - £107,520 (Schools Transport)

and that such permission be subject to the conditions as summarised below and those as may be deemed necessary by the Chief Planning Officer:

1. Reduced outline time limit (18 months)
2. Reserved matters details
3. Approved plans
4. Market housing mix
5. Archaeology (pre investigation)
6. Archaeology (post investigation)
7. Construction Management Plan
8. Levels
9. Highways – Visibility Splays
10. Highways – Details of access
11. Highways – Estate roads and footpaths
12. Highways – Basecourse level
13. Highways – Surface Water Discharge
14. Highways – Footway link
15. Highways – Residents Travel Pack
16. Highways – Parking
17. Highways – HGV Construction
18. Surface water drainage
19. SUDs
20. Landscape – Advanced Planting
21. Landscape – Hard and soft landscaping scheme
22. Landscape – SUDs details

- 23. Landscape – Management Plan
- 24. Fire hydrants
- 25. Ecological recommendations
- 26. Biodiversity enhancement strategy
- 27. Skylark mitigation strategy
- 28. Landscape and ecological management plan
- 29. Sustainability measures
- 30. Heritage – Bus stop and surface material details
- 31. Heritage – Street signage details
- 32. Heritage – Footway materials
- 33. Super / Ultra fast broadband
- 34. Car Charging points

**143 DC/19/04755 LAND TO THE REAR OF PLOUGH AND FLEECE INN, GREAT GREEN, COCKFIELD, BURY ST EDMUNDS, SUFFOLK, IP30 0HJ**

A short comfort break was taken between 11:24 – 11:35 after the completion of DC/20/00330 but before the commencement of DC/19/04755.

Item 6B

Application Proposal	DC/19/04755 Outline Planning Application (Access to be considered all other matters reserved) - Erection of up to 28no. dwellings (Plots 5, 6 and 7 of Reserved Matters Permission DC/19/02020 to be repositioned/amended)
Site Location	COCKFIELD – Land to the rear of Plough and Fleece Inn, Great Green
Applicant	The Sudbury Group Ltd

The case Officer presented the application to the Committee outlining the proposal before Members, the layout of the site, the contents of the tabled papers, and the officer recommendation of approval.

Members considered the representation from Robin Morley of Cockfield Parish Council.

Members considered the representation from Mark Webster who spoke as an Objector.

Members considered the representation from the agent, Dave King.

The agent responded to Members questions on issues including: the possibility of any self build properties on the site.

Members considered the representations from the Ward Members, Councillor Clive Arthey and Councillor Margaret Maybury.

The Ward Members responded to Members’ questions on issues including: viability

of the development site.

Members debated the application on the issues including: the collaborative approach between the developers and the Parish Council, the cumulative effect of the recent planning approvals, and Community Infrastructure Levy payments.

Councillor Peter Beer proposed that the application be approved as detailed in the officer recommendation with the additional condition as detailed below:

- Condition that a tree survey is carried out and compliance with the findings of the tree survey.

Councillor Melanie Barrett seconded the motion.

### **RESOLVED:**

**That the application is GRANTED outline planning permission and includes the following conditions:-**

- **Reserved Matters Application**
- **Reserved Matters Application Time Limit**
- **Approved documents**
- **Landscape Plan Time Limit**
- **Archaeological Conditions**
- **Highways Conditions**
- **Ecology Conditions**
- **Levels to be agreed - existing and proposed site wide, including FFL of the dwellings**
- **Construction Management Plan**
- **Fire hydrant provision details**
- **Sustainable efficiency measures**
- **SUDS**
- **Mix of dwelling as per the accommodation schedule on the Indicative Layout Plan**
- **Layout to reflect the Indicative Layout Plan**
- **No bonfires**
- **Working Hour Restriction**
- **Removal of PD for new openings above ground floor level to the dwellings on the eastern and southern boundaries of the site**
- **Swift boxes installation scheme to be agreed**
- **Hedgehog fencing scheme to be agreed**
- **Rainwater harvesting to be agreed**
- **Electric Car Charging Points**

**That authority be delegated to the Chief Planning Officer to Grant outline planning permission:**

- (1) Subject to the prior agreement of a Section 106 Planning Obligation on appropriate terms to the satisfaction of the Chief Planning Officer to**

**secure:**

- **Affordable housing**

**This shall include**

**Affordable Rent:**

**2 x 1bed 2p flats/bungalows @ 50sqm**

**6 x 2bed 2p houses @ 79sqm**

**1 x 3bed 5p house @ 93sqm**

**Shared Ownership:**

**2 x 2bed 4p houses @ 79sqm**

**1 x 3bed 5p house @ 93sqm**

- **On site open space provision, transfer; management of the space to be agreed and requirement for public access at all times.**
- **Financial Contribution to SCC for widening of footpath**

**(2) That the Chief Planning Officer be authorised to grant outline Planning Permission upon completion of the legal agreement subject to conditions as summarised above and those as may be deemed necessary by the Chief Planning Officer.**

**(3) And the following informative notes as summarised and those as may be deemed necessary:**

- **Pro-active working statement**
- **SCC Highways notes**
- **Support for sustainable development principles**
- **Anglian Water**
- **Land Contamination**

**(4) That in the event of the Planning obligations or requirements referred to in Resolution (1) above not being secured and/or not secured within 6 months that the Chief Planning Officer be authorised to refuse the application on appropriate ground**

**Additional Conditions applying to the North of site:**

**i) Tree survey**

**ii) Scheme to comply with survey's recommendations (to LPA's satisfaction).**

The business of the meeting was concluded at 12:41 p.m.

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Chair

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## PL/19/36

### BABERGH DISTRICT COUNCIL

### PLANNING COMMITTEE

15 JULY 2020

### SCHEDULE OF APPLICATIONS FOR DETERMINATION BY THE COMMITTEE

Item	Page No.	Application No.	Location	Officer
7A	29-48	<b>DC/19/02877</b>	<b>Land East of Longfield Road, and Little Tufts, Capel St Mary, IP9 2UD</b>	BH
7B	49-122	<b>B/15/01196</b>	<b>Land to the Rear of 1-6 the Street, Kersey</b>	SS

Philip Isbell  
Chief Planning Officer

## 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 Acting Chief Planning Officer, 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 ACTING CHIEF PLANNING OFFICER

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**

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

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## Protocol for Virtual Meetings

### Live Streaming:

1. The meeting will be held on TEAMS and speakers will be able to join via invite only. Any person who wishes to speak at the meeting must contact Committee Services at: [committees@babergmidsuffolk.gov.uk](mailto:committees@babergmidsuffolk.gov.uk) at least 24 hours before the start of the meeting.
2. The meeting will be live streamed and will be available to view on the Council's YouTube page as detailed below:  
[https://www.youtube.com/channel/UCSWf\\_0D13zmegAf5Qv\\_aZSg](https://www.youtube.com/channel/UCSWf_0D13zmegAf5Qv_aZSg)

### Recording of proceedings:

1. Proceedings will be conducted in video format.
2. A Second Governance Officer will be present and will control the TEAMS call and Livestreaming.
3. Members should display the Corporate Background whilst in attendance at formal meetings; the working together logo should be used for joint meetings.
4. If you are experiencing slow refresh rates and intermittent audio you should turn off incoming video to improve your connection to the meeting (If this also does not work please turn off your own camera).

### Roll Call:

1. A roll call of all Members present will be taken during the Apologies for Absence/Substitution to confirm all members are present at the meeting.

### Disclosable Pecuniary Interests:

1. A Councillor declaring a disclosable pecuniary interest will not be permitted to participate further in the meeting or vote on the item. Where practicable the Councillor will leave the virtual meeting, including by moving to a 'lobby' space and be invited to re-join the meeting by the Committee Officer at the appropriate time. Where it is not practicable for the Councillor to leave the virtual meeting, the Committee Officer will ensure that the Councillor's microphone is muted for the duration of the item.

### Questions and Debate:

1. Once an item has been introduced, the Chair will ask if there are any questions. Members of the Committee will be asked to use the "Hands Up" function within teams. The Chair will then ask Members to speak.
2. Any Councillors present who are not part of the Committee will then be invited to ask questions by using the "Hands up function" within teams. The Chair will then ask Members to speak.

3. At the end of the questions the Chair will ask Members whether they have any further questions before entering into debate.
4. In the instance where a Member of the Committee would like to formally make a proposal, they should raise their hand using the Hands Up function. At this point the Chair would go directly to them and take the proposal. Once the proposal has been made the Chair would immediately ask if there was a seconder to the Motion. If there is it would become the substantive Motion and the Chair would again continue down the list of Councillors until there is no further debate.
5. Upon completion of any debate the Chair will move to the vote.

Voting:

1. Once a substantive motion is put before the committee and there is no further debate then a vote will be taken.
2. Due to circumstances the current voting by a show of hands would be impractical - as such the Governance Officer will conduct the vote by roll call. The total votes for and against and abstentions will be recorded in the minutes not the individual votes of each Councillor. Except where a recorded vote is requested in accordance with the Rules of Procedure.
3. The governance officer will then read out the result for the Chair to confirm.
4. A Councillor will not be prevented from voting on an item if they have been disconnected from the virtual meeting due to technical issues for part of the deliberation. If a connection to a Councillor is lost during a regulatory meeting, the Chair will stop the meeting to enable the connection to be restored. If the connection cannot be restored within a reasonable time, the meeting will proceed, but the Councillor who was disconnected will not be able to vote on the matter under discussion as they would not have heard all the facts.

Confidential items:

1. The Public and Press may be Excluded from the meeting by resolution in accordance with normal procedural rules. The Committee Officer will ensure that any members of the public and press are disconnected from the meeting.

# Agenda Item 7a

## Committee Report

Item 7A

Reference: DC/19/02877

Case Officer: Bradly Heffer

Ward: Capel St Mary.

Ward Member/s: Cllr Sue Carpendale.

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## **RECOMMENDATION – APPROVAL OF RESERVED MATTERS WITH CONDITIONS**

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### **Details of Development**

#### **Description of Development**

Submission of details for appearance, scale, layout and landscaping for approved application DC/17/06318 - Outline Planning Application (means of access to be considered) -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 on land east of Longfield Road, Capel St Mary.

#### **Location**

Land East Of Longfield Road And Little Tufts , Capel St Mary, IP9 2UD,

**Expiry Date:** 14/09/2019

**Application Type:** RES - Reserved Matters

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

**Applicant:** Persimmon Homes Ltd & Donald Edward Baker & Carol Dorothy...

**Agent:** Mr Stuart McAdam – Persimmon Homes

**Parish:** Capel St Mary

**Site Area:** 4.74 hectares

#### **Density of Development:**

Gross Density (Total Site): 20 dwellings per hectare.

Net Density (Developed Site, excluding open space and SuDs): 38 dwellings per hectare.

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**Details of Previous Committee / Resolutions and any member site visit: Members will recall that this reserved matters proposal was initially presented to Committee at its meeting held on 26<sup>th</sup> February. At that meeting, Members resolved to defer the formal determination of the proposal, in order that further consideration of the following issues could be addressed:**

- **To seek improvements to the design of the flats**
- **Alter mix towards a lower number of bedrooms**
- **Increase the number of bungalows**

Members are advised that the proposed revisions to the submission have resulted in the re-consultation of the Parish Council, neighbouring residents, Highway Authority, Strategic Housing Officer and the Arboricultural officer. However, the expiry date for consultation will fall after the publication date for this report. Therefore, any comments received after publication will be summarised and included within the Addendum Paper/reported verbally at Planning Committee. Officers will advise if a change in recommendation is required but are presently satisfied that the details received are sufficient to rely upon in reaching the recommendation outlined in this report and the changes to the application overcome the previous concerns raised.

A further report section has been added at the end, where the proposed revisions are identified and discussed (please see section 12 below).

Has a Committee Call In request been received from a Council Member (Appendix 1): No  
Has the application been subject to Pre-Application Advice: Yes – ref. DC/18/04523

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

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

It is a “Major” reserved matters submission for:

- a residential development 15 or more dwellings

### **Details of Previous Committee / Resolutions and any member site visit**

None

### **Has a Committee Call In request been received from a Council Member?**

No

### **Details of Pre-Application Advice**

Discussions/meetings have taken place with the landowner and applicant regarding the proposals. These were in relation to the proposed layout and design, and the roads and parking areas that would serve the development.

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## **PART TWO – POLICIES AND CONSULTATION SUMMARY**

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### **Summary of Policies**

NPPF - National Planning Policy Framework

### **Core Strategy**

- CS1 - Applying the presumption in Favour of Sustainable Development in Babergh
- CS2 - Settlement Pattern Policy
- CS3 - Strategy for Growth and Development
- CS11 - Core and Hinterland Villages
- CS12 - Design and Construction Standards
- CS13 - Renewable / Low Carbon Energy

CS14 - Green Infrastructure  
CS15 - Implementing Sustainable Development  
CS18 - Mix and Types of Dwellings  
CS19 - Affordable Homes  
CS21 - Infrastructure Provision

### **Local Plan**

HS31 - Public Open Space (1.5 ha and above)  
CR07 - Landscaping Schemes  
CR08 - Hedgerows  
CN01 - Design Standards  
CN04 - Design & Crime Prevention  
TP15 - Parking Standards - New Development

### **Neighbourhood Plan Status**

This application site is within a Neighbourhood Plan Area.

The Neighbourhood Plan is currently at:-

Stage 2: Preparing a draft neighbourhood plan

Accordingly, the Neighbourhood Plan has little weight as a material planning consideration in the determination of this proposal.

### **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**

##### **Town/Parish Council**

**Capel St Mary Parish Council** has made two representations – the first advised of local residents' concerns with regard to drainage issues on site and the detrimental impact this may have on the planned new homes. A second representation recommends that the application is refused on the following grounds:

- Inappropriate density of development and housing mix
- The scheme requires adequate street lighting
- The play equipment provision for the site should be agreed before the development is approved
- There are local concerns about drainage and run-off provision across the site. The SuDS pond could be unsafe
- Parking will occur in the road and private drives are out of keeping with the village
- All roads should be adopted including street lighting
- Access to the agricultural land to the rear will mean large agricultural vehicles using the roads
- A Construction Management Plan is required
- Collection of household refuse has not been addressed – litter and smells will be an ongoing problem

## **National Consultee**

**Anglian Water** has no objection to the proposal.

**Natural England** has advised it has no objection to the proposal.

**NHS Suffolk Clinical Commissioning Group** has advised that it would not be requesting a CIL contribution for this development.

## **County Council Responses**

**Suffolk County Council Strategic Development** team has identified that infrastructure implications arising from the proposals were established at the time of the determination of the outline planning application (ref. DC/17/06318) and these would form the basis of a future CIL funding bid.

**Suffolk County Council Travel Plan Officer** has no comment to make on this reserved matters submission.

**SCC Lead Local Flood Authority** requested the submission of additional information following the initial submission of this application. This has been received and considered, and the LLFA has advised that it now recommends an approval of the application. It is also noted by the LLFA that the recommendation does not constitute the discharge of any planning conditions that were imposed under the outline planning application.

**SCC Highway Authority** did raise some concerns with regard to the initially-submitted scheme. Following on from the submission of the revised scheme it has been confirmed that there is no objection to the proposals, subject to the imposition of conditions on a grant of planning permission.

**SCC Public Rights of Way Team** has identified that the site does not contain any public rights of way, and accept the proposal based on the current drawings submitted by the applicant. Various advisory comments are also provided in relation to statutory controls applicable to public rights of way

**SCC Archaeology** has requested the imposition of two conditions in the event that planning permission was granted for the proposal. However, Members are advised that identical conditions were imposed at the outline application approval stage, and therefore there is no need to reimpose these conditions on a reserved matters approval.

**Essex County Council Place Services – Landscape** has no objection to the proposal, but requested various minor amendments to the proposed scheme of landscaping. The applicant's agent has agreed these and this issue can be properly addressed through the discharge of relevant conditions that are attached to the grant of outline planning permission.

**Essex County Council Place Services – Ecology** confirms it has no objection to the proposed application.

## **Internal Consultee Responses**

**Environmental Health – Noise/Odour/Light/Smoke** has identified that an acoustics report was submitted with the outline application, and a condition was imposed to address the need for sound insulation for properties on the eastern side of the development. It is stated that '...I can only state that I would have no objection to the proposed layout, on the assumption that compliance with condition 19 is confirmed later...' Post submission, additional details of noise levels arising from the pumping station and electricity



substation were submitted, and it has been confirmed that the officer is content with the proposed location of both facilities. Lastly it is identified that details of the proposed play area should be agreed with the Local Planning Authority.

**Environmental Health – Land Contamination** has no comment to make on the application submission, and confirms that there are no outstanding land contamination issues arising from the outline planning permission.

**Environmental Health – Sustainability** has no comment to make on the application, and identifies that a condition was imposed on the grant of outline planning permission.

The **Heritage Team** has identified that heritage impact comments made at the time of the outline planning application (by Place Services) are still pertinent to this reserved matters proposal. The comment is reproduced in full in the heritage impact section of this report.

The **Public Realm** team has advised that it supports the level of public open space associated with the development. It is identified that Capel St Mary is currently deficient in amenity green space and the level of greenspace proposed is welcomed. It was also identified that the provision of a LEAP needs to be indicated on plan, and this has been addressed. It has been confirmed that the details of the area could be agreed via condition.

**Communities (Major Development)** concurs with the comments made by the **Public Realm Team**.

**Strategic Housing Officer** has confirmed that the proposed affordable housing mix in the revised submission is acceptable and its previous holding objection has been removed.

## **B: Representations**

Other representations received are summarised as follows:

- Inadequate access
- Insufficient car parking spaces and bin storage
- Drainage problems on private roads
- Poor energy efficiency
- Butchers Lane is unsuitable to accept traffic
- Inappropriate site for the use of SUDS. There are flooding issues on site.
- Dwellings out of keeping and poor layout/cramped development
- No street lighting
- Loss of privacy and noise nuisance
- The village is already over-developed and existing facilities will not be able to cope.
- Existing hedging should be retained.
- Concerns expressed by the Parish Council are supported

## **PLANNING HISTORY**

**REF:** DC/17/06318

Outline Planning Application (means of access to be considered) -Erection of residential development for up to 100 dwellings to be built in phases with associated infrastructure, public open space

**DECISION:** GTD  
05.07.2018

and details of highway access on land east of Longfield Road, Capel St Mary.

<b>REF:</b> DC/19/02877	Submission of details for appearance, scale, layout and landscaping for approved application DC/17/06318 - Outline Planning Application (means of access to be considered) -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 on land east of Longfield Road, Capel St Mary.	<b>DECISION:</b> PCO
<b>REF:</b> DC/19/02930	Discharge of Conditions Application for DC/17/06318- Condition 7 (Surface Water Drainage Scheme), Condition 8 (Implementation of Surface Water Drainage Scheme) and Condition 10 (Construction Surface Water Management Plan).	<b>DECISION:</b> PCO
<b>REF:</b> B/0863/77/OUT	Residential development and construction of vehicular access.	<b>DECISION:</b> REF 29.12.1977
<b>REF:</b> B/16/01458	Outline (means of access to be considered) - Residential development for up to 150 no. dwellings with highway access off Little Tufts (following demolition of existing garage)	<b>DECISION:</b> REF 21.07.2017
<b>REF:</b> BIE/15/00620	Residential Development - 130 dwellings	<b>DECISION:</b> PCO
<b>REF:</b> B/88/00584	OUTLINE - RESIDENTIAL DEVELOPMENT	<b>DECISION:</b> REF 27.05.1988
<b>REF:</b> B/88/00733	OUTLINE - RESIDENTIAL DEVELOPMENT (DUPLICATE APPLICATION)	<b>DECISION:</b> REF 19.07.1988

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

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### **1. The Site and Surroundings**

- 1.1. The site for this proposal is an irregularly-shaped area of agricultural land that is located to the north-east, and abutting the settlement boundary, of the village of Capel St Mary. It is a relatively level site, with a given area of approximately 4.7 hectares. The boundary of the site, to the west and south, abuts the residential curtilages of established dwellings, whereas the northern and the majority of the eastern boundaries are adjacent to open, undeveloped rural land. Some

boundaries of the site (where they abut the established settlement edge) contain established trees and hedging.

- 1.2. The village of Capel St Mary is identified as a Core Village within the adopted Babergh Core Strategy. Further, the Core Strategy inter alia advises that ‘...The larger villages (called Core Villages) provide services and facilities for their own residents and for those that live in smaller villages and rural settlements in a hinterland around them...The settlements identified as Core Villages have been defined as such not because of size or potential opportunities for growth, but because of the role they play, providing a number of essential services and facilities to a catchment area of smaller villages and rural settlements...’

## **2. The Proposal**

- 2.1. Members are advised that under planning application ref. DC/17/06318, outline planning permission was granted for the following development on the identified site:

‘Outline Planning Application (means of access to be considered) -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 on land east of Longfield Road, Capel St Mary’

Members will note that the application, although submitted in outline, did seek full planning permission for the proposed means of access. Permission was granted for the proposal via notice dated 5<sup>th</sup> July 2018, and included 29 no. conditions. These included a condition that required the submission of reserved matters no later than three years from the date of the outline application approval. This current application submission accords with the identified conditional requirement.

- 2.2. The reserved matters submission provides the detailed proposals for the erection of 100 no. dwellings on the site, in relation to appearance, landscaping, layout and scale. The submitted scheme shows the provision of dwellings arranged in loose perimeter blocks, accessed via a series of culs-de-sac leading from the main access to the site off Little Tufts. The proposed dwellings would comprise a mix of detached, semi-detached and terraced units, mainly 2 or 2 ½ storeys in height. There is also an instance of single storey development, located in an enclave at the north-western end of the site. In addition, a single building located in a central position on the site, and containing apartments, would achieve three storeys in height. Parking spaces for dwellings would be either provided on plot, or within parking court areas. The submitted plans also show the provision of open space areas, to the north (containing a play area) and south of the proposed dwellings, as well as incidental areas within the residential development itself. A further significant undeveloped area (that would form part of the SuDS provision on the site) would be located at the northern end of the site – immediately adjacent to the rural land to the north. Another notable feature of the proposed development is the creation of footway and cycleway routes which would link to Little Tufts and also Butchers Lane to the south.
- 2.3. In terms of appearance, the scheme put forward for consideration follows a traditional vernacular architectural approach for individual buildings, with the use of external materials that would include bricks, render and tiled roofs.
- 2.4. For Members’ information, the following extracts are taken from the submitted Design and Access Statement, in order to provide some context in relation to the development proposals:

‘...The overall layout responds to the site’s topography, its existing features and neighbouring development. Vista points/stops and important views into, out of and within the site have been considered. In response to comments at pre-application stage, character areas have been considered...The layout includes generous areas of managed open space. Approximately 35% of the gross site area is given over to public open space/recreational open space in accordance with

planning policy...Planting is proposed to be enhanced on the western boundary to help protect the amenity of existing residents. Green spaces are linked where possible to provide for biodiversity connectivity, as well as providing opportunity for pleasant walking areas for residents...Where possible, an informal perimeter block arrangement is used as they are efficient in land use and contextually appropriate...The exception to the perimeter block approach is at the site's main western boundary. Here, the orientation and design of properties has been carefully considered to reduce impacts upon the amenity of residents, particularly those living on Penn Close and The Pightle...'Secured by Design' principles have influenced the layout in relation to natural surveillance, perimeters, physical security, landscaping and lighting, helping to create a safe and attractive environment...The scheme will also connect with the footpath network via Little Tufts. In addition, the Butchers Lane link will be made suitable for cycles. The scheme also includes its own footpath links which connect the various areas of open space, and provide the opportunity for circular walks around the new neighbourhood, including a route around the main drainage attenuation feature which is intended to be a landscape feature of interest in its own right, and have a village pond feel...The open spaces have both a visual function as well as a focus for healthy activities. Existing landscape features are limited, but boundaries trees and hedgerow are retained...'

2.5 Members are also advised that since the initial submission of this reserved matters proposal a set of revised plans have been submitted which, inter alia, incorporate the following changes:

- The size of the public open space area to the north of the site has been increased by 1 acre
- Improved design detailing for the proposed dwellings
- Amendments to the road layout to reflect comments made by the Highway Authority
- Increase in the size of affordable housing units to meet the requirements of the Council's Strategic Housing team
- Relocation of some dwellings further east, with a managed strip of land between these plots and the houses in Penn Close, creating a buffer. A 3 metre high native hedge is proposed to be planted along the western boundary of the site.

Full re-consultation has taken place on the revised proposals, prior to this submission being brought to Members for consideration.

### **3. The Principle Of Development**

- 3.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that 'If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.'
- 3.2 The site for this proposal is located outside of the settlement boundary for Capel St Mary, as defined in the adopted development plan. Nevertheless, as a matter of planning principle, it is considered that the outline planning permission granted by the Council under application ref. DC/17/06318 establishes the acceptability of up to 100 dwellings being erected on the site in planning terms. In addition, the acceptability of the vehicular access to the site is also established – this having been granted full planning permission under the identified application.

### **4. Nearby Services and Connections Assessment Of Proposal**

- 4.1. Within the adopted Development Plan, Capel St Mary is identified as a Core Village; the Plan states that ‘...Core Villages will act as a focus for development and, where appropriate, site allocations to meet housing and employment needs will be made in the Site Allocations document...’
- 4.2 Capel St Mary does benefit from a range of services, including various A1 (retail) services, school, doctors surgery, public house etc. In addition, the settlement is served by a regular bus service. Clearly the issue of availability of nearby service provision etc. would be an issue that would have been considered at the outline stage. Nevertheless, the status of Capel St Mary as a settlement able, in principle, to accept additional development is established in the current Development Plan.

## **5. Site Access, Parking And Highway Safety Considerations**

- 5.1. The proposed vehicular access to the site, through Little Tufts, has the benefit of full planning permission. Suffolk County Council as highway authority were consulted on this reserved matters submission – in order to ensure that the details of the proposed road layout, parking provision etc. were acceptable to that authority. When consulted on the initial submission, a number of issues were highlighted that required amendment of the proposals. These included the position of frontage treatments on some plots, the location and position of some proposed parking spaces etc.
- 5.2 As part of the amended submission presented to Members, the applicant’s agent has sought to address these issues and this has led to the Highway Authority confirming it has no objection to the proposals, subject to the imposition of conditions. Some recommended conditions repeat those that were imposed on the outline planning permission so it would be unnecessary to re-impose on a reserved matters approval. However, the remaining conditions would be imposed as requested. The conditions would inter alia require the submission of a Construction Management Plan. A number of representations received from local residents have identified the perceived inadequacy of the access off Little Tufts to serve the development. While this concern is fully acknowledged and appreciated it is the case that the means of vehicular access to the site does have the benefit of full planning permission, and therefore is not an issue for further consideration under this reserved matters application submission.
- 5.3 In relation to vehicle parking provision it is advised in the application submission that the adopted Suffolk Parking Standards would require that 214 no. spaces be provided for occupiers of the proposed dwellings, with a further 25 no. visitor spaces. Members are advised that the submitted scheme proposes to provide a total of 221 no. spaces for residents and 26 no. visitor parking spaces; thereby exceeding the adopted requirement. As regards cycle parking spaces, the application submission advises that ‘...Cycle parking will be accommodated within garages for those properties with them or sheds for those without. Cycle parking will be available for the apartments and located within the bin store zone.’

## **6. Design And Layout [Impact On Street Scene]**

- 6.1. Members are advised that following submission of the application, significant liaison has taken place with the applicant to address identified issues in relation to the layout and design of the proposed development. These discussions have sought to improve the overall appearance and design quality of the proposals, not least to ensure accordance with the requirements of the NPPF (as identified in Chapter 12 – Achieving well-designed places) and policies CS11, CS15 and CN01 of the current Development Plan.

- 6.2 It is noted that the majority of the established residential development in the vicinity of the site for this reserved matters proposal is mainly two storey detached and semi-detached dwellings; particularly the estate areas to the west of the site. Much of this estate development appears to have been constructed post 2<sup>nd</sup> World War. The approved vehicular access to the identified site, via an existing cul-de-sac serving the adjacent estate, means that the main initial visual 'experience' of the proposed housing would be through such an estate area. It is considered that the proposed development would not appear visually incongruous in this context. The access point would lead to a modest open space area that would be visually enclosed by a small enclave of housing. Further groups of houses, in the form of loose perimeter blocks would be accessed via a series of culs de sac and private drives. Generally, the arrangement of development is such that dwellings have a frontage on to either a road, or a private drive, and this approach assists in creating a clear demarcation of public and private space. This general approach to layout repeats the form of development that is found on the adjacent housing estate.
- 6.3 As mentioned previously in this report, the design approach taken with regard to this submission incorporates predominantly two-storey vernacular buildings, incorporating a range of traditional design features that underpin this approach. These include pitched roofs in conjunction with either brick or rendered walls, use of features such as plinths, brick banding, head and cill details, chimneys etc.
- 6.4 In terms of overall density of development, it is acknowledged that the density proposed on the site is greater than that found on the adjacent estate to the west. However, a recent development of similar density has been approved on land abutting the site to the south-east. Under planning application ref. B/14/00100 outline planning permission was granted for the erection of 24 no. units on land to the west of London Road. This development is now completed. The density of development achieved on that site equated to 30 dwellings per hectare (gross density) whereas under this proposal a gross density of 20 dwellings per hectare would be achieved. In this regard, Members will be aware that the outline planning permission granted by the Council did establish the acceptability of up to 100 dwellings being erected on the site. Clearly elements such as the associated road network and open space areas etc. will also use available space within the site. Nevertheless, the layout of development proposed in this case is considered to be of similar visual character to that approved on adjacent land. On this basis of the above it is concluded that the overall density, layout and proposed design of the development is an appropriate response to local context.

## **7. Landscape Impact, Trees, Ecology, Biodiversity And Protected Species**

- 7.1. The application submission is accompanied by an Arboricultural Report and a Tree Protection Plan. The identified application site does have trees and hedgerows on some boundaries, and in this regard it is noted that these would be retained. In addition, the submitted plans to indicate the provision of significant additional planting across the site. In relation to the proposed landscaping scheme the Design and Access statement advises as follows:

'...A detailed landscaping scheme is submitted with the reserved matters application. The scheme uses open space corridors in conjunction with strategic planting and undeveloped green buffers to create a landscape into which the building will sit. The landscape scheme also responds to the natural topography of the site. The attenuation pond on the site's northern boundary is intended to be a landscape feature in its own right, and have a village pond feel. The landscaping scheme sets out the various boundary treatments...'

- 7.2 As a planning judgement, it is considered that the landscaping scheme would be an appropriate response to the overall built form arrangement proposed for the site, and would help to add visual character. Detailed comments received from the Council's Landscape consultant have been considered and where revisions have been requested, these have been agreed with the applicant. It is proposed that the final details of landscaping for the site can be properly addressed through the relevant conditions that were imposed at the outline stage.
- 7.3 Lastly, in relation to ecological and biodiversity impacts, Members are advised that the outline planning permission granted by the Council included a number of conditions that require the submission of a Biodiversity Enhancement Strategy, details of a wildlife sensitive lighting design scheme and also works to take place in accordance with the recommendations made in the Phase 1 Survey submitted as part of the outline planning application. On this basis it is noted that the Council's Ecological Consultant does not object to the proposals.

## **8. Land Contamination, Flood Risk, Drainage and Waste and Sustainability Issues**

- 8.1. Members will note that in relation to Land Contamination the submission does not give rise to concerns in this regard – as confirmed by the relevant Council officer. In addition, in relation to flood risk, the whole site (and indeed the built up area of Capel St Mary) is within Flood Zone 1 and therefore is land assessed as having less than 1 in 1000 annual probability of river or sea flooding (< 0.1%).
- 8.2 NPPF paragraph 165 identifies that ‘...Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate...’ This requirement is reflected in Development Plan policies CS15 and EN15 – both of which identify the Council's requirement that new developments will be required to incorporate sustainable drainage systems.
- 8.3 Members are advised that the method of surface drainage for the site was considered in some detail at the outline planning application stage, and the approved methodology would consist of a hybrid SuDS and piped system. Following initial submission of this reserved matters proposal the LLFA issued a holding objection to the proposals. However, following the submission of additional information and clarification (including a Flood Routeing Plan and details/cross-sections of the proposed SuDS attenuation pond), the LLFA has now confirmed that the submission is acceptable. Members will also note that the submission has not given rise to objection from Anglian Water.
- 8.4 In relation to issues of sustainability and waste, a specific condition attached to the grant of outline planning permission (no. 4) requires the submission of details in relation to water, energy and resource efficiency measures. Nevertheless, supporting information accompanying the reserved matters submission identifies that inter alia the following elements are included within the proposals:
- Sustainable material selection
  - Targeted measures to reduce water and air pollution during construction
  - Site Waste Management Plan
  - Energy efficient measures in dwellings including high levels of insulation, thermal bridging to avoid heat loss, use of eco-sanitary ware etc.

The final approval of sustainability measures rests with the agreement of a condition imposed at the outline approval stage and this fact is acknowledged by the relevant Environmental Health officer in their consultation response.

## **9. Heritage Issues [Including The Impact On The Character And Appearance Of The Conservation Area And On The Setting Of Neighbouring Listed Buildings]**

- 9.1. There is a heritage asset within the vicinity of the identified site, namely a grade II listed building located on London Road, and the impact of the proposed development on this asset was considered at the outline application stage. At that time, the following comment was made by Place Services:

*'The only heritage asset that might conceivably be affected by this proposed development is the Gd II listed 'Old Hadleigh'. However, even this is some distance from the proposed site and, with screening from existing trees and boundary's (sic) taken into account, the proposed development will have negligible impact upon the setting and character of this building. Accordingly there is no objection.'*

- 9.2 To this end, it is noted that the Heritage Team, in its consultation response in regard of this reserved matters proposal, does refer to the above response and has no further comments to make in this regard. The setting of the identified listed building, known as 'Old Hadleigh', is relatively constrained by surrounding development at the present time – forming as it does an element of an established ribbon of development that extends along the north-western side of London Road. The likely impacts upon that designated asset remain consistent with those anticipated when outline planning permission was granted. Therefore, while considerable importance must still be attached to the negligible harm identified, this was not sufficient to warrant the refusal of planning permission previously and does not warrant refusal to approve this reserved matters submission now.

## **10. Impact On Residential Amenity**

- 10.1. Bearing in mind the location of established residential development in relation to the application site, the impact of the proposed development is of course a fundamental planning consideration. It is important to reiterate that the means of vehicular access to the site, which is via the cul-de-sac of Little Tufts, is now established through the permission granted by the Council for the outline application submission. Therefore, the impacts arising from the use of this access have been considered, and found to be acceptable in planning terms.
- 10.2 Clearly, a key consideration is the location of new built form in relation to established residential development to the west and southeast of the site, and the impacts that could arise. In this regard it is noted that the north-eastern corner of the site would contain a pumping station – located away from the shared boundary. The facility itself would be located underground and would be enclosed by a brick wall. The green area in which this building would be located would contain additional soft landscaping. In overall impact terms, it is considered that this particular facility would not cause an unacceptable level of amenity disturbance. In addition, an electricity substation would be located on land adjacent to No. 7 Little Tufts. This apparatus would be fully enclosed within a brick building with a pyramidal tiled roof. Members are advised that acoustic information in relation to these facilities has been provided, and considered by the relevant Environmental Health officer, and no objection has been raised to either on grounds of noise disturbance.
- 10.3 In relation to the position of new dwellings along the shared western boundary, it is considered that although these would have an impact on amenity, this is judged to be acceptable. The orientation of dwellings would mean that direct overlooking of private amenity areas of adjoining property, from first floor windows, was avoided. In the case of plots 18, 19 and 20 these units nearest the shared boundary would be bungalows. As regards the dwelling proposed for plot 8,



although this is a 2 storey unit, its position and orientation is such that direct overlooking of the nearest dwelling (no. 8 Penn Close) would be avoided. First floor windows nearest the boundary would serve an ensuite (south-facing) and a bathroom window in the west-facing flank wall, and therefore these windows would be obscure glazed. In addition, it is noted that the proposed landscaping scheme would include the provision of approximately 80 metres of new hedging along the western boundary of the site, which would further reduce impact over time.

- 10.4 In relation to the interface between the site and the residential development to the south-east, it is noted that the gardens of dwellings on London Road are of significant length. In addition an established hedgerow and trees are located on the boundary. The combination of these elements would mean that the proposed development facing towards these dwellings would not create an unacceptable degree of overlooking nor create an overbearing impact. Furthermore the arrangement of open space at the southern end of the site would mean that this was adjacent to the newer housing enclave served by the access road leading off London Road, known as Boundary Oaks.

## **11. Planning Obligations / CIL (delete if not applicable)**

- 11.1. The outline planning permission granted by the Council did establish a level of mitigation of impacts arising from the proposed development. Members are advised that the s.106 agreement secured the provision of affordable housing in accordance with the Council's policy requirement of 35%, and the provision management and maintenance of open space on the site.
- 11.2 In addition, the outline application identified a series of payments for education that would be secured through CIL – as identified below:
- Primary school provision at a minimum cost of £280,163 (2017/18 costs)
  - Secondary school provision at a minimum cost of £293,680 (2017/18 costs),
  - Sixth form provision at a minimum cost of £79,628 (2017/18 costs).
  - £216 per dwelling £21,600 which will be spent on enhancing provision at the nearest library.

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## **12. Further report**

- 12.1 Following the deferral agreed by Members, further discussions have taken place with the applicant in order to address the issues raised at the previous Committee meeting. Each issue is discussed below.
- 12.2 **Improvements to the design of the flats**
- 12.3 Members will note that the previous report to Committee did not identify that the proposed flat block was an unacceptable element within the overall development proposal. In equity, your officer's view remains the same; overall the size of the building (albeit a storey higher than the surrounding built form) would not appear incongruous in this situation. It was noted by Members in previous Committee discussion that there are currently no examples of three storey buildings in Capel St Mary. While it is acknowledged that this may be the case, it is pertinent to note that the location of the proposed building would be at a central point within the development, rather than in a position on the periphery. Therefore its overall visual prominence would be limited in any event,

and read as being set within the context of the associated new residential development as opposed to, say, being a new stand-alone element in a prominent location within the village core.

- 12.4 It is also pertinent to note that the flats are part of the affordable housing provision on the site, that has been agreed by the Council's Strategic Housing Team. An alteration to the number of units that this building could accommodate (for example by reduction in height by a storey) would have an impact on the amount of smaller units that were available on the site.
- 12.5 Members may recall that discussion did also take place with regard to the means of access to the flat building and the lack of an area to dry clothes. On the first point, the main access takes place via the associated car parking area – which is considered to be a safe and convenient location for residents. In addition, the relocation of an access to face the road would, potentially, encourage residents to park their vehicles on the road – thereby creating an undesirable obstruction within the adjacent highway. On the second point, Members will note that the submitted plans do now incorporate a walled clothes drying area to serve the flats, which is a positive response to Members' concerns. The fact that this facility would be screened by walling would mean that it would not be overly prominent within the street scene.
- 12.6 Additional comments have been made by the applicant in relation to the proposed revisions; the full text being available to view on the Council's website. In relation to the flat building, comments are included here in order to provide further context for Members:

*'We have considered reducing the height of the apartment block. However, reducing it to two-storey would compromise the delivery of the affordable units which at present meets the Council's affordable housing need and has been agreed as appropriate by the Professional Lead – Strategic Housing... Consideration has also been given to reducing the height to 2.5 storey which it is acknowledged would lessen the impact of the apartment block. However, this would compromise the internal space on the top floor apartments by virtue of reduced internal height and wall space which restricts the ability for wardrobes, wall mounted boilers and storage... I can also confirm that the design of the flats is fully compliant with the building regulations (including fire safety)...'*

12.6 **Alter mix towards a lower number of bedrooms**

- 12.7 A further reason for deferral was to seek a reduction in the number of bedrooms being provided on the site, by way of amending the mix of units, in order to provide more 2 bed units and bungalows. In this regard the following response has been received from the applicant:

*'... The revised proposals now include three additional private 2-bed bungalows and the number of 2-bed units has also been increased... The amended mix is considered to better reflect the local housing need. The Capel St Mary Housing Survey Report identified that the overwhelming need was for small to medium (2-3 bedroom) units for younger people and families and housing for the older generation (e.g. bungalows)...'*

- 12.8 The applicant has also provided a comparison table below together with an explanatory comment:

Dwelling	Previous Housing Mix			Revised Housing Mix		
	Market	HA	Total	Market	HA	Total
1 Bed Apartment	0	8	8	0	8	8
2 Bed Apartment	0	6	6	0	6	6
2 Bed House	6	12	18	9	12	21
2 Bed Bungalow	0	4	4	3	4	7
3 Bed House	37	5	42	29	5	34
4 Bed House	22	0	22	24	0	24
	<b>65</b>	<b>35</b>	<b>100</b>	<b>65</b>	<b>35</b>	<b>100</b>

*'...The table demonstrates that **34%** of the units are 2 bed dwellings (previously 28%) and that **68%** of the proposed units are 2-3 bed dwellings. The additional private bungalows are 2-bed, in line with the Parish Council's requests...'*

### 12.9 Increase the number of bungalows

12.10 Members will recall that a specific concern with the original proposals was a perceived lack of bungalows being provided on the site. The layout plan showed the provision of 4 no. bungalows, located towards the north-western corner. The revised proposals put forward for Members' consideration increase the bungalow provision to 7 no. units – on plots 51, 71 and 72. While there isn't a specific policy in the adopted development plan that could compel an applicant to provide a proportion of bungalows within a particular development, clearly the concerns of Members have been considered and addressed in a positive way.

### 12.11 Other matters

12.12 While not specifically included within the minuted reasons for deferral, the revisions to the submitted scheme have resulted in the repositioning of built form, roads etc across the development, which are considered to have resulted in improvements to the overall development quality. These are identified below:

1. An increased buffer zone between proposed and existing units to the west of the site.
2. Plots 52-54 have been repositioned so that units face the road, instead of facing side-on. The proposed private drive to the southern boundary has been removed.
3. The dwellings forming plots 60 – 70 have been re-planned in order to break up the associated parking with soft landscape, thereby reducing its overall visual impact in the street.
4. The provision of bungalows on plots 71 and 72 has created a height transition from the built form to the associated open space.
5. Plots 73 – 82 have been re-planned, a private drive removed and a drying area added (to serve plots 77 – 80). The changes have enabled the nearby public open space to be enlarged.
6. Modest relocation of the major access road to the west to enable a re-plan of the dwellings in the north-eastern corner of the site. In addition, the units on plots 95 – 97 have been repositioned in order to create a more spatially-responsive development facing across the open space area to the west.
7. The applicant has also confirmed that swift nesting boxes would be provided within the development – this follows a specific request made by Councillor Osbourne for their inclusion. In this regard the applicant states *'...The boxes will be detailed on the landscaping drawings which will follow and I am happy to accept a planning condition on the reserved matters approval requiring details to be submitted and agreed, if necessary...'*

## **PART FOUR – CONCLUSION**

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### **1. Planning Balance and Conclusion**

- 13.1. As the Council has previously granted outline planning permission for up to 100 dwellings to be built on this site, the acceptability of the development in planning terms is established. Furthermore the full planning permission for the means of access establishes the acceptability of this element of the proposal.
- 13.2 Having regard to the above it is fully acknowledged that, notwithstanding the positive officer recommendation, the proposed reserved matters submission, when initially considered by Members, did give rise to specific concerns. The determination of the submission was deferred on this basis, in order that revisions could be made to address these concerns. Members are advised that, since the deferral, discussions between your Officer and the applicant company have been ongoing. In addition, the applicant company has undertaken some separate liaison with the Parish Council and the Ward Member.
- 13.3 Although that the original recommendation made to Members was for approval, it is your Officer's view that the range of changes to the scheme, following from Members' original consideration, have resulted in positive revisions that have enhanced the proposals further. In reaching this conclusion the characteristics of the adjoining residential areas have been considered, as has the fact that this site, once developed, would form a new interface between the edge of Capel St Mary and the wider countryside to the north-east.
- 13.4 Importantly, it is considered that the impacts of the development on the amenity of existing residents in the vicinity would not result in material detriment. It is therefore recommended that the scheme of reserved matters, as amended following initial consideration by Members, is approved where it accords with the applicable policies of the development plan.

### **RECOMMENDATION**

That the reserved matters are APPROVED subject to the following conditions:-

- Reserved matters permission is given in accordance with the terms of the outline planning permission relating to this site and the conditions attached thereto remain in force.
- Approved Plans (Plans submitted that form this application)
- SuDs conditions
- Construction Plan to be agreed.
- Level access to enable wheelchair access for all dwellings/buildings.
- Final details of the location and equipment for the proposed LEAP to be agreed
- Conditions as requested by the Highway Authority
- Development in accordance with the proposed affordable housing mix
- Final details of landscaping (including provision of swift nesting boxes) to be agreed

**(3) And the following informative notes as summarised and those as may be deemed necessary:**









- Pro active working statement
- SCC Highways notes
- Support for sustainable development principles

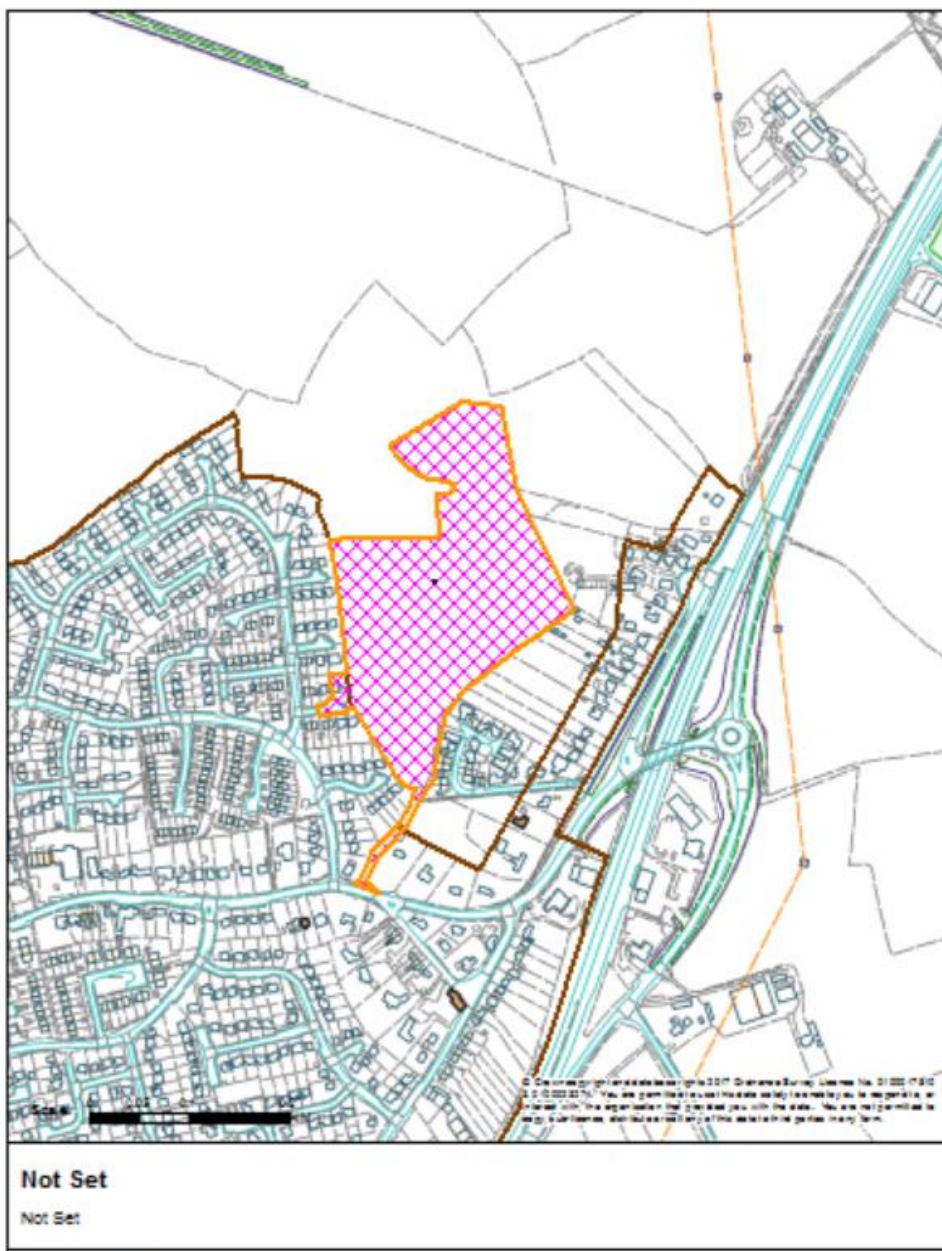
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Application No: DC/19/02877

Parish: Capel St Mary

Location: Land East of Longfield Road and Little Tufts

- |   |                                    |   |           |   |                        |
|---|------------------------------------|---|-----------|---|------------------------|
|  | Area of Outstanding Natural Beauty |  | Grade 1   |  | Built up Area Boundary |
|  | Special Landscape Area             |  | Grade 2   |  | The Site               |
|  | Conservation Area                  |  | Grade 2 * |   |                        |



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# Agenda Item 7b

## Committee Report

Item 7B

Reference: B/15/01196

Case Officer: Steven Stroud

Ward: South East Cosford

Ward Member: Cllr Leigh Jamieson

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## OFFICER RECOMMENDATION – REFUSE PLANNING PERMISSION

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### Description of Development

Erection of 7 no. two storey dwellings

### Location

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

**Application Type:** Full Planning Application

**Development Type:** Minor Dwellings

**Applicant:** Rural Community Housing Ltd

**Agent:** Wincer Kievenaar Architects

**Parish:** Kersey

**Site Area:** c.0.2Ha

## INTRODUCTION

This Officer Report follows a previous determination made by Planning Committee on 22<sup>nd</sup> November 2017 to resolve to grant planning permission, contrary to officer recommendation, subject to the completion of a s106 legal agreement and/or planning conditions securing among other things, affordable housing.

A full copy of the Minute of that decision is appended (Appendix A) but the reasons given were noted as follows:

*‘A proposal to grant permission was then moved on the basis that the benefits of the affordable housing substantially outweigh any harm which may be caused to a rear view of heritage assets. The proposed development was considered to accord with policies C[S]11, CS15 and CS19 of the Core Strategy and saved policies HS28 and CN06 of the Local Plan. The motion for the grant of permission took into account suggested conditions, together with the options put forward by the Legal Adviser, Ian De Prez, for securing the affordable housing element.’*

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Following that Resolution and prior to the formal issue of a decision granting planning permission, the Council received a ‘letter before claim’ under the Pre-Action Protocol (“PAP Letter”) alleging that a grant of planning permission in accordance with the Resolution would be unlawful for a number of reasons.

Having taken legal advice officers consider it prudent that Members take the decision again, afresh and with the benefit of a revised officer report where the previous case officer no longer works for the Authority.

Following the Planning Committee of November 2017 the Applicant has submitted successive documents intended to support the application and as a direct response to criticisms set out in the PAP Letter. The information received has been subject to public consultation exercises with interested parties that has, in turn, generated a considerable volume of response and further correspondence of a litigious nature. Regrettably, this has delayed the opportunity to return the item to Committee.

Officers are now satisfied that Members are in a position to take a refreshed decision subject to them exercising their own planning judgement.

An additional site inspection was undertaken with members of the Planning Committee on 19<sup>th</sup> February 2020.

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## **PART ONE – SUMMARY OF RECOMMENDATION**

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1. At its heart this is a heritage case<sup>1</sup> and the determination of the application fundamentally turns upon two related issues: the extent to which the development would harm the significance of impacted heritage assets (if at all, as a matter of planning judgement); and if so whether the harm identified is outweighed by the public benefits expected when being mindful of, and embracing, statutory duties specifically noting ss.66 and 72 of the *Planning (Listed Buildings and Conservation Areas) Act 1990* (“the listed buildings Act”).
2. The application appears to have divided village opinion with a significant number of comments submitted both in support of, and against, including various legal representations. All have been taken into account alongside the wide range of professional heritage opinions that have been expressed among other consultation responses. Members are reminded of the need to read and consider all of those responses fully before taking a decision on this application again.
3. While the previous resolution of the Planning Committee has been recorded, this report now before Members has considered matters afresh and Members are directed to follow its content, disregarding the previous officer report and returning to the decision to be taken with an open mind.

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<sup>1</sup> Members will note the content of the Richard Buxton Solicitors letter of August 2019 which also states that: *‘The heritage harms are the main concern here’*.

4. In summary and as will be explained within this Report, it remains the case that the public benefits posed by the development do not outweigh the heritage harm that has been identified, notwithstanding that the development is found to be acceptable in all other respects. This is because considerable importance must be applied to the principle of keeping designated heritage assets from harm regardless of the “level” of harm; any harm must hold a particularly significant importance in the planning balance.
5. The Recommendation herein is therefore consistent with the previous officer’s recommendation in recommending refusal of planning permission. This is because the development plan is considered to be breached as whole, and there are no material considerations indicating that a decision should be made other than in accordance with the Plan<sup>2</sup>. The “tilted balance” cannot apply because: a) the Council can demonstrate in excess of five-years’ worth of housing land supply; b) the most important policies for determining this application are collectively up to date and consistent with the NPPF; and c) irrespective of those first two reasons the heritage harm identified provides a clear reason for refusing to grant planning permission and so the operation of the “tilted balance” would not need to be undertaken/it would be disappplied anyway. The application should therefore be refused in accordance with the development plan.
6. However, having reflected on the issues arising from the resolution of the previous Committee (which continues to stand at present), and taking into account the new information that has been provided alongside a refreshed assessment of the application as a whole, it is also considered that Members’ may take a different view as regards the heritage harm and benefits balance. The matter of balance between considerations and harm/benefit is ultimately one of planning judgement and this is the preserve of the decision taker. On that basis, a Statement of Reasons is provided at the end of this Report for Members to adopt should they determine that the application remains acceptable contrary to officer recommendation; the planning balance ultimately being struck another way. This is explained further at paras. 325-328 of this report.

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## **PART TWO – APPLICATION DETAILS**

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### **Site and Surroundings**

7. The application site (“the site”) amounts to approximately 0.2ha of land to the rear of properties numbered 1 - 6, The Street, Kersey (“the host properties”). The area immediately behind those properties comprises what appears to be an area of private garden land closely related to those properties bordered by vegetation and low-level fencing, and then within the site a wider and unkempt area of land (understood to have been used for communal purposes in the recent past), which is where the proposed dwellings would be sited. Irrespective, the overall land parcel(s) extend to the west of the dwellings by some 70m.<sup>3</sup>

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<sup>2</sup> Applying s38(6) of the *Planning and Compulsory Purchase Act 2004*.

<sup>3</sup> As will be reinforced under the Heritage section of this report, regardless of where the actual garden area or curtilage of the host properties should be drawn, the entirety of the site nevertheless falls within the “setting” of those buildings in heritage terms.



[Application site starred in red; courtesy of Google Earth, dated July 2018]

8. The site and host properties are situated on a hill that slopes in a southerly direction by a relatively gentle gradient. The site also slopes slightly upwards to the west but this is not something readily perceived “on the ground”; it has the appearance of being generally flat. Open countryside is to the west of the site and a public right of way (Footpath 12) runs adjacent to the western site boundary. The entirety of the site is washed over by a designated Special Landscape Area, as is the rest of the main body of the village.
  
9. The general grain of The Street/Church Hill is defined by dwellings fronting the road in a linear form with such properties having long gardens opening directly onto agricultural land. That being said, examples that breach that building line and/or as “backland” development do exist and some built development can be found to the rear of those properties and/or that line. For example, on the western side of The Street, north and south of the site:
  - Sunnyside, to the rear of Carlton House which is Grade II listed.
  - Lillesley Barn and Stay Barn, both to the rear of Ancient Houses nos. 1-4 which are Grade I listed.
  - The Old Gardens, immediately to the north of the site and set back from the highway.
  
10. The host properties 1-6 The Street are Grade II\* listed buildings. This means that they are particularly important buildings of more than special interest; only 5.8% of listed buildings are Grade II\* and this is

therefore an uncommon, albeit not exceptional (only 2.5% of listed buildings are Grade I), designation. The Bell Inn public house is a Grade II listed building and is sited immediately to the south of the host properties; it would not be materially affected by the proposed development, however (i.e. its significance would be preserved). The site is within the Kersey Conservation Area (“KCA”). This too is a designated heritage asset and is thus also afforded protection by the listed buildings Act. The site is also considered to hold below-ground archaeological potential.

11. To the north of the site is the dwelling known as The Old Gardens. By comparison to its surroundings it is a relatively modern introduction to the historic environment, albeit a replacement dwelling; it is understood to be around 25 years old. It is not a heritage asset.
12. The site lies partially within the Built-Up Area Boundary of Kersey (“BUAB”) as defined under the Babergh Local Plan 2006 and subsequently reinforced through the adoption of the Core Strategy 2014<sup>4</sup>. Kersey is designated as a Hinterland Village within the Core Strategy where it is expected that such villages will accommodate some development to help meet the needs within them. Kersey falls within three functional clusters: Bildeston, Boxford, and Hadleigh.
13. Services and facilities are modest but include a church, primary school, village hall<sup>5</sup>, and public house, reflecting the role that the village plays within its functional cluster(s). A retail stall offering a small range of household essentials operates on The Street but its frequency of operation/its degree of permanence is unknown. Beyond the nucleus of the village the mixed-use recreational and retail destination of Kersey Mill is a mile away; the centre of Hadleigh is just over 2 miles away.
14. The site is wholly within Flood Zone 1, where there is a very low probability (less than 1 in 1000 annually) of flooding. There are no other environmental designations considered applicable to the proposal.

## **Proposal**

15. The applicant seeks detailed planning permission for the erection of 7 no. dwellings together with associated access and landscaping. The application has been revised or amplified/clarified on several occasions; reducing the heights of the dwellings and locating them further away from the host properties, and providing a local housing needs assessment, for example. The most recent consultation on the application and proposal in its current form was undertaken in February/March 2020 following the committee site inspection of 19<sup>th</sup> February this year. It was anticipated that Planning Committee would re-assess the application during March; however, the Covid-19 public health emergency has delayed matters further in the absence of regular face to face meetings.
16. The dwellings, of a one-and-half-storey nature, would be arranged facing around a courtyard with Plots 1-4 to the rear of the site backing onto Footpath 12, and Plots 5-7 backing onto additional parking areas and the gardens of the host properties. Plots 1-4, 6, and 7 would be semi-detached pairs, with Plot 5 as a detached dwelling. However, all dwellings would be identical in scale, form, and detailed design (i.e.

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<sup>4</sup> See §2.7.5 of the Core Strategy.

<sup>5</sup> The Parish website states that: ‘Kersey Village Hall is available for all community activities, and also for outside hire.’



“handed” units) and would have a gross internal floor area of 82sqm, which is in excess of the *Nationally Described Space Standard*<sup>6</sup> (“NDSS”),

17. The facing materials of the dwellings would be red brick with clay tiles and timber-framed fenestration. In the event that planning permission were granted, the final details – including boundary treatments – could be secured by condition in order to secure a level of quality appropriate for the context. The detailed design of the dwellings also includes chimney features and design flourishes such as corbelled brickwork and parapet gable ends, projecting brick plinths, and brickwork banding and window head detailing in order to raise the overall quality of the development. Viewed in isolation, the standard of architecture and dwelling design is considered to be good (and has been supported by the Parish Council in that discrete respect); however, this does not of itself mean that the development is automatically appropriate for its location or context and Members must consider the relationship between the proposed development and its surrounding environs very carefully.
18. It is proposed that all of the dwellings would be highly efficient, predicted to achieve an emissions rating 35% above the requirements of the Building Regulations and with an EPC rating of ‘B’. It is indicated that an ‘A’ rating could be secured but this would require the installation of solar panels (or wind turbine) which the Applicant does not wish to install due to the heritage implications that would naturally arise (notwithstanding the inherent heritage impacts of the development itself, considered later in this report). Landscaping to boundaries would be retained and strengthened where required.
19. The existing access north of the host properties would provide access and parking to the new dwellings with at least two parking spaces allocated for the host properties. The existing southern access between the host properties and The Bell Inn would also be retained and would be used to provide access and additional parking spaces for the host properties; it would not serve the new development.
20. As a ‘Build to Rent’ scheme Plots 1-4 would be affordable housing units (within the meaning provided by the NPPF) and would be for affordable rent. Plots 5-7 would be for rent on the open market. The proportion of affordable housing is therefore c.57% which is significantly greater than the requirement of 35% set out under policy CS19 and Members should note that in accordance with the NPPF the development would not ordinarily be expected to provide any affordable housing contribution given the small scale of the development and a site area of less than 0.5ha<sup>7</sup>. The Applicant is a provider of affordable housing<sup>8</sup> (Rural Community Housing Ltd) and in the event that permission were granted then the affordable housing would be controlled by a s106 agreement to ensure appropriate nomination rights/allocation and that the units would be available in perpetuity. It is noted that the units would themselves be provided to meet local needs i.e. Kersey and relevant nearby parishes within the functional cluster(s) as defined by the Core Strategy.
21. As noted in the preceding section of this report, the site straddles the BUAB of Kersey with the boundary line running through the middle of Plots 5-7; Plots 1-4 therefore falling outside of the BUAB. However, for

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<sup>6</sup> Available here:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/524531/160519\\_Nationally\\_Described\\_Space\\_Standard\\_Final\\_Web\\_version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/524531/160519_Nationally_Described_Space_Standard_Final_Web_version.pdf)

<sup>7</sup> The Council has consistently applied para. 63 of the NPPF with greater weight being given to it than to policy CS19 given the inconsistency between the two. The Council therefore typically only seeks contributions for affordable housing on Major developments, within the definition provided by the Glossary to the NPPF.

<sup>8</sup> But not a Registered Housing Provider registered with the Regulator of Social Housing.

sake of prudence and with the bulk of proposed built development located outside of the boundary line, for all intent and purpose the scheme is considered to be located in the countryside.

22. The application plans and documents (including consultation responses and third-party representations) can be viewed online<sup>9</sup>. Alternatively, copies have previously been available to view at the Council offices but this has not been possible since March 2020 due to closure in response to the current Covid-19 situation<sup>10</sup>.

### **Planning/Site History**

23. Comments in the PAP Letter and from 3<sup>rd</sup> party representations highlight that there have been other refusals within the locality (specifically, in 1995 and 2009). However such decisions would have been taken against a different planning policy context, and judged against the individual issues and considerations applicable at the time, notwithstanding that the listed buildings Act would have been in force then just as it is now. As the Applicant has pointed out in response, there are also examples within the vicinity where development has been allowed in “backland” locations and against a sensitive heritage context. Officers view all of those decisions in the same light: consistency in decision-taking is important however no weight is given to those historic decisions which bear upon their own particular planning merits and they are not considered to influence the decision to be taken here. The application is taken on its own merits noting its distinguishing, individual circumstances.
24. Likewise, the recent decision to refuse planning permission for the erection of up to eight dwellings on Vale Lane<sup>11</sup> is not considered to be of relevance to this application due to the different issues and inherent benefits proposed, save for the Council’s acceptance that on the face of the evidence provided in support of that application there exists a locally identified housing need for Kersey. While heritage impacts formed a reason for refusal in that decision (as is recommended here in this case) the nature of impact was different.
25. The recent dismissed appeal for a proposed dwelling to the rear of Linton House, The Street<sup>12</sup> is important in so far as it relates to a parallel issue in relation to the acceptability of an access with sub-standard visibility splays as it meets The Street. This is considered further under the relevant section of this report. Heritage is again an important issue in that case but there is little to repeat here save for the importance attached to the need to keep heritage assets from harm. The likely impacts, assets affected, and benefits proposed are again different having regard to this application. With the exception of the reasoning put forward in relation to highway access matters, that decision is also afforded no determinative weight as a consideration.
26. The site was submitted for consideration in response to the Council’s call for sites in 2017 (site ref: SS0870). It was subsequently discounted in the draft Strategic Housing and Economic Land Availability Assessment (“SHELAA”) July 2019, for the following reason:

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<sup>9</sup> Available at: <https://planning.baberghmidsuffolk.gov.uk/online-applications/>.

<sup>10</sup> Details of addresses and opening times were available at: <https://www.babergh.gov.uk/contact-us>.

<sup>11</sup> Application reference: DC/19/01834.

<sup>12</sup> Appeal reference: APP/D3505/W/19/3231103.

*'Development of the site likely to cause substantial harm to designated heritage assets and their settings which cannot be reasonably mitigated.'*

27. That judgement was taken as a desk-top exercise and without the benefit of considering a full and formal planning application (and the fullness of detail that has emerged through the application process in this instance). As will be discussed, the emerging new local plan remains at an early stage and has not been tested or examined. The discounting of the site in the SHELAA is afforded little weight as a consideration such that it does not affect the decision to be taken here. Likewise, the existence of other local sites submitted through the call for sites exercise (all discounted in the SHELAA, incidentally) is considered to be of little use save for highlighting an underlying attraction for development to serve a Hinterland Village, which is true across the District. Contrary to representations received, it is not considered to be indicative of any *'significant pressure'* for further development, nor a watershed for further development established by precedent should this application be approved. An applicant is entitled to make an application and the Council has a duty to consider it.
28. Overall, Members are thus directed to consider this application on its individual merits. The planning history related to the site and locality, including call for sites/current plan-making process, should not affect the determination of this application by a material degree.
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## **PART THREE – CONSULTATION**

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29. All of those most recent or relevant responses received prior to the completion of this report are summarised or directly quoted below, which includes public representations and consultation responses. Nevertheless, all responses received are available to view on the Council's website and historically were capable of inspection at its offices as detailed above. Given the lengthy/technical nature of some of the responses received, it is repeated that Members are directed to consider all documents in full.
30. Kersey Parish Council: objection
- The previous responses of the Parish Council dated 14 December 2015, 6 July 2017, 7 November 2017 and 5 August 2019 all still stand.
  - *'The Parish Council is still of the opinion that this proposal will cause harm to the heritage assets in Kersey and there are concerns about highway safety should this proposal be granted'* (August 2019).
  - Original objection (2015) also concerned matters including erosion of amenity to occupants of 1-6 The Street; that the village is unsustainable for new development and there would be heavy reliance on the private car; landscape concern; *'mistakes in the past must not be repeated'* (referring to *'lax'* decisions elsewhere in the village; concern of precedent; *'the style and design of the proposed cottages was considered. Generally, Councillors liked the design. Despite being pastiche they were acceptable.'*
  - Objection of November 2017 considered the Bullard highway report to be flawed.



31. BDC – Cllr Jamieson: has concerns

- Notes the need for villages to grow and to attract families, support the school.
- Highlights concerns in relation to heritage and highways and objections received in those respects.
- Gives limited weight to comments of support received from outside of the village.
- *'I think we should be seriously considering if approval of this application is appropriate.'*

[It has been confirmed with Cllr Jamieson that he retains an open mind on the application, where he sits on Planning Committee]

32. BDC – Strategic Housing: no objection

- *'This development consists of 100% 2 bed houses – most new residential developments do not provide sufficient 2 bedroomed homes for sale and the provision of homes for private or intermediate rent are very low, so the provision of a small number of 2 bed houses will be in demand from households seeking private rented accommodation.'*
- c.855 applicants registered for affordable housing in Babergh at January 2020.
- 22 total no. applicants with a registered local connection to villages in the planning clusters relevant to Kersey; 1 registered applicant in Kersey.
- There is likely to be some concealed housing need in these villages.
- The proposal will add to the very limited supply of existing affordable housing supply in the village.
- No objection subject to the s106 agreement specifying the number of affordable dwellings, the tenure split and mix, as required by the Strategic Housing manager.

33. BDC – Heritage: objection

- *'The proposed scheme would not accord with the requirements of s.66 of the P(LBCA)A1990 to preserve the building or its setting, or s.72 which requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of the CA. In terms of the NPPF the development would be at the very highest end of the spectrum of 'less than substantial harm' – and it is for these reasons the Heritage Team continues to object to the proposed development.'*

34. BDC – Environmental Protection (land contamination): no objection

- The site is unlikely to be contaminated.
- Recommends standard informative note to be applied to any permission granted.

35. BDC – Environmental Protection (noise, amenity issues): comments

- *'[There is] potential for loss of amenity due to noise arising from the everyday operation of the public house, in particular, activities in the beer garden and play area (which could include music), and vehicle movements (including deliveries) in the car park, The level of noise is likely to be sporadic and will vary from day to day and I therefore regret that I am unable to give you a quantitative assessment – this will be a subjective judgement. I note that there is a domestic property to the rear of Carlton House which is in similar position/proximity to the proposed development. I can advise you that the Environmental Protection team has no records of any noise complaints relating to the*

*operation of the public house - however, any substantiated noise complaint made by the occupants of the proposed new units would have the potential to fetter the operations of the public house.'* (March 2020).

- *The boundary of the application site is shared with the boundary of The Bell - at present there is no boundary wall or fence - and the proposed development would be in proximity to where the beer garden, children's play area and car parking areas are. I am unsure of whether a boundary treatment is proposed - I would recommend that, should you be minded to approve this application then a boundary treatment consisting of a solid wall or solid fencing be installed so as to provide a partial noise barrier. Plots 3, 4, 6 and 7 would have bedroom windows which potentially overlook some of the rear of public house and as such would be particularly susceptible to disturbance for noise. If you are minded to approve this application then I would recommend that a condition be attached to require that good quality thermal double glazing be used, with trickle ventilation (July 2017).*

[It is understood that historically (20+ years ago) there were amenity conflicts between the public house and property to the rear of Carlton House but this was resolved on the introduction of a wall along the boundary between those properties.]

36. BDC – Arboricultural/Public Realm: no objection

- No objection subject to conditions; method statement/tree protection measures.

37. SCC – Highways: concerns/comments

- *'SCC, as the highway authority, is reluctant to accept a reduction in setback distance as this would result in vehicles protruding onto the highway to enable the driver to see oncoming vehicles; especially near areas where pedestrians and cyclists pass. We note a recent Appeal for an application on a neighbouring site concluded the reduction in visibility standards 'would not be detrimental to highway safety'. It was noted the site access and visibility is similar to other accesses along The Street and 'a driver would still need to "nose out" onto the footpath to achieve an adequate view of oncoming traffic in both directions'.'*
- Recommend conditions in the event permission is granted.

38. SCC Archaeology: no objection

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

39. SCC – Fire and Rescue: no objection

- No objection subject to hydrants condition.

40. Historic England: objects

- *'Historic England objects to the application on heritage grounds. We consider that the application does not meet the requirements of the NPPF, in particular paragraph numbers 7, 8, 193,194 and 200. In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.'*

41. Representations have been received from Suffolk Preservation Society (objects), Ramblers Association/local Ramblers group (object), National Farmers' Union (supports), and the Country Land and Business Association (supports). The comments of the Suffolk Preservation Society are considered in greater detail under the Heritage section of this report.

42. On behalf of objectors to the application (and the proposed claimants under the PAP Letter) further correspondence has been received from Richard Buxton Solicitors ("RBS"), notably those letters dated 15<sup>th</sup> August 2019 and 11<sup>th</sup> October 2019. Members' attention is drawn to those items which have been fully considered by officers; likewise, Members need to take into account the points raised.

43. Objection letters from planning and heritage consultants instructed by local objectors should also be considered. These include the letters/reports prepared by Pink Planning, Mr Bob Kindred, and Mr Michael Collins. Where relevant they will be considered in greater detail later in this report (sections on Local Need, and Heritage).

44. Other 3<sup>rd</sup> party representations received – of which there has been a considerable volume – are summarised in broad terms below, in no particular order:

- The village needs new housing; need for affordable/rented housing.
- An approval would set a harmful precedent.
- Housing should be made available to those wishing to stay in the village.
- The development would pose irreversible, permanent harm to assets of national importance.
- Inappropriate backland development.
- Cramped and overdeveloped layout.
- Design [comments both for and against].
- Evidence is flawed/insufficient information has been provided in support of the application.
- Pedestrian/highway safety concerns – development would generate significant movements.
- Access is too narrow.
- The housing would not be "affordable" in a true sense.
- Housing would vitalise an otherwise "second home" village/diversity should be encouraged.
- The development would not be visible from The Street/the public realm.
- Kersey is an unsustainable village.
- Public benefits do not outweigh the harms.
- Risk of harm to viability of Bell Inn business.

- The most important aspects of the village would be preserved.
- Concern of property damage during both construction and occupation.
- Development would detract from the amenity value of the PRow network.
- Unjustified, radical change to the Kersey Conservation Area and setting of GII\* buildings/historic context.
- Bullard report should not be relied upon.
- Local housing needs assessment is flawed/relies upon flawed, dated data.
- The Council is not under pressure to release further dwellings.

45. All consultee responses and representations received have been read, duly considered, and taken into account when preparing this report for Members.

## **PART FOUR – POLICY FRAMEWORK AND ASSESSMENT**

### **STATUTORY AND POLICY FRAMEWORK**

46. Section 70(2) of the *Town and Country Planning Act 1990* requires, in dealing with an application for planning permission, a local planning authority to have regard to the provisions of the development plan, so far as is material to the application, and to any other material considerations.
47. Section 38(6) of the *Planning and Compulsory Purchase Act 2004* requires that applications for planning permission under the planning Acts be determined in accordance with the development plan, unless material considerations indicate otherwise.
48. Section 66(1) of the listed buildings Act states that in '*considering whether to grant planning permission for development which affects a listed building or its setting, the [decision taker] shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest that it possesses.*' Section 72(1) of the same Act applies to conservation areas and effectively replicates the s66 duty, stating that for decision-taking: '*special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*'

#### **The Development Plan**

49. Relevant to this application the statutory development plan comprises the following:
- Babergh Local Plan 2011-2031 Core Strategy (2014)
  - saved policies from the Babergh Local Plan Alteration no.2 (2006)
50. The application has been assessed against the development plan as a whole. However, having regard to the application and the nature of the development proposed, alongside the locational context and responses received through consultation, and the key issues identified (subsequently explored in this report), the most important policies for the determination of the application are considered to be:

- CS1 – Applying the Presumption in Favour of Sustainable Development
- CS2 – Settlement Pattern Policy
- CS11 – Strategy for Development for Core and Hinterland Villages
- CS15 – Implementing Sustainable Development in Babergh
- CS19 – Affordable Homes
- CN01 – Design Standards
- HS28 – Infilling
- CN06 – Listed Buildings
- CN08 – Conservation Areas

51. Also relevant to this application, the development plan is supported by the *Rural Development and Core Strategy Policy CS11* supplementary planning document (“CS11 SPD”), adopted for decision-taking purposes in August 2014 and which was produced to provide guidance on the interpretation and application of Policy CS11. The CS11 SPD is not part of the statutory development plan; however, it is nevertheless an important material consideration informed through consultation and has been democratically approved.
52. Policy CR04 states that development within Special Landscape Areas (“SLA”) ‘*will only be permitted where they maintain or enhance the special landscape qualities of the area, identified in the relevant landscape appraisal; and are designed and sited so as to harmonise with the landscape setting*’. The policy is engaged and is tangentially relevant (because the site is within a designated SLA) but it is not a policy most important for the determination of this application. This is because the site is effectively enclosed as garden/communal residential land and it is plainly not representative of the appreciable special landscape qualities of the wider designated area that washes over the village and its landscape setting. The application therefore does not conflict with the policy: it poses no harm to the SLA, nor is it a determining issue in this application.
53. Within the PAP Letter criticism is made of the previous case officer for not referring to policy CR04. For the reasons above the policy is not of particular importance to the determination of the application and, in any event, the application would not conflict with its requirements and this is not a matter of concern that requires further assessment. “Backland” development – a generally pejorative description – is not harmful *per se* and requires consideration of the specific circumstances relevant to a proposal. In this instance there is nothing inherently wrong with the design being promoted by the Applicant and there are already various punctuations to the otherwise broadly linear grain of The Street. As this report makes clear, however, the key issue relates to the impacts that the development would have upon the historic environment: the setting of nearby listed buildings, and the KCA.
54. Policy CS18 is also relevant but is not most important to determination of the application; in any event it is not offended by the proposed development. The policy states, among other things, that ‘*the mix, type and size of the housing development will be expected to reflect established needs in the Babergh district (see also Policy CS15).*’ As will be demonstrated the application satisfies that expectation but where CS11 is engaged with development proposed for a Hinterland Village, it is the needs local to the village that are of greater importance.

## **The Joint Local Plan**

55. The Council is in the course of preparing a new Joint Local Plan (“JLP”) with the Mid Suffolk District Council which will replace the Core Strategy and saved 2006 Local Plan policies and will be used to manage development in both districts up to 2036. The Councils recently published the JLP for consultation (Regulation 18) which closed on 30<sup>th</sup> September 2019.
56. The closer a plan comes to being adopted, the greater the weight that can be afforded to it (but also dependant on the degree of objections to it). The emerging Plan is in its early stages and it is afforded a limited weight such that it plays no determinative role in this assessment. It is observed, however, that Kersey is proposed to remain as a Hinterland Village.

## **The National Planning Policy Framework**

57. The National Planning Policy Framework (“NPPF”) sets out the Government’s planning policies for England and how they should be applied. It is a material consideration for decision-taking purposes and can affect the weight to attach to policies of the development plan. It cannot, however, alter whether there is a conflict with the development plan nor undermine the statutory primacy that a development plan holds.
58. For the purposes of taking decisions, the policies of the NPPF should be considered as a whole (including its footnotes and annexes). However, the following are of particular and direct relevance to this application noting the key issues at hand:
- Paragraphs 8 and 9 (achieving sustainable development)
  - Paragraphs 11 and 12 (the presumption in favour of sustainable development)
  - Paragraphs 77 and 78 (rural housing)
  - Paragraphs 108 and 109 (considering development proposals)
  - Paragraph 127 (achieving well-designed places)
  - Paragraph 182 (ground conditions and pollution)
  - Section 15 (conserving and enhancing the natural environment)
  - Section 16 (conserving and enhancing the historic environment)
  - Paragraph 213 (annex 1: implementation)
59. The NPPF is supported and complemented by the PPG. The guidance provided by the PPG is advice on procedure rather than explicit policy and is an online reference as a living document. It too is an important material consideration alongside the NPPF.
60. The operation known as the “tilted balance” (under paragraph 11d of the NPPF and policy CS1) engages where, *inter alia*, the most important policies for determining an application are out of date. This cannot apply here: the Council can demonstrate a deliverable housing land supply of over 5 years (5.67 as accepted by the Secretary of State in the recent decision on the Long Melford recovered appeal) and taken

in the round the most important policies for determining this application are considered to be up to date and consistent with the NPPF.<sup>13</sup>

61. Paragraph 213 states that existing policies should not be considered out of date simply because they were adopted prior to the 2019 iteration of the NPPF. It goes on to state that '*due weight should be given to [development plan policies], according to their degree of consistency with this Framework*'.
62. Policies CS1, CS11, CS15, CN01, CN06, CN08, and HS28 are all considered to be consistent with the NPPF and so they should be afforded full weight.
63. Policy CS19 is not entirely consistent with paragraph 63 of the NPPF, which confirms that provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). The site does not lie within a designated rural area and is not a major development by the definition provided in the NPPF. However, the application expressly provides for a notable proportion (c.57%) of affordable housing in the spirit of policy CS19 even though the NPPF does not require it to do so.
64. Policy CS2 has previously been found to be consistent with national policy; hence, forming part of the Core Strategy as a post-2012 NPPF development plan document. It provides a strategy for the distribution of development that is appropriate in recognising local circumstances and its overall strategy remains sound. However, in the absence of an allocations document and settlement boundaries review (which has been absent for several years but has in practice been overtaken by the preparation of the emerging JLP) it should be afforded less than full weight. This is also the case because national policy continues to require that policies are tested for their consistency with the NPPF: as a matter of judgement the '*exceptional circumstances*' threshold is not entirely consistent with the NPPF and this has been recognised repeatedly in appeal decisions following the most recent NPPF publication, including a very recent decision made by the Secretary of State<sup>14</sup>. There is a not dissimilar '*special circumstances*' test at NPPF para. 79 but that only applies to sites that are physically separated or remote from a settlement (which plainly does not engage here). While a lesser weight is given to policy CS2 its place within the development plan cannot be supplanted i.e. in accordance with the s38 duty decision-taking must begin with the development plan.
65. As will be set out and concluded in the officer recommendation to this report, the application falls to be determined and refused in accordance with the development plan as officers consider that there are no material considerations that would indicate a decision should be taken other than in accordance with that direction.

## **ASSESSMENT**

66. Taking the above into account, what now follows is an assessment of the application and in respect of the key issues that have been identified (including through consultation responses received), as follows:

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<sup>13</sup> And as noted in the Summary above even in the event that the "tilted balance" could engage (because the conditions under NPPF para 11 d) were satisfied) that operation – under para 11 d)ii. – would be disappplied/moot because in accordance with para 11d) i. the heritage issues at the heart of this application provide a clear reason for refusing the development proposed.

<sup>14</sup> Recovered planning appeal: Land off Station Road, Long Melford, ref - APP/D3505/W/18/3214377 ("Long Melford appeal").

- The Principle of Development (Policies CS2 and CS11)
- Heritage
- Highway Access and Safety
- Other Matters (residential amenity and ecology);
- Scheme Benefits

## **The Principle of Development (Policies CS2 and CS11)**

67. Policy CS2 states that outside of a settlement boundary *'development will only be permitted in exceptional circumstances subject to a proven justifiable need'*. For all intent and purpose (certainly in relation to the bulk of the built aspects of the development) the site is outside of the settlement boundary/Kersey BUAB. The policy also states that Hinterland Villages will accommodate some development to help meet the needs within them and that all proposals will be assessed against Policy CS11. The application proposes development for a Hinterland Village and therefore both policies CS2 and CS11 are engaged; the application site is treated as falling within the countryside for the purposes of this assessment and when adopting a cautious stance.
68. The application of policies CS2 and CS11 in respect of countryside development has been considered by the High Court (the "Bergholt judgment")<sup>15</sup>. The Bergholt judgment is clear that in respect of the relationship between policies CS2 and CS11, for developments outside of BUAB if there is to be compliance with policy CS2 then there must be both a proven justifiable need and exceptional circumstances; compliance with policy CS11 might assist the Council with being satisfied in that respect but it does not override the requirement to meet them. Thus, policy CS2 is the lynchpin for determining the in-principle acceptability of an application in spatial terms: as a matter of planning judgement, an unresolved conflict with that policy would likely mean non-compliance with the development plan when taken as a whole.
69. Subject to specified criteria, policy CS11 supports development beyond the existing BUAB of Core and Hinterland villages. In common with policy CS2, for Hinterland villages it states that development will be approved where (among other things) the Council is satisfied that the issue of locally identified need [for housing and specific local needs such as affordable housing; and a proven local need] has been addressed; there must be a proven justifiable need. The policy is clear that all proposals for development in Hinterland villages must demonstrate how they meet all of the specified criteria. Neither policy CS2 nor CS11 prescribe what degree of need has to exist, however.

### **Locally identified need/proven local need**

70. The meaning of "locally identified need" for housing, as a criterion of policy CS11, was considered in the Bergholt judgment: locally identified housing need is considered to encompass the needs of a village and its functional cluster, and perhaps in areas immediately adjoining it. However, the judgment was given in the context of a proposed development in a Core Village, which has slightly differently worded criteria to that applicable to *Hinterland Villages* (and noting the policy text of policy CS2 which states that Hinterland Villages *'will accommodate some development to help meet the needs within them' [emphasis added]*).

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<sup>15</sup> *R (on the application of East Bergholt PC) v Babergh DC* [2016] EWHC 3400 (Admin).



Nevertheless a proposal for a Hinterland Village must meet the criteria for both types of village, as stated in the text of the policy.

71. Policy CS11 states those two requirements – in relation to housing need – as follows:

*‘iv) locally identified need - housing and employment, and specific local needs such as affordable housing; and*

*iii) meets a proven local need, such as affordable housing or targeted market housing identified in an adopted community local plan / neighbourhood plan’.*

72. In relation to Hinterland Villages the CS11 SPD states:

*‘Because Hinterland Villages are generally smaller and have fewer services and facilities it is expected that proposals for consideration under this policy will be small-scale. However as with Core Villages, Hinterland Villages vary considerably in their size, scale and nature. Proposals for hinterland villages will need to be proportionate to the size of the existing settlement and take into account the type and number of facilities in the village, local opportunities and needs. Some hinterland villages may be able to accommodate higher levels of development than others’.*

73. As an application for housing in a Hinterland village, it is incumbent upon an applicant to provide evidence to meet that test. Policy CS11 does not explain how local need should be demonstrated. However, the requirement is explained further within the CS11 SPD:

*‘... Developers should therefore set out how the proposal meets these locally identified needs. This should include an analysis of the number and types of dwelling in the village, an assessment the need for housing in the village and the identification of any gaps in provision. Proposals should provide affordable housing in accordance with Policy CS19. Proposals should therefore be accompanied by a statement that analyses the local housing, employment and community needs of the village and how they have been taken into account in the proposal. It is anticipated that such statements should be prepared in consultation with the Council using evidence from a number of sources.’*

#### The Local Housing Needs Assessment

74. The application is supported by a local housing needs assessment (“LHNA”) prepared by the national planning consultancy Lichfields to address the matter of locally identified/proven local need. It was not prepared in consultation with the Council (albeit it does include evidence from the Council’s affordable housing waiting list) or the Parish Council but this is not considered to detract from its content.

75. Officers consider that the LHNA has broadly engaged with the matters set out within the SPD, specifically providing: an analysis of the number and types of dwellings in the village; an assessment of the need for housing in the village; identification of any gaps in provision; and evidence from a number of sources (and approaches). As stated, 57% of the units proposed would be affordable. In this respect the LHNA is considered to be satisfactory as an evidence-based document in-line with the SPD.

76. The LHNA is a technical document and has been prepared with regard to data from the Office of National Statistics (“ONS”) and various other evidence inputs. It provides both quantitative assessment and qualitative judgement in respect of the assessed housing need for both the village and its functional cluster(s). Members should note that the methodology employed is largely the same as that accepted by the Inspector (from which the Secretary of State did not demur) in the Long Melford appeal. Nevertheless the LHNA has been considered on its own merits and within the specific context of this application. Summarised findings taken from the LHNA are given below; it bears repeating that Members consider this document (and objections to it, in response) in full before making a decision on the application.
77. In terms of demographics the LHNA shows that while the village has grown only marginally over a 15 year period<sup>16</sup> (by contrast the population in Babergh over that period increased by 8%), there has been a clear shift in its age structure, with a decline in the number of 0-17 year olds and people age 18-44 – i.e. foreseeably younger families. Meanwhile the number of people aged 45 and over has increased. In respect of households, the proportion of families living in the village is relatively low.
78. In housing terms the growth in Kersey has been lower than its surroundings (within its functional cluster(s)), and that of the District. The availability of affordable housing within the village is low, and is proportionately less than its surroundings and that of the District. House prices within the village are also notably high. Considering the recent Housing Land Supply Position Statement of September 2019<sup>17</sup> (“HLSPS”) there is only one dwelling expected to be delivered within the Parish (a barn conversion at Wickerstreet Green) within the next five years; there is no development anticipated within the village itself in that monitoring period. Surprisingly this can be contrasted with the nearby Countryside (i.e. washed over with no BUAB) villages of Lindsey, Edwardstone, Groton, and Milden, which all have limited residential development projected to be delivered within the next five years.
79. In consideration of the functional cluster, two methods are employed to address need: a “top down”<sup>18</sup> and a “bottom up”<sup>19</sup> approach. In respect of both methods a period of assessment up to the year of 2031 is preferred – as opposed to the 2036 of the emerging JLP (both are supplied). This is so as to at least keep the assessment consistent with the current plan period and also as a cautious exercise in limiting the final output (as plainly the further one looks into the future the greater the need will be).
80. In relation to the top down approach even against the more conservative estimation of need across the functional clusters in the LHNA, the pipeline of supply remains in deficit. It is noted that in taking that approach the supply of new homes has been drawn from the AMR of 2017/2018. Even if the more recent HLS Position Statement of September 2019 is considered (which demonstrates an overall HLS figure for the District of 5.67 years) this does not alter matters by a significant degree.

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<sup>16</sup> Between the years of 2002 and 2017.

<sup>17</sup> Babergh Housing Land Supply Position Statement (2019/20 – 2023/24), September 2019 (“HLSPS”). Available at: <https://www.babergh.gov.uk/assets/Strategic-Planning/AMR/Babergh-District-Council-Housing-Land-Supply-Position-Statement-Sep-2019.pdf>

<sup>18</sup> This approach starts with District needs (based on the latest ‘standard method’) and apportions the need based on the size of the cluster.

<sup>19</sup> This approach projects future housing need based on the clusters’ current population.

81. The bottom up approach relies upon projections based upon the current population of the Kersey functional cluster(s). It too has been modelled to end its period of assessment by 2031 to coincide with the end of the current plan period. Again, the most cautious estimations of need still present a projected deficit of housing in comparison to the known supply of dwellings expected to be delivered within the clusters. Both methods lead to conclusion that there is a shortfall of housing against which the proposal could, albeit to a small degree, help to meet.
82. However, there is a danger that assessments driven purely by looking at the local cluster(s) of settlements around Kersey may miss the specific circumstances relevant to the village in question. In that respect policy CS2 is also clear in stating that Hinterland Villages will accommodate development to meet the need within them. For those reasons the LHNA additionally considers the need arising within the village of Kersey itself.
83. Using a similar approach to the wider “top down” method, the LHNA presents three scenarios where the village grows proportionately based on its size. A number of inputs have been used to inform that local growth rate: a continuation of past trends (i.e. the limited growth that has occurred to date thus far); household growth (i.e. the growth rate proportionate to that expected for the District); and “standard method” (i.e. proportionate to the District-wide housing need figure of 420 dwellings per annum).
84. In applying those scenarios the LHNA considers both a village-only need and then a slightly expanded geographical catchment of parishes immediately adjacent, given that people from smaller and/or nearby settlements may move in order to meet their needs. Officers are satisfied with both approaches however for sake of prudence have looked purely at the village-only figures bearing in mind the wording of policies CS2 and CS11. Thus, the “need” for the village projected to the end of the current plan period (i.e. to 2031) is either: 11 dwellings; 14 dwellings; or 22 dwellings, respectively. To reiterate, in the current HLSPS there is only a single dwelling expected to be delivered within the Parish by 2024; plainly, by the above village-only “top-down” scenarios there is a residual need that the proposed development could contribute toward satisfying.
85. The LHNA finally presents an alternative Kersey “bottom-up” scenario that, like the assessment of the functional cluster(s), considers in/out migration through the locality. It concludes that there could be a need of only two dwellings by the end of the plan period albeit with a more significant level of need in the parishes immediately surrounding. However, officers agree with the LHNA that this scenario is less reliable and in terms of village-only assessment, the previous three scenarios are preferred. In that respect the LHNA explains as follows:

*‘The demographic-led approach at such a local level is very sensitive to the starting population (population base) and the assumptions applied. In particular, Kersey has a particularly old age profile, in part due to its relatively low rate of housing growth historically (which will have affected the amount of population ‘churn’ in the village). This can create a cyclical effect whereby low growth historically feeds into future trends, suggesting fewer homes are needed (when, in reality, a boost to housing supply may be needed locally to bring a village more in line with wider trends). The conclusion in Scenario 4 that Kersey only requires less than 2 new dwelling by 2031 should be read alongside the multitude of other evidence which suggests there is a pressing need for housing, particularly affordable housing, in the village.’*

86. In considering the LHNA it is also important that it is read in conjunction with the comments of the manager for the Strategic Housing team because in respect of local housing need, affordable housing is also of specific interest in policy CS11 and this provides further evidence of local need. In accordance with their comments, there is evidence to demonstrate that there are people on the housing register in housing need. In January 2020 there were 855 registered applicants for affordable housing in the District; the *Strategic Housing Market Assessment* (“SHMA”) of 2019 indicates that there is a need for 110 new affordable homes per annum within the District and unfortunately the need is simply not being met by supply.
87. At a local level the most up to date comments of the Strategic Housing Manager highlight that within the parishes closest to Kersey (and within its functional clusters) the number of applicants with a registered local connection to those villages is as follows:
- Kersey – 1
  - Groton – 2
  - Edwardstone – 4
  - Hitcham – 3
  - Nedging with Naughton – 3
88. The lack of households in that area (and especially Kersey) on the housing waiting list is cited in the Pink Review as being ‘*very telling*’ (§6.1). However, this is a point addressed by the Council’s Strategic Housing Manager in stating that:
- ‘There is likely to be some concealed housing need in these villages – typically younger people do not tend to register in the villages as they are of the view that nothing will become available, so it is a pointless exercise. Often concealed need becomes identified need once a scheme receives planning permission and some site activity commences, then we normally see an increase in registrations.’*
89. Taking the above into account, aside from the scenarios of projected need provided within the LHNA there are therefore other contextual indicators which support the provision of small-scale housing in Kersey; primarily the lack of affordable housing currently available and the rapidly ageing age profile of the village. This is in the wider context of Babergh being the least affordable part of the defined Housing Market Area<sup>20</sup> and with the highest rental costs. The Strategic Housing Manager has no objection to the application (subject to the completion of a s106 agreement to their satisfaction, as below) noting that the proposal would ‘*add to the very limited supply of existing affordable housing supply in the village*’.
90. In the event that Members resolve to grant planning permission contrary to the recommendation of this report a s106 agreement would be required to secure the provision of the 4 no. affordable units in perpetuity. The terms of affordable rent applicable to those units would be set to the requirements of the Strategic Housing team. For the avoidance of doubt, they are principally as follows<sup>21</sup>:

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<sup>20</sup> The Ipswich Housing Market Area of the SHMA: comprising Ipswich, Babergh, Mid Suffolk and Suffolk Coastal).

<sup>21</sup> Full details are provided within the response of the Strategic Housing Manager.

- All affordable units will be allocated as rented dwellings at an affordable rent of up to 80% open market rent inclusive of any service charges and to be advertised through the Gateway to Homechoice choice-based lettings portal;
- The Council is granted 100% nomination rights to all the affordable units on initial lets and the properties are advertised and allocated through the Gateway to Homechoice system; and
- A nominations agreement secured to the satisfaction of the Strategic Housing team.

### The Pink Planning Review

91. Objectors to the application have commissioned a review of the LHNA from another consultancy known as Pink Planning. The Pink Planning review (“Pink Review”) is highly critical of the LHNA and instead suggests that there is in fact a surplus of housing relative to local need. Principally, the Pink Review alleges that the LHNA: fails to meet the requirements of the SPD; does not provide a clear definition of the local area; and uses an unsatisfactory/unreliable methodology (with the Pink Review estimations of limited need being preferred).
92. The content of the Pink Review has been considered carefully. Officers are not persuaded by the criticisms set out and prefer the evidence provided by the Applicant under the Lichfields LHNA and the complementary position of the Strategic Housing team. Given the significance of this issue, reasons for preferring the Applicant’s LHNA and affording less weight to the Pink Review are now provided.
93. At §3.7 the Pink Planning review claims that the LHNA has failed to meet the requirements of the SPD in providing: an analysis of the number and types of dwelling in the village; an assessment of the need for housing in the village; and the identification of any gaps in provision. However, this is simply not the case.
94. Policy CS11 does not explicitly state the manner in which housing need should be demonstrated nor does it prescribe what degree of need has to exist in order to satisfy it. As set out above, as a material consideration the SPD is considered to provide useful guidance in that respect and, as set out above, the LHNA broadly meets with each of the matters listed within that document. In fact, the only failing is that it was not produced in dialogue with the Council however this is not considered to weigh against the document or undermine its content.
95. For the avoidance of doubt, Members can find information relevant to the criteria in the SPD at these points within the LHNA:
- *‘analysis of the number and types of dwellings’* (Section 2.0, specifically paras 2.4-2.17);
  - *‘an assessment of the need for housing in the village’* (Section 4.0 which sets out a Kersey-specific assessment;
  - *‘identification of any gaps in provision’* (throughout, e.g. at para 2.13 and para 5.6); and
  - *‘evidence from a number of sources’* (throughout).
96. It is further noted that Council affordable housing waiting list data was included (para 4.16 of the LHNA) and this has since been updated through the latest comments of the Strategic Housing manager. Overall the LHNA meets the technical requirements of both the development plan and the SPD.

97. Contrary to the criticism levelled, officers do not consider that the LHNA *'skirt[s] about'* or fails to provide a definitive scope of geographical area to support its assessment. The LHNA provides a number of scenarios taking into account the functional cluster(s) and then the village itself, in addition to the areas immediately adjoining the parish. The LHNA acknowledges the Bergholt judgment (in relation to comments in respect of needs within the functional cluster) but having regard to the Hinterland status of Kersey considers its need in isolation, too. Officers are satisfied with this approach, which is comprehensive.
98. At §4.3 of the Pink Review while on the one hand stating that the emerging JLP should have *'little or no weight'* it then relies upon a proposed policy within the Reg 18 document to justify a requirement for the applicant to provide a local housing needs survey in this instance. Officers wholly disagree with that judgement and direct Members to consider this application within the context of the current development plan as the starting point for decision-taking. Current policy does not mandate such an approach and arguably given the extremely polarised and passionate views expressed within the village in response to this application, such a tool could be unreliable in this instance.
99. At §4.5 the Pink Review refers to the Bergholt Judgment being *'upheld in Landex Ltd v Babergh District Council [2018]'*. It should be clarified that the author of the Pink Review is in fact referring to the dismissed planning appeal for a residential development at Land off Daking Avenue, Boxford<sup>22</sup> ("Boxford appeal") as opposed to any judgment of the courts. The Pink Review states that because the LHNA utilises a similar approach to that of the Appellant in that case (which was criticised by the Inspector) it cannot be considered *'robust or convincing'*. However, there are some important distinctions to make between the housing needs assessment in the Boxford appeal and the LHNA supporting the current application, notwithstanding that the LHNA methodology set out by Lichfields has since been accepted in the Long Melford appeal (from which the Secretary of State did not demur):
- The approach of the appellant and its agent, Artisan PPS, was significantly different to that of the LHNA submitted by the applicant in this case, prepared by Lichfields (who played no part in the Boxford appeal).
  - The need assessment in the Boxford appeal was a high level assessment that predominantly focused on district-level need. In the appeal decision the Inspector noted several elements which might have been appropriate (and which were not provided e.g. a local needs survey) in the context of an evidence base that was deficient *overall*, rather than specifically criticising the appellant for not undertaking a survey; officers therefore disagree with the interpretation set out in the Pink Review.
  - The Pink Review goes on to state (in its conclusions) that that *'as determined in a recent appeal within the district [Landex], local need must be examined through a Local Housing Needs Survey'*. This simply misreads the decision letter in the Boxford appeal. There is no requirement under policy CS11 to conduct a survey; the Inspector used a survey as one example of how several deficiencies (which do not apply to the LHNA for the current application) could be addressed.
100. Among other points, at §5.4 the Pink Review contends that part of the reason there are few families in the village is because it does not offer any services and facilities attractive to families and at §5.10 the lack of village organisations tailored to younger residents is highlighted. However, this contention is at odds with

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<sup>22</sup> Appeal Ref: APP/D3505/W/18/3197391.

the presence of the primary school, and (if adopted) would perpetuate the “sustainability trap”<sup>23</sup> whereby new housing is resisted on grounds of sustainability but this in turn leads to falling demand for the services that do exist. It must be remembered that the village has Hinterland status where it is considered to play a role within its functional cluster(s). Further, it is disagreed that the lack of organisations within the village tailored to youngsters ought to suggest that there is not a need or attraction for families to move to the village; plainly, if the profile of the village were to change or, if families were to move to the village, there is nothing to suggest family-friendly groups or networks would not, or could not, be formed. Kersey is an attractive village in a sustainable location that should not be the preserve of a specific demographic; it could not be a mixed or inclusive community if that scenario were to be preferred. This is true of any settlement.

101. The Pink Review is critical of the suggestion within the LHNA that new housing will help support the school, noting that parents are free to send their children to any school and thus would not necessarily support it (§5.2-5.3). While parental choice makes this self-evident, the Pink Review provides no evidence to suggest that local residents of the housing would choose *not* to send their children to their local school. Housing located within the centre of the village, (within easy walking distance to/from the school) has a greater prospect of supporting local education than providing no new housing in the village, which would mean the school relied on attracting pupils from outside the village. Members will recall that at the previous committee a former Governor from the Kersey Primary School spoke in favour of the scheme concerned for the future of the school in the absence of local growth to support it.
102. The Pink Review does concur with the LHNA in that ‘*Kersey is an area with high house prices and lower incomes*’ (§5.14) but asserts that according to the most recent SHMA, the need for private rented housing across the Housing Market Area will fall over the plan period and thus raising ‘*doubt*’ over the level of need (§5.5). The Pink Review also questions the conclusion that 2-bed homes will support the needs of young couples and families/lone parents with children (§ 5.9) given that the SHMA estimates that only 2.5% of households with children will live in 2-bed private rented housing by 2036 (§ 5.9).
103. However, a district-wide fall in the need for private rented housing across the Housing Market Area does not demonstrate that need will fall in this particular location; indeed the Pink Review itself states that ‘*demonstrating that there is a proven need for housing ... requires an excellent grasp of local issues and extensive research at a local level*’ (§ 3.5). Officers proffer that the LHNA offers that extensive local assessment.
104. Furthermore, the Pink Review is only representing part of the SHMA’s findings related to 2-bed housing: the SHMA (Table 6.4a) states that [as well as the 2.5% in private rented housing], 6.5% of households with children will live in owner-occupied housing with 2 bedrooms, 0.5% in shared ownership homes with 2 bedrooms and 5.6% in social/affordable rent with 2 bedrooms, giving a total of 15.2% (for all households with children living in 2-bed housing). The SHMA does not provide analysis of the size of accommodation likely to be required for couples, but it would be reasonable to assume that this would comprise a significant proportion of 2-bed dwellings. The likely need for 2-bed homes is thus significantly greater than the Pink Review implies. When viewed alongside the comments of the Strategic Housing Manager, officers are satisfied that the mix and type of accommodation offered by the proposed development is both positive and needed.

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<sup>23</sup> Taken from *Living Working Countryside: The Taylor Review of Rural Economy and Affordable Housing* (DCLG, 2008).

## Other Matters

105. It is noteworthy that the Council has previously accepted that there is a housing need in Kersey when recently considering the Vale Lane application (albeit refused on other grounds). The evidence submitted in support of that application<sup>24</sup> used the LHNA prepared by Lichfields as a basis and provided additional scenarios and projections. Against the projected local housing need for additional homes within the period of 2019-2029 the Pioneer Report supporting that application showed that the potential supply of homes within even the smallest Kersey study area (village and areas of parishes immediately adjacent) would be insufficient to meet local housing needs; a deficit of 37-43 dwellings. This does not detract from the ultimate conclusions of the Lichfields LHNA.
106. The PAP Letter alleges that the Applicant/landowner controls additional, vacant housing in the village; the implication, presumably, being that such housing could be put to meeting local needs without the present application. Regardless of the veracity of those claims, however, this would still not rectify the deficit identified within the Lichfields LHNA and Pioneer Report.

## Conclusion on Local Housing Need

107. Having considered the LHNA (and 3<sup>rd</sup> party comments submitted in response to it) it is considered that there is a proven local housing need for the development such that it would comply with policy CS11 (both the Core and Hinterland requirements, as required by the Policy). Triangulated with the findings of the Pioneer Report and the supportive comments of the Strategic Housing Manager (which further supports this conclusion), officers consider that there is a local housing need within Kersey and the proposed development would contribute toward satisfying that need, especially noting the significant proportion of affordable units. Having regard to national planning policy the application is also considered to respond positively to local needs (where planning decisions should support such proposals) and the development would enhance the vitality of the settlement, in compliance with NPPF paragraphs 77 and 78.
108. However, proving a local housing need that could be met by the proposal does not mean that it is justifiable (in a wider sense) or its circumstances exceptional [in line with policy CS2]. This matter is considered further at the end of this section and as a part of the final planning balance that informs this officer recommendation and noting the heritage issues identified.

## **Other CS11 Criteria**

109. An assessment against the other criteria of Policy CS11 now follows and has been informed by the guidance contained within the CS11 SPD:
- i. The landscape, environmental and heritage characteristics of the village  
There are no issues in relation to landscape impacts and there are no environmental concerns other than the impacts upon the historic environment (though archaeological matters are capable of being satisfactorily addressed). Heritage matters are treated in detail in the next section of this report; because of the unacceptable harm identified this criterion is not satisfied.

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<sup>24</sup> 'Local Housing Need Report', prepared by Pioneer Property Services ("Pioneer Report").



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

In general terms the siting of the development behind the general “building line” of The Street is not considered to be unacceptable. However, because of the unacceptable heritage harm identified this criterion is not satisfied.

iii. Site location and sequential approach to site selection

The Applicant would argue that the site/development is available and achievable. This assessment tests its suitability.

Technically the site straddles the BUAB albeit on a cautious view the development is effectively sited outside of it. However, the acceptability of the development in relation to this criterion does not turn on whether or not the site is within the BUAB. The site is considered to be well-connected to the settlement of Kersey and the limited services and facilities within the village are readily accessible.

There are no sequentially preferable allocated sites that are available in Kersey, nor are there any sites within the BUAB that would enable a development of commensurate scale. The Bergholt judgment clarified that in relation to sequential assessment there is no requirement to look at alternative sites adjoining the built up area boundary, as sequentially they are within the same tier (and in any event the site in this instance is straddling the BUAB which underlines its connection to the village).

In the absence of any sites within the BUAB and no requirement to consider other sites outside the BUAB where the application site adjoins it, the proposal accords with this element of Policy CS11.

iv. Locally identified need – housing and employment, and specific local needs such as affordable housing

As set out above, this criterion is satisfied.

v. Locally identified community needs

The CS11 SPD identifies that proposals should be accompanied by a statement that analyses the community needs of the village and how they have been taken into account in the proposal. The application is not supported by such an assessment in those precise terms.

Regardless, the proposal will generate contributions towards community infrastructure, to be spent on local services and infrastructure, therefore supporting rural communities, local services and facilities. In this regard, despite the absence of the needs assessment, the proposal delivers benefits through CIL that are considered to satisfy this element of policy CS11. The absence of a supporting needs assessment, while not weighing in favour of the application, is not fatal to it on any reasonable and proportionate view.

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

There is no technical evidence before officers to suggest the scheme would result in an unacceptable cumulative impact on the area in the context of such impacts. Further, it has not been evidenced that without an appropriate mitigating mechanism there will be an unacceptable infrastructural burden.

CIL contributions are expected to be used to ensure existing infrastructure capacity is supported to accommodate additional demand. This approach is consistent with that promoted within policy CS11, which states:

*'Proposals for both core and hinterland villages will need to demonstrate that the development can be accommodated without adversely affecting the character of the village and that the services, facilities and infrastructure have the capacity to accommodate it or will be enhanced to accommodate it.'*

So where strain does occur, it will be addressed by the appropriate infrastructure authorities who will be well funded to undertake the necessary works, for example new/expanded health and/or education facilities. Additional infrastructure requirement is a consequence of the development, but it is not an adverse social, physical or environmental impact.

This criterion is satisfied.

110. And due to the Hinterland location, that the proposed development should be:

i. Well designed and appropriate in size/scale, layout and character to its setting and to the village

This is considered in the next section; the application fails to satisfy this criterion due to the unacceptable heritage harm identified. If not for that issue, the development would be otherwise acceptable in relation to this specific requirement. The dwellings are efficient, architecturally pleasing, and would not be objectionable in general character or scale/layout terms.

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

The proposed development would be "backland" but spatially this is not an unacceptable response bearing in mind the distribution of development elsewhere in The Street. This criterion is satisfied.

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

As above, this criterion is satisfied.

iv. Supports local services and/or creates or expands employment opportunities

While the proposal is unlikely to directly create or expand employment opportunities of itself, it would not hinder or prejudice them. Bearing in mind the accessibility of the site to nearby services and facilities it is likely that the future occupiers would support local services.

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

This criterion is satisfied.

- 111. Having regard for the above the application fails to satisfy Roman i., ii., of the main/Core policy criteria and i., of the Hinterland criteria.
- 112. Policy CS11 also requires that proposals score positively when judged against policy CS15. Policy CS15 is a long and wide-ranging, criteria based policy, setting out how the Council will seek to implement sustainable development; not every proposal directly engages every criterion and this is true of the current application. Bearing in mind the key issues that have been identified, the applicable elements are now considered under the subsequent sections of this report. It will be demonstrated that the application does not, overall, score positively when considered against policy CS15 but this is purely because of the unacceptable heritage harm identified. Overall, the application does not satisfy policy CS11 and is in conflict with that policy when taken as a whole.

### **Conclusion – Policies CS2 and CS11**

- 113. If not for the unjustified heritage harm identified (which will be explained in the next section), the application would comply with the criteria set out under policy CS11 albeit, in officers opinion, the circumstances of the application would remain unexceptional thereby conflicting with policy CS2 and the development plan taken as a whole.
- 114. However, while on face value there would be a breach of CS2 despite a proven need (and overall compliance with policy CS11), the fact that the underlying aims of that policy would be met means that this poses tension as opposed to outright conflict: the weight to be attributed to that breach is limited where the weight afforded to policy CS2 is itself tempered. Therefore, if the impacts of the development upon the historic environment were acceptable, officers would have recommended that the application be granted planning permission.

## **Heritage**

### **Legislation, Policy, and Guidance**

#### Legislation

- 115. Section 66(1) of the listed buildings Act states that in considering whether to grant planning permission for development which affects a listed building or its setting, the decision taker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest that it possesses.
- 116. Section 69 of the same Act relates to the designation of conservation areas and requires that local planning authorities determine which parts within its administrative ward are areas of special architectural or historic interest; the character or appearance of which it is desirable to preserve or enhance.

117. Section 72(1) provides for a similar duty to s66(1) with respect to any buildings or other land in a conservation area. For decision taking it requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of such an area.
118. The effect of those statutory provisions (ss.66(1) and 72(1)) is that the desirability of preserving the setting of a listed building (or character/appearance of a conservation area) must be treated as a matter of *'considerable importance and weight'*, with such duties regarded as presenting a *'strong presumption'* against a grant of planning permission where harm to a designated heritage asset is identified<sup>25</sup>.

### Policy

119. The development plan policies directly applicable to this application in heritage terms (as opposed to policies CN01 and HS28 which are of tangential relevance<sup>26</sup>) are policies CN06, CN08, CS11, and CS15. They are among the most important for the determination of this application, where they specifically reference the historic environment.
120. Policy CN06, among other things, applies to new development within the setting of a listed building. It is engaged because the development is within the setting of the host properties, 1-6 The Street. Policy CN06 requires that relevant development should be *'of an appropriate scale, form, siting and detailed design to harmonise with the existing building and its setting'* and *'respect those features which contribute positively to the setting of a listed building including space, views from and to the building and historic layout'*.
121. Policy CN08 is engaged because the appeal site is within the KCA. Policy CN08 states that such development should preserve or enhance the character of a conservation area.
122. As already noted, policy CS15 is a long, criteria-based policy but the Roman i. and ii. criteria are directly engaged, stating that development should:
- i. respect the landscape, landscape features, streetscape / townscape, heritage assets, important spaces and historic views.
  - ii. make a positive contribution to the local character, shape and scale of the area.
123. Policy CS15 goes on to state that:

*'Proposals for development must ensure adequate protection, enhancement, compensation and / or mitigation, as appropriate are given to distinctive local features which characterise the landscape and heritage assets of Babergh's built and natural environment within designated sites covered by statutory legislation, such as AONBs, Conservation Areas, etc. and local designations such as Special Landscape Areas and County Wildlife Sites, and also local features and habitats that fall outside these identified areas.'*

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<sup>25</sup> *South Lakeland District Council v Secretary of State for the Environment and Another* [1992] 2 AC 141; *R (Barnwell Manor Wind Energy Ltd) v East Northamptonshire DC* [2014] EWCA Civ 137.

<sup>26</sup> Naturally, failure to comply with the most important policies cited – due to unresolved heritage conflicts – would also mean non-compliance with policies CN01 and HS28 which seek to secure development appropriate for its environmental context.

*In particular proposals should protect and where possible enhance the landscape and heritage areas including habitats and features of landscape, historic, architectural, archaeological, biological, hydrological and geological interest.'*

124. The NPPF of 2019 contains the planning policies pertinent to the historic environment under Section 16, 'Conserving and enhancing the historic environment', with relevant definitions provided within its Glossary.

125. The NPPF defines "heritage assets" (of which listed buildings and conservation areas are designated heritage assets under the listed buildings Act) as being:

*'A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including local listing).'*

126. "Significance" is defined by the NPPF as:

*'The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. For World Heritage Sites, the cultural value described within each site's Statement of Outstanding Universal Value forms part of its significance.'*

127. "Setting" is defined as:

*'The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.'*

128. Within section 16 of the NPPF, paragraph 184 states that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance.

129. Paragraph 189 of the NPPF states that, when determining applications, local planning authorities should require applicants to proportionately describe the significance of the heritage assets affected and any contribution made by their setting. Whilst the onus is therefore placed upon an applicant to satisfy that requirement (and this has been satisfied by the applicant in this instance), it is no less useful within the context of this committee report.

130. Paragraph 190 is relevant to decision-taking and states:

*'Local planning authorities 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) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.'*

131. Paragraph 193 transposes the requirements of the listed buildings Act and states that when considering the impact of a proposed development upon 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). The great weight should be given irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
132. Paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
133. Paragraphs 200 and 201 specifically reference conservation areas and among other things state that local planning authorities should look for opportunities for new development within them (as well as within the setting of heritage assets) to enhance or better reveal their significance. It is stated that proposals that preserve those elements of a setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably. It is also recognised that not all elements of a conservation area will necessarily contribute to its significance. Loss of a building or other element which does make a positive contribution to the significance of a conservation area should be treated as harmful, taking into account the relative significance of the element affected and its contribution to the significance of the conservation area as a whole.
134. Paragraphs 195 and 196 address the balancing of harm against public benefits, whether that be "less than substantial harm" (para. 196) or "substantial harm" (para. 195). As will be made clear it is only the paragraph 196 test that applies to this application.
135. Paragraph 196 states:
- '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...'*
136. Neither policy CN06 nor CN08 explicitly import a balance for resolving heritage conflicts in the manner of NPPF paragraph 196. To that extent it might be said that they are inconsistent with national planning policy and should be afforded less than full weight as result (noting NPPF para. 213). Officers disagree. Firstly, they are entirely consistent with NPPF paras. 193 and 194. Secondly, and in that respect, they are consistent with the duties laid out within the listed buildings Act which have the force of statute: the Council cannot choose to afford such duties limited weight, as a matter of law they must be followed. Thirdly, it is considered inherent within the policies that there must be a means to resolve heritage conflicts as otherwise it would not be possible to find development acceptable in circumstances where harm was unavoidable; as ever, a planning balance is required though noting the considerable importance to be attached to the finding of any heritage harm identified.
137. Regardless, in light of the clear and methodical bundle of policies set out within the NPPF, Members are directed to work through them as set out above. This is because, if properly applied, Members can be satisfied that they will have adhered to national planning policy, satisfied their statutory duties, and thus will have also complied with the policies of the development plan (which embrace those duties).

138. Having regard to the statutory duties imposed by the listed buildings Act and as recognised in the legal authorities already cited (alongside *Shimbles*<sup>27</sup>), any harm found when assessing this application requires compelling justification and sets a strong presumption that the application should be refused. Nevertheless, it is considered useful to identify and articulate where on a spectrum such harm would lie bearing in mind the relationship between less than substantial and substantial harm and the different requirements for decision taking depending on which policy paragraph is engaged; not least because, as will be summarised, the breadth of expert heritage opinions submitted in support of, and against, this application. Moreover, it will assist with the exercise to be undertaken in accordance with NPPF paragraph 196 and the final s38(6) planning balance<sup>28</sup>. The greater the harm, the greater the force of the presumption against granting permission. The notion of articulating where on a spectrum harm would lie is also supported in the PPG<sup>29</sup>.
139. Through an understanding of what “substantial” means, it is considered that it will be easier to make a judgement as to where on a spectrum between no harm (i.e. preservation of significance) and substantial harm, the harm posed by the proposed development would lie.

#### Guidance – National Planning Practice Guidance

140. Where the NPPF does not define “substantial harm”, the PPG provides assistance and is current Government guidance. Officers afford it great weight. It makes clear that where harm is identified:

*‘...it needs to be categorised as either less than substantial harm or substantial harm (which includes total loss) in order to identify which policies in the [NPPF] apply.’<sup>30</sup>*

141. In respect of substantial harm, within the same paragraph the PPG states:

*‘In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset’s significance rather than the scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting.’*

*While the impact of total destruction is obvious, partial destruction is likely to have a considerable impact but, depending on the circumstances, it may still be less than substantial harm or conceivably not harmful at all, for example, when removing later additions to historic buildings where those additions are inappropriate and harm the buildings’ significance. Similarly, works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all. However, even minor works have the potential to cause substantial harm, depending on the nature of their impact on the asset and its setting.’*

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<sup>27</sup> *R (Simon Shimbles) v City of Bradford Metropolitan District Council* [2018] EWHC 195 (Admin). It was held that it is not necessary for a decision taker to explicitly determine where on a spectrum a degree of harm would fall. However, it does not preclude a decision taker from undertaking that exercise.

<sup>28</sup> Even if the paragraph 196 test is satisfied, the heritage harm must still be accounted for in the final planning balance.

<sup>29</sup> Historic Environment: Paragraph: 018 Reference ID: 18a-018-20190723 (revised July 2019).

<sup>30</sup> *Ibid.*

142. Having regard to that guidance, it is therefore important to emphasise that substantial harm is characterised (at least where works to a listed building is concerned) as being posed where an adverse impact seriously affects a key element of the significance of an asset.
143. The PPG also provides further advice in respect of the meaning of “significance” i.e. the value of a heritage asset because of its heritage interest. The NPPF definition further states that in the planning context heritage interest may be archaeological, architectural, artistic or historic. The PPG expands upon those heritage interests with guiding definitions as follows<sup>31</sup>:
- *‘archaeological interest: As defined in the Glossary to the National Planning Policy Framework, there will be archaeological interest in a heritage asset if it holds, or potentially holds, evidence of past human activity worthy of expert investigation at some point.*
  - *architectural and artistic interest: These are interests in the design and general aesthetics of a place. They can arise from conscious design or fortuitously from the way the heritage asset has evolved. More specifically, architectural interest is an interest in the art or science of the design, construction, craftsmanship and decoration of buildings and structures of all types. Artistic interest is an interest in other human creative skill, like sculpture.*
  - *historic interest: An interest in past lives and events (including pre-historic). Heritage assets can illustrate or be associated with them. Heritage assets with historic interest not only provide a material record of our nation’s history, but can also provide meaning for communities derived from their collective experience of a place and can symbolise wider values such as faith and cultural identity.’*

#### Guidance – Historic England

144. The document *Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment* (2008) predates the current policy framework applicable to this application and a revised version remains outstanding following consultation in 2017 and 2018. Its aims and objectives do, however, remain extant and it is helpful to recognise significance as falling within four, distinct categories of value: evidential, historical, aesthetic, and communal<sup>32</sup>. It also defines “harm” as being: *‘Change for the worse, here primarily referring to the effect of inappropriate interventions on the heritage values of a place.’*
145. Since 2008, Historic England has produced a number of Good Practice Advice Notes (“GPA”), including:
- GPA2, *Managing Significance in Decision-Taking in the Historic Environment* (2015); and
  - GPA3, *The Setting of Heritage Assets* (2<sup>nd</sup> Edition, 2017).

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<sup>31</sup> Historic Environment: Paragraph: 006 Reference ID: 18a-006-20190723 (revised July 2019).

<sup>32</sup> The four ‘values’ differ slightly from the ‘interests’ provided within the NPPF (and further defined by the PPG) but they are substantively similar and overlap. For the purposes of assessing significance in this case, however, the terms used in the NPPF are preferred.



146. GPA2 makes clear that the first step for the preparation or determination of any application affecting heritage is to understand the significance of any affected heritage asset and the contribution of its setting to its significance. It also advises that:

*‘Change to heritage assets is inevitable but it is only harmful when significance is damaged. The nature and importance of the significance that is affected will dictate the proportionate response to assessing that change, its justification, mitigation and any recording which may be needed if it is to go ahead.’*

147. It is therefore clear that the identification of change within a heritage asset’s setting must not be confused with harm to that asset; thus, impact as opposed to effect. Instead, the question which should be asked is whether the change (the impact) would result in a diminution – or indeed enhancement – of its significance as a heritage asset (the effect).

148. GPA3 is relevant because the development impacts upon the setting of the host properties, which are GII\* listed buildings; this report assesses the resultant effects of those impacts. The guidance within GPA3 is consistent with the NPPF and the two documents share the definition of “setting”. GPA3 also emphasises that “setting” is not a heritage asset, nor a heritage designation. Its importance lies in what it contributes to the significance of the heritage asset. It therefore follows that one cannot harm a setting; rather, inappropriate development might alter the setting of an asset such that its significance is affected.

149. For decision-taking purposes in assessing the indirect impacts and consequent effects that a development might pose to a heritage asset, GPA3 sets out a clear and methodical five-step process:

- i. Step 1 – Identify which heritage assets and their settings are affected;
- ii. Step 2 – Assess the degree to which these settings make a contribution to the significance of the heritage asset(s) or allow significance to be appreciated;
- iii. Step 3 – Assess the effects of the proposed development, whether beneficial or harmful, on that significance or on the ability to appreciate it;
- iv. Step 4 – Explore ways to maximise enhancement and avoid or minimise harm;
- v. Step 5 – Make and document the decision and monitor outcomes.

150. Within this section officers provide an assessment as to the impacts and resultant effects of the proposed development upon the heritage assets identified: 1-6 The Street and the KCA. That assessment has been prepared having regard to the policy and guidance framework set out above. First, and in order to inform that assessment, the various heritage opinions submitted in relation to this application will be considered.

## **Heritage Opinions**

151. The application before Members has attracted submissions of professional heritage opinion from a variety of sources, including:

- Mr Patrick Taylor (original Council heritage officer, latterly instructed by the Applicant);
- Dr Jonathan Edis (Heritage Collective, instructed by the Applicant);
- Nicolaas Joubert (independent heritage consultant, instructed by the Applicant);
- Mr Bob Kindred MBE (independent heritage consultant, instructed by objectors);

- Mr Michael Collins (independent heritage consultant, instructed by objectors);
- The Council's current Heritage team;
- Suffolk Preservation Society
- Historic England

152. The application is also supported by a "Heritage Asset Assessment" prepared by an architectural historian, Leigh Alston. That Assessment does not consider the impact of the proposed development but assists in understanding the significance of 1-6 The Street as listed buildings. It does not, however, explicitly define the setting of the buildings or the contribution that such a setting makes to the significance of the asset(s).
153. No particular opinion is weighed as being more important than another based on author or source of instruction. Members need to consider each opinion in turn and come to their own judgement in respect of the likely impacts and consequent effects of the proposed development. Members are not required to favour one view or another. Members might share the views of one or other opinion, or none of them, and might find their assessments helpful or not, but the ultimate conclusions will be for Members' own judgement. Officers' assessment follows the summaries of opinions provided below.

Patrick Taylor

154. Patrick Taylor was the author of the *Kersey Conservation Area Appraisal* ("KCA Appraisal") and while employed by the Council gave favourable pre-application advice, culminating in the scheme that was originally submitted. Latterly instructed by the Applicant, he provided an assessment in favour the application. It is known that Mr Taylor undertook a site visit to inform his opinion.
155. The assessment of Mr Taylor provides an explanation of the significance of the host properties and the KCA; in that respect he notes the importance of the street scene and highlights detractors to the historic environment including The Old Gardens to the north of the site. The assessment accepts the principle of "backland" development, stating:

*'Because of the sheer depth of the plots, there are numerous instances of infill development, both modern and historic, so that in my view the proposed development behind Nos. 1-6 The Street would not affect the underlying grain of the settlement, nor would it adversely affect the Conservation Area.'*

156. This position can be viewed against the KCA Appraisal which states:

*'...backland areas are at risk of overdevelopment and this should not be permitted where views through to the countryside setting would be lost, or where the very linear form of the village would be compromised.'*

157. Thus, The Taylor Assessment concludes that the site would not be an inappropriate location for development when having regard to the character and appearance of the KCA.
158. In respect of the host properties 1-6 The Street, Mr Taylor considers the rear of the buildings to be 'unremarkable' with the setting at the rear of the assets being:

*'...of considerably less value than that of the frontage and does not deserve the same high level of protection. If anything the proposed development will bring this rear elevation greater public exposure than it now enjoys, which might well lead to a little judicious tidying up to upgrade its current poor appearance.'*

159. The Taylor assessment concludes as follows:

*'My overall view thus remains as given [at] pre-application, that the proposed development behind Nos. 1-6 The Street, Kersey, at the scale currently proposed, will not adversely affect either the Conservation Area or the setting of the grade II\* listed buildings fronting the site. Any harm the development might cause to either of these will be minor and can be regarded as 'less than substantial'.'*

160. Officers consider that there is a potential conflict between on the one hand finding no adverse effect but on the other accepting that the development might pose less than substantial harm. Officers interpret this conclusion to mean that the author found the likely effect of the proposed development upon the host properties and KCA to be quite low. Regardless, whether negligible, low, or *'minor'*, harm is still harm and such a finding requires considerable importance to be attached to it: the statutory duties are no less engaged. Plainly, however, the correct operation on finding a level of harm that is "less than substantial" – in the parlance of the NPPF – would be to weigh the harm against the public benefits of the application but with considerable importance attached to the desirability of preservation.

Dr Jonathan Edis

161. The Edis assessment is explicit in stating that it was put together taking GPA3 into account. It is known that Dr Edis undertook a site visit to inform his assessment. It has been prepared on the basis that any harm posed by the development would fall within the "less than substantial" category. The assessment underlines the difficulty in prescribing a spectrum of harm in the absence of a policy requirement to do so and an understood and agreed method: *'when harm falls into the meaning in paragraph 196 of the NPPF, the harm is, simply put, less than substantial'*.

162. In respect of the KCA the Edis assessment acknowledges that it is an area of outstanding special architectural and historic interest, and *'it is of at least regional significance'*. However, Dr Edis considers that the application site itself stands away from the parts of the KCA that are of the most evident quality i.e. the street scene where the host properties are sited, at a transitional point between two important vistas. The important features described within the KCA Appraisal – and which essentially relate to that street scene – would be preserved i.e. kept from harm.

163. In respect of material effects, the assessment states:

*'The only noticeable visual change within The Street will be the formation of vehicular access, which is a minor engineering operation that can be designed so as to be sympathetic to the adjacent listed buildings. There will, inevitably, be a change at the rear of 1-6 The Street, but this will be almost entirely hidden from view. That is to say, it will be almost entirely hidden in close views from The Street, and it will be no more than a partial and minor change in long views (over a distance of some 280m or more) from the steps into the churchyard on Church Hill.'*

164. The Edis assessment also refers to the “backland” guidance within the KCA Appraisal (as referred at §156 of this report, above) but considers it to be clear that those requirements would be met because: no views through to the countryside setting would be lost and the linear form of the village would not be compromised. Dr Edis states that it is difficult to envisage how the character or appearance of the KCA could be *‘significantly changed, let alone significantly harmed’*. Nevertheless, harm (albeit very limited) to the KCA is accepted.
165. Turning to the host properties, it is accepted that the development would fall within their setting. However, the Edis assessment draws a distinction between the frontage of the properties and the gardens to the rear. In respect of the frontage of 1-6 The Street it is stated:
- ‘it is in this part of the setting of the listed building that the vernacular medieval architecture is best experienced, and where there is a clear visual group connection with other historic buildings in The Street, adding to the sensation of a historic link with a remote time in Kersey’s past.’*
166. Such comments complement a notable feature of the listing description common to all three of buildings 1-6 The Street – referred to in the Edis assessment – which states: *‘Graded for its importance in the street scene’*.
167. The Edis assessment considers that much of the setting to the rear of the buildings can only really be described as neutral in terms of the contribution that it makes to the significance of the assets:
- ‘Unlike the frontage in The Street, which can be appreciated by all, and which was meant to impress all, less effort went into the rear of the listed building. Standing in the rear gardens, it is rather harder to appreciate the high status 14th century architecture than it is when standing in The Street.’*
168. In terms of the impacts of the proposed development upon the significance of the host properties Dr Edis reiterates that the development is: *‘within the more neutral part of the setting of the listed building[s] rather than in that part that is unequivocally positive in its characteristics.’*
169. The key point supporting Dr Edis’ assessment is that because the positive aspects to the setting of the host properties (predominantly to the frontage) would be preserved, and the impacts of the development essentially restricted to the parts of the setting that are more *‘neutral’* in contributing to the significance of the assets, the effects of the proposed development are necessarily less; hence, he states: *‘and for this reason [the site area] is able to absorb a greater degree of change without a consequential reduction in the significance of the listed building.’*
170. Nevertheless, in accordance with the NPPF, Dr Edis concludes that the development would pose less than substantial harm to the listed buildings comprising 1-6 The Street. This is because the long-standing garden setting to the assets would still be harmed as there would be a reduction to the significance of the listed buildings as a consequence of the urbanisation of that location and proximity to the host properties.
171. As noted, Dr Edis does not articulate precisely how harmful the development would be in respect of its effect upon the significance of the host properties; suffice to say the harm would be less than substantial and NPPF para. 196 should be engaged. The same is true of the impact and effect upon the KCA, however

Dr Edis stresses that the impacts are localised and contained and therefore as a consequence the harm is: *'so limited that it only just triggers paragraph 196 at all.'*

172. In respect of the KCA, at least, the judgement of Dr Edis would appear to be very similar to that of Mr Taylor. It is agreed that the harm to the host properties would be less than substantial but Dr Edis does not articulate where on a graded spectrum that harm might fall.

#### Nicolaas Joubert

173. Mr Joubert's assessment has also been submitted by the Applicant and he has provided additional comments/clarification (in response to other representations) in support of that assessment; the main assessment was revised when the Applicant amended the layout (among other things) of the scheme in 2017. It is known that Mr Joubert undertook a site visit to inform his assessment.
174. Mr Joubert, like Mr Taylor and Dr Edis, focuses on the historic frontage as being the primary element of significance to host properties and their relationship and contribution to the significance of the KCA. Mr Joubert also considers historic maps to distinguish between the curtilage of the listed buildings and the extended garden beyond (where the built aspects of the proposed development would be sited) which purportedly limits the impacts that would be posed. The assessment also draws attention to the importance of views across The Street and the vista afforded from the church. In that respect The Old Gardens and The Keep are distinguished as being harmful detractors to the historic environment; the proposed development subject to this application therefore being purposefully designed to complement/blend with, as opposed to jar with, those views.
175. In consideration of the overall effects, in the 2017 assessment Mr Joubert states:

*'[The development] will reflect the character and architectural development of the village and ensure a fluent blend between the old and new. The proposed site layout has demonstrated a considered approach to the retention of the historic character of the site; by retaining and recommissioning the historic carriage ways associated with the site, by respecting and enhancing the historical curtilage and respecting the important vistas associated with this historic village. The new development is therefore considered as an acceptable addition to the historic village of Kersey.'*

176. In light of that conclusion officers consider that the Joubert assessment proposed that the development would preserve the significance of the host properties and the KCA in accordance with local and national planning policy.
177. In October 2018 Mr Joubert provided further commentary, submitted via the Applicant. It is stated that there could be no significant harm to the listed buildings because there would be no physical impacts. It is also stated that the rear of the buildings are more akin to GII assets; the GII\* designation being awarded purely because of the collective contribution made to the street scene (and the difference in architectural quality between front and rear). However, while stating that there would be no harm to the KCA, it is accepted that there would be less than substantial harm to the setting of the host properties.

178. Mr Joubert goes on to state, however, that the significance of heritage assets could in fact be enhanced by virtue of the reinstatement of a redundant historic carriageway at the north end of the buildings and an opening up of oblique views from The Street to the rear of the host properties.

179. In respect of the harm posed to the host properties, Mr Joubert states:

*'The relationship between the building and its countryside setting will be affected by the proposed development at a level of less than substantial harm this level of impact also extends to the linear pattern of the village. This harm will not be experienced from The Street and only marginally from the vista as viewed from the Church of St. Mary.'*

180. This appears to contrast with the original assessment submitted with the application and officers are troubled by the apparent conflict between stating that there would be no harm to the KCA but at the same time stating that the level of adverse impact extends to the linear pattern of the village.

181. Given the suggestion of enhancements elsewhere, it is not clear to officers whether Mr Joubert has in fact undertaken some form of internal heritage balance (of heritage harms and benefits) in order to reach an overall conclusion of neutral or acceptable effect. Members are strongly advised not to approach the decision to be taken on this application in that way if they agree that an enhancement is to be found: harm is harm, and it is repeated to Members that the safest approach – in decision-taking terms – is to simply follow the route map of heritage policies clearly set out within the NPPF. Any identified heritage benefits can be factored into the NPPF 196 balance (if less than substantial harm is found) as opposed to carrying out a separate internal net heritage balance first that might then obviate that crucial operation.

#### Bob Kindred MBE

182. Mr Kindred has provided opinions having been instructed by objectors to the application. He has done so in the form of two documents: an assessment titled *'Significance of the Kersey Conservation Area'* and a further letter submitted in response to the Taylor, Edis, and Joubert assessments, dated August 2019. It is not known if Mr Kindred has visited the site.

183. The initial assessment does not explicitly assess the impacts of the proposed development, save for providing a general statement that:

*'Development of back gardens, particularly where they erode the rear curtilages of Grade 2\* listed buildings identified as nationally of particular importance would in my professional opinion amount to substantial harm to these long-standing and ancient designated heritage assets and should therefore not be permitted.'*

184. Given references elsewhere within his assessment it is presumed that Mr Kindred is referring to the erosion of historic curtilage which forms part of the current setting of the buildings, as opposed to present circumstances, as it is debatable whether the application site remains within the curtilage of the host properties or not, given the clear demarcation between the wider land subject to the proposal (which Land Registry searches ostensibly show as being held in different ownership), and the immediate, enclosed area of land now associated with the host properties. Curtilage and setting are two distinct concepts. In any

event the significance of the host properties (and the contribution that their setting might make to that significance) is not explicitly referred to or defined by Mr Kindred.

185. The first document gives an overview of heritage policy and guidance and discusses the general importance of the historic environment in Kersey. It is critical of the KCA Appraisal. It does not, however, explicitly engage with the proposal subject to this application (but it is noted that the assessment implies that it has done). The assessment also refers to the concepts of “less than significant harm” and “significant harm”. This terminology is not consistent with the language of the NPPF and Members should not confuse less than substantial harm with anything akin to insignificance; that would be a significant error. Any harm carries considerable weight and importance.

186. The August 2019 letter makes a number of statements:

- *‘that the heritage position has not significantly changed regarding the potentially detrimental impact of the development on the setting and significance of Nos. 1-6 The Street (Listed Grade 2\*) and on the Kersey Conservation Area’.*
- That the assessment of significance of the host properties provided by Historic England is endorsed.
- That the linear grain of The Street is a key feature of the KCA.
- *‘The proposed new dwellings would divorce Nos.1-6 from their curtilage and erode the strong sense of place derived from the linear form of properties lining The Street.’*
- *‘...that the site is ‘neutral’ in its contribution to the significance of the listed buildings is unsupportable when assessed in the light of the contribution of the garden to the setting and to the wider designated conservation area.’*
- *‘...there would be harm to the designated heritage assets in the vicinity of the site and it is recommended that the application should be refused.’*

187. Mr Kindred does not articulate the level of harm posed or which NPPF test (either para. 195 or 196) would be engaged by the development (nor whether it is either or both the host properties and KCA adversely affected), instead citing NPPF paras. 7, 8, 193, 194, and 200. Given the previous assessment it might be assumed that “substantial harm” is posed to 1-6 The Street but this is not explicit.

#### Michael Collins

188. Mr Collins submitted an objection letter on behalf of a number of local residents in November 2015. It is important for Members to note that this letter was submitted in respect of the original scheme and not in response to the revised proposal which is significantly different. The letter encompasses both heritage and more general development management planning matters. While the letter was submitted in response to the original iteration of the scheme, officers consider that its content remains useful and applicable, and should be considered carefully. It is not known if Mr Collins has visited the site.

189. Principally, Mr Collins states that any form of residential development behind the host properties would represent inappropriate “backland” development, as specifically warned against in the KCA Appraisal. Mr Collins states that such development would be contrary to this historic pattern of development and would erode the important gaps/space provided in having a soft edge between the backs of properties on The Street and the open countryside to the west. The general urbanisation of the site and interruption of important public viewpoints is necessarily harmful.

190. Mr Collins distinguishes the application proposal from other forms of development sited to the rear of the linear grain along the frontage of The Street. Principally, this is because those other examples evolved from historic development e.g. replacement dwellings or conversions of existing buildings.
191. Mr Collins further considers the benefits proposed to be limited and unlikely to outweigh the harm identified which applies to both the host properties 1-6 The Street and the KCA. It is not explicitly stated how acute the harm to both assets would be but it is stated that the NPPF para. 196 test would be engaged.

#### Babergh Heritage Team

192. The Council's Heritage team has responded to the various consultation exercises carried out in respect of this application; the team has consistently objected to the application, notwithstanding the positive pre-application advice provided before Mr Taylor left the Council.
193. The main comments provided in respect of the current proposal are those dated September 2017 where in summary the team considered that the development would '*seriously harm*' both the host properties and the KCA. The Heritage Team also raises concern in relation to the setting of The Bell public house.
194. The Heritage team note that the village has remained largely unchanged in spatial terms for more than a century, with the introduction of backland dwellings being '*extremely irregular*'. The primary concern relates to the hierarchy of space and built form given the proposal for a range of similarly scaled and detailed dwelling immediately behind the listed terrace of 1-6 The Street. This equates to a: '*lack of respect for a traditional hierarchy which upsets the narrative of built form in the village and therefore the character and appearance of this part of the CA.*'
195. In common with Mr Joubert the team notes the curtailing of the previously largely open-ended land tied to the properties that met the countryside to west. The effective bisection of this setting is considered to equate to harm to the significance of the host properties.
196. Helpfully, the Heritage team are clear in defining the harm identified both to the listed buildings and the KCA as being less than substantial. Moreover, the team states that: '*In terms of the NPPF the development would be at the very highest end of the spectrum of 'less than substantial harm'. This is an extremely high bar. The Heritage Team therefore objects to the proposal.*' It is implied within the Heritage teams position that the significance of the Bell Inn would also be harmed.
197. Following the submission of the Taylor, Edis, and Joubert assessments in 2019, the Heritage team provided a further comment in direct response.
198. In respect of Dr Edis' assessment the team disagree that the rear of the host properties plays a largely neutral role in contributing to the significance of the buildings. Instead, the team illustrate the importance of viewing and appreciating the duality of the high status architecture to the frontage with the agrarian, working relationship to the land at the rear. The consistent and historic relationship with that agricultural land contributes to the significance of the buildings. The team consider the effect upon the KCA to be '*notable and negative*' due to the tandem development upsetting the linear regularity of The Street's grain. The Bell Inn is not mentioned further.



## Suffolk Preservation Society

199. Suffolk Preservation Society (“SPS”) have consistently objected to the application; principally on heritage grounds but also in respect of highway safety. It is not known if the author of the SPS letter visited the site before forming an opinion on the application. The SPS states that it recognises the general need for smaller and more affordable homes and that it supports the incremental growth of villages. However, it has serious concerns about the harm posed to the host properties and to the KCA. The most recent response dated July 2019 is critical of the Taylor and Joubert assessments and does not consider that the conclusions follow a correct application of GPA3. The assessment of Dr Edis is not referred to so it is not clear if the SPS take issue with his opinion (it is presumed that it does).
200. SPS consider that the development would adversely impact upon the setting of the host properties thereby eroding their significance, due to urbanising development of an area that has historically remained substantially undeveloped; the link between the buildings and the wider rural landscape beyond their setting would be permanently severed. It is considered to be clear that the historic garden area (beyond the current curtilage of the buildings) is an important element of the terrace’s setting.
201. The SPS consider that there would be harm to the character and appearance of the KCA because the development would challenge the primarily linear settlement form. In response to the existence of other backland development along The Street, SPS state:

*‘it is important to note that where existing backland development is successfully incorporated into the Kersey Conservation Area it comprises single converted ancillary outbuildings or small developments intended to replicate the agricultural past, and not an ‘estate’ development of 7no. semi-detached and detached houses.’*

202. Regardless, SPS note that the development would sit close to the existing field boundary and beyond the building line of nearby backland dwellings. Furthermore, the introduction of car parking spaces some of which being visible from the north access point on The Street, would be harmful to both the setting of the host properties and the KCA, by virtue of introducing *‘a visual element that is damaging to this sensitive location’*. Any proposed works to widen the vehicular entrance (with road markings) would be uncharacteristic and further harmful to the historic environment.
203. In terms of articulating the harm identified SPS consider it to be less than substantial but in advising of the need to undertake the public benefit weighing exercise it is noted that the harm is said to be *‘considerable’*.

## Historic England

204. Historic England has also consistently objected to the application. It is not known if the Inspector has visited the application site.
205. In Historic England’s assessment the garden(s) of the host properties are of notable interest. The significant length of the garden area, from building to field boundary, is considered to indicate that is *‘at least as old as the present buildings, if not earlier’*. The size is also considered to be indicative of *‘of the origins of the building in a period when gardens large enough for growing produce and keeping livestock were common*

*to houses in and adjoining the countryside.*’ The relationship between the houses on The Street and fields beyond is considered to be a key feature of the KCA which can be enjoyed from several public vantage points. Thus, the garden plot(s) form an element of the host properties setting that contributes both to their own historic significance and to that of the KCA.

206. The reasons for identifying harm are relatively succinct and are copied below, noting that both SPS and Mr Kindred endorse/rely upon the Historic England assessment:

*‘The proposed development would introduce new building which would separate the historic buildings from their historic curtilage and from the wider landscape beyond. Back plots to houses on The Street have seen a variety of historic development, but these are chiefly informal structures ancillary to the main buildings. The proposed development would introduce separate dwellings at odds with this pattern. The new houses would also separate the existing garden plot into a series of areas and occupy most of the area behind the listed buildings with building, access paths and parking bays. As well as the impact on the listed building’s setting the result would also be to leave numbers 1-6 with limited rear garden space, potentially making them less appealing properties for residents and affecting their use and viability.*

*Rear garden plots in the historic centre of Kersey have seen some modern development that departs from the historic pattern of building. A bungalow behind Carlton House to the south of the proposed development and the house immediately to the north are set back from the historic back line of development on the Street. However, the rear plots of numbers 1-6 and the Bell combine to make a particularly important part of the historic settlement’s western edge and setting for these listed buildings. The impact on them and the conservation area from the proposed development would be negative, regardless of the nearby modern development.*

*The new information submitted in support of this application includes a statement by the Heritage Collective (dated October 2018) and another by Nicolaas Joubert. The former does not respond to any of the qualities of the garden plot set out above and merely says the site is ‘neutral’ in its contribution to the significance of the listed buildings. Given the role the garden has played in both setting of the houses and as part of the village now designated as conservation area it is difficult to understand how such a conclusion could be drawn. Mr Joubert’s report comments on views of the properties from within the settlement but does not give any detailed consideration of the garden plot. Despite this it is gratifying that both reports concur with the assessment of Historic England and state there would be harm to the significance of the II\* listed building caused by the development.’*

207. Historic England therefore object to the application on heritage grounds by virtue of less than substantial harm posed to the host properties and to the KCA (while the importance of the relationship between the rear of the host properties and the Bell Inn is stated, no harm to that asset is explicitly stated). Historic England does not attempt to qualify where on a spectrum the harms to 1-6 The Street and the KCA harm may lie, suffice to say that it is underlined that any harm requires clear and convincing justification, and great weight afforded to the conservation of heritage assets, in accordance with the policies of the NPPF.

## Officer Assessment

208. Having regard to the various opinions expressed above (including the Linton House appeal decision) it is clear that the task to be exercised by Members, in reaching a judgement on heritage impacts, is not clear cut. However, with the exception of the ambiguities identified in some of the opinions presented, it is considered that the general consensus is that the development would be harmful to the collection of listed buildings known as 1-6 The Street, and the KCA. Such harm, in NPPF terms, would be less than substantial. Any harm presents a strong presumption against granting planning permission; a rebuttable presumption, yes, but it is considered that it should yield only where there are compelling countervailing considerations.
209. To assist Members, taking into account those opinions and having regard to the key policies and guidance outlined at the beginning of this section, an assessment of the heritage impacts is now undertaken culminating in a heritage balance in accordance with NPPF para. 196 (because the harm identified is considered to be less than substantial). The author of this report has undertaken two formal and accompanied site visits (of the application site and its surroundings) with Members of the Planning Committee. Several unaccompanied visits have also been undertaken to the village itself (not including the application site) and the surrounding PRoW network.
210. As noted at the beginning of this section, the *Shimbles* judgment considered whether it was necessary for a decision taker to explicitly determine where on a spectrum the degree of heritage harm might lie [and determined that it is not necessary to do so]. What the judgment does not do, however, is preclude a decision taker from undertaking such an exercise<sup>33</sup> and the PPG outlines that this is an exercise that would be helpful to undertake. Officers consider this to be important because of the broad range of opinions submitted in response to this application. While the general consensus is that the harm posed would be less than substantial, thereby engaging the balancing exercise under NPPF paragraph 196, Members should be able to adjudge whether such harm is relatively low (presumably more capable of being outweighed by compelling public benefits), or really something more severe i.e. approaching that threshold between the para. 196 test and substantial harm, which if crossed would engage NPPF para. 195 instead, where if approving a development the circumstances must be really quite exceptional. This is a challenging task, particularly as there is no guidance to assist in that respect and it is not clear, for example, how the various respondents to this application proposal have reached their own value judgements. No assessment or opinion received has explained what ‘*minor*’, ‘*considerable*’, or ‘*at the very highest end of the spectrum of less than substantial harm*’ is actually supposed to mean in the eyes of the beholder; hence, the reticence of Dr Edis to engage in such an exercise (notwithstanding that in respect of the KCA he concludes that it barely engages the para. 196 test at all i.e. it is presumed that he considers that the harm would be negligible/particularly low).
211. In the interests of clarity, officers have endeavoured to carry out that exercise with a graded spectrum ranging from “no harm” i.e. no material change to significance/preservation of the asset, up to “substantial harm”. In that respect officers’ calibrate their compass by the PPG which assists in understanding what might constitute substantial harm (see §141 and 142 of this report, above).

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<sup>33</sup> And the judgment in *Palmer v Herefordshire Council and Anor* [2016] EWCA Civ 1061 held that it would be appropriate, when determining a scheme that might affect the significance of a heritage asset, to consider the degree of harm to the heritage asset, as well as the asset’s significance.

212. It is often the case that practitioners refer to the *Bedford* judgment<sup>34</sup> – otherwise known as “*Nuon*” – in order to define what is meant by “substantial harm”; it is clearly a high bar and in that respect the judgment states:

*‘...one was looking for an impact which would have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced.’*

[Or, put another way substantial harm would be caused if:]

*‘...very much if not all of the significance of the asset was drained away.’*

213. Dr Edis is the only party to refer to that judgment in this case, stating that in his view the definition made clear that the Heritage team’s assessment of alleging harm so serious that it was at the ‘*very highest end of the spectrum of less than substantial harm*’ could not be held as a ‘*serious proposition*’.

214. Officers have considered whether the two definitions (as it presently stands within the PPG; and the *Bedford* judgment) are consistent. Noting that a finding of substantial harm must be a high test, officers consider that they are.

215. The graded spectrum within the less than substantial bracket that officers have applied in this case is set out as follows:

- “Low” less than substantial harm: limited or low level harm to significance, including harm to elements of significance that do not make a strong contribution overall to an asset’s significance;
- “Medium” less than substantial harm: Notable and clearly appreciable harm to an aspect of an asset’s significance that makes a strong contribution to significance;
- “High” less than substantial harm: notable and clearly appreciable harm to a key element of an asset’s significance (given that the PPG identifies that substantial harm would arise where a proposal ‘seriously affects a key element’ of its [an asset’s] special architectural or historic interest’.

216. For the avoidance of doubt, on that graded spectrum officers consider that a finding of medium harm would be a serious and particularly strong indicator that permission should be refused unless the public benefits were very compelling. To repeat: any harm requires clear and convincing justification and great weight should be given to the conservation of a heritage asset (and the more important the asset, the greater the weight should be).

#### The assets impacted by the proposal

217. The assets that would be materially affected by the proposed development (i.e. there would be a material change to significance) are considered to be: 1-6 The Street, and the KCA. Having regard to all of the available evidence and heritage opinions, and as a matter of judgement, the Bell Inn is not considered to

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<sup>34</sup> *Bedford Borough Council v SSCLG and Nuon UK Limited* [2013] EWHC 4344 (Admin).

be harmed by this proposal. While undoubtedly the host properties and the Bell Inn share qualities (and settings) that contribute to the significance of the KCA, the application site (even if the setting of the Bell Inn extends across the rear of the host properties) is not considered to make a contribution to the significance of that asset such that the development would pose an adverse effect.

218. 1-6 The Street is a designated heritage asset comprising three separate listings: 1-2, 3-4, and 5-6, The Street. In that respect the various opinions have referred to the host properties as being a listed building in the singular or in plural form but this is of no significance; the three listed buildings would be impacted in equal measure by the proposed development and they have been treated both individually and as a whole. The listing descriptions are set out as follows, with all three being assessed as Grade II\*.

- 1 and 2 The Street: *'A C16-C17 timber-framed and plastered building with a tiled roof. Two storeys. The upper storey is jettied at the north end on exposed joists. Two window range of casements with glazing bars. Tall ridge chimney stack at the north end. The doorways are approached by steps from the pavement. Renovated. Nos 1 to 6 (consec.) form a continuous range of buildings. Graded for its importance in the street scene.'*
- 3 and 4 The Street: *'A C16 timber-framed and plastered building with a tiled roof (old tiles). Two storeys. There is a cross wing at the south end with a jettied upper storey projecting on the front. Two window range of casements with glazing bars and one double-hung sash with glazing bars. The doorways are approached by steps from the pavement. Renovated. Nos 1 to 6 (consec) form a continuous range of buildings. Graded for its importance in the street scene.'*
- 5 and 6 The Street: *'A C15-C16 timber-framed and plastered building with a tiled roof (old tiles). A lean to addition with a slate roof extends at the north end. Two storeys. The upper storey is jettied on the whole front. Three window range of casements with glazing bars. The ground storey has a small splayed bay at the north end. There is the remains of some old Chevron pargetting on the front. The doorways are approached by steps from the pavement. Renovated. Nos 1 to 6 (consec) form a continuous range of buildings. Graded for its importance in the street scene.'*

219. The setting of the host properties can be broadly considered as comprising two parts: the frontage of the properties as they relate to the street scene, and the rear of the properties especially as they follow the historic boundaries of the land i.e. the application site falls entirely within the KCA with the western site boundary congruent with the western boundary of the KCA.

220. The KCA begins at the Old Vicarage, south of the Grade I Church of St Mary and washes over the properties within The Street extending to the north, beyond the BUAB, where it includes the GII Priory and GII Priory Chapel (Kersey Priory, on the same site, being a Scheduled Ancient Monument). Where it envelops the entirety of the host properties and the full extent of the garden area as it meets the open countryside to the west, the KCA is considered to include their setting. In accordance with GPA3 the KCA is also likely to have its own setting but for the purposes of this application the statutory duty under s72(1) of the listed buildings Act is engaged because the application site wholly falls within the designated area.

## The significance of the assets

221. This stage of the assessment considers the significance of the 1-6 The Street heritage assets and the KCA, which is itself a designated heritage asset.
222. It must be stressed that the host properties are GII\* listed buildings, an uncommon designation. They are particularly important buildings of more than special interest. It is noted, however, that the [elevated] grading designation is due to the importance of the host properties in the street scene. The assessment provided by Leigh Alston (which has not been challenged) is a useful document in understanding the significance of the listed buildings. The assessment is comprehensive and is useful because it explains the evolution of the buildings and their relationship to the rest of the village and how they might be understood when considered against defined heritage values/interests. It is also clear that the buildings have elements of historic significance that go beyond that noted in the listing descriptions: contrary to those descriptions, the three structures 1-2, 3-4, and 5-6, are considered to originate from the 14<sup>th</sup>, 15<sup>th</sup>, and 16<sup>th</sup> centuries, respectively. On that basis 1-2 The Street is among the oldest (if not the oldest structure itself) buildings in the village. Despite some 20<sup>th</sup>-century renovation the buildings' layout has remained relatively unchanged since the tithe survey of 1841.
223. The summary of the Alston assessment states:

*'Taken as a whole the cottages represent a significant section of medieval street frontage and provide important academic evidence of both continuity and change in the urban landscape. The south-facing mid-14th century cross-wing probably illustrates the original loose pattern of settlement on the northern side of the ford, as Kersey expanded from the church and market place in the direction of the priory to the north, while the adjoining late-14th century hall-house reflects the development of the present street. The 16th century range appears to provide evidence of the early sub-division of tenements during the village's long decline after its cloth-manufacturing heyday in the 14th and 15th centuries. The creation of one-up one-down tenements during the post-medieval period is a well understood process, but very few ranges of this kind have survived almost unaltered since the tithe surveys. While some internal partitions and other features are relatively modern, many walls and ceilings, whether original to their respective timber frames or secondary, retain early plaster and may preserve fragile evidence of wall paintings and other decorative surfaces beneath their whitewash.'*

224. In respect of the heritage values/interests as defined by the NPPF, the buildings are considered to satisfy all four categories<sup>35</sup>:
- Archaeological: The physical fabric of the buildings, as clearly exemplified within the Alston assessment, provides inherent evidential value about past human activity.
  - Architectural and Artistic: The buildings are relatively well preserved, both internally and externally as shown within the Alston assessment. All of the buildings hold fine features of architectural and artistic interest and are of a local typology; there is interest in the jettied form

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<sup>35</sup> Which is recognised in the assessment of Dr Edis. The controversial aspects of his assessment in relation to the host properties stem from his treatment of setting.

of the overall structure and the arrangement of internal spaces as the buildings have evolved through the centuries. As noted in the comments of the Heritage team, the high status medieval framing on the street can be distinguished from the less ostentatious rear elevation but the latter is no less valid in architectural and artistic interest terms. The two elevations both make a special contribution to the overall value of the asset; they merely play different, complementary roles in doing so.

- Historic: The Alston assessment is of use not only in demonstrating how the host properties provide a material record of history in direct, physical terms, but also as an important record *'of continuity and change in the urban landscape'*: a study of the buildings provides wider historic benefit in understanding the historic growth and morphology of the village. In a similar respect, and again noting the comments of the Heritage team, the duality between the front and rear elevations gives insight into *'...the attitudes of the householder who saw the frontage as the most significant element of the building, from the perspective of status, and the rear as essentially functional and private. Appreciating the rear of dwellings can help the contemporary viewer understand this attitude, which together create the meaning of a building and its role in the social and cultural life of a village.'*

225. The KCA is a part of the district area administered by the Council that has been determined to be an area of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. The KCA washes over the application site and most of the village; a significant number of buildings within the area are also designated heritage assets.

226. The KCA Appraisal is a useful document in understanding the significance of the KCA as a heritage asset and is material to the decision to be taken on this application. It discusses – albeit not always in explicitly-labelled terms – the topographical, landscape, archaeological, architectural/artistic, and historic interest of the designated area. The Appraisal also considers the hierarchy of spaces through the village and KCA, and notes the *'essentially linear plan'* of the settlement. A map is provided within the Appraisal illustrating this and highlighting key vistas which rely heavily upon the experience afforded when travelling through The Street and using the location known as “The Splash” as a key focal point along with the Church of St Mary, which is an exceptional Grade I-listed building noted as a *'prominent landmark'* within its listing description. The host properties sit at a transitional point between two vistas and within an identified *'enclosed area'*. This is expanded upon within the assessment of Dr Edis, who states:

*'It is views such as this that capture the essence of the medieval morphology of the village, the linear plan, the irregular roofscape, the traditional building materials, important views out into the countryside setting of the conservation area, and so on. Other aspects of the character of the village, though not necessarily unimportant, are less evident in this vista, including rear gardens and private spaces away from the main linear thoroughfare... Kersey Conservation Area is an area of outstanding special architectural and historic interest, and it is of at least regional significance.'*

227. Officers endorse that view. There is nothing significant in it which has been challenged by any of the heritage opinions provided; in fact, as a matter of judgement they all tend to agree. As ever, Members are reminded to read and consider all of the comments received.

228. As noted, the wider landscape setting of the village is important and, noting the assessment of Mr Kindred, this too contributes to the significance of the KCA. The KCA Appraisal refers to the '*gaps between the buildings giving views into the countryside beyond*' and this serves to reinforce Kersey's place in, and relationship to, the rural Suffolk landscape. However, the KCA Appraisal does not explicitly identify the application site or which buildings were being referred to, though plainly there are numerous examples within The Street where such punctuations occur, and which provide an open connection to the landscape beyond.
229. The Kindred assessment is critical of the Appraisal and alleges that it falls short of best-practice guidance; in turn, however, the assessment provided by Mr Kindred is not of a significantly greater level of detail or analysis save for noting, rightly, the significant proportion of highly-graded listed buildings within the designated area (but which is nevertheless implied within the KCA Appraisal and supported through a plan showing a location of all listed buildings). Regardless, the Kindred assessment complements the KCA Appraisal as opposed to undermining it.
230. Taken as a whole, there can be no doubt that Kersey is a significant place and every effort should be taken to at least preserve its character and appearance.

The contribution that the site/setting makes to the assets significance

231. Significance derives not only from a heritage asset's physical presence (as described in the section above), but also from its setting. However, the special architectural and historic interest of a listed building is inherently embodied in the building itself (hence its listing), not its setting.
232. The application site is both within the setting of 1-6 The Street, and within the designated boundary of the KCA; therefore, as well as considering the contribution that the setting of 1-6 The Street makes to its significance (and the application site as an element of that setting), this section also considers the contribution that the site makes to the significance of the KCA.
233. The extent of a setting is not fixed and may change through time. It is agreed, however, that in this instance the setting of the host properties is likely to be extensive, noting the long views up and down the street scene and the contribution (in architectural and artistic, and historic interest terms) that the host properties make as a key element within those vistas and the '*enclosed*', funnelling area of The Street within which the buildings sit. The ability to experience the historic link between the properties and the rest of the village as it has developed through time, as set out in the Alston assessment, reinforces that significance and it is understandable why the buildings were highly graded as a result of such a contribution; the frontage of the properties are thus inextricably linked to the significance of the KCA, too.
234. The host properties, and to an extent the land to the rear of them, are also visible from the church gate at the top of the hill and there is a clear visual link between the physical presence of the buildings and the Church. There are detractors within that view – the development at The Old Gardens and The Keep, as examples – which are incongruous and jar with, that historic vista but overall the significance of The Street remains appreciable.
235. Curtilage is not synonymous with setting. The present curtilage of the buildings comprising 1-6 The Street would appear to be curtailed through vegetation and boundary features; the land subject to this application



is beyond that boundary and is now ostensibly under separate ownership. Nevertheless, it is clearly the case<sup>36</sup> that historically there was a functional relationship between the host properties and the land directly to west of them, as it extended westwards before making a soft transition into open countryside. It is that historic curtilage, which forms part of the setting of the host properties (and is within the KCA) that concerns officers. There remains a generally open character to the application site and the link between it and the host properties remains appreciable; the application site is within the setting of the host properties.

236. That the application site is within the setting of the host properties does not appear to be a contested issue between the various heritage experts albeit to a degree Mr Joubert is an outlier where he has stated that the historic curtilage of the properties terminates roughly to the rear of a 19<sup>th</sup>-century outbuilding closely-related to listed buildings: *'the western wall of the outbuilding marks the historical and present rear curtilage to the Grade II\* buildings to the east.'* Officers do not agree with that position and noting the prevailing view, and based on the available evidence, it is considered that the historic curtilage would have related to the land as a whole where it would have held a functional purpose available to the occupants of the buildings.
237. The degree to which the application site, as an element of the setting of the host properties and of the KCA, contributes to their significance as designated heritage assets, is the principal area of dispute. It is an important question because the answer impacts upon the extent to which the proposed development will affect the significance of the heritage assets.
238. In respect of the host properties, it cannot be agreed that setting to the rear (i.e. the application site) only plays a *'neutral'* role or is of *'considerably less value'* than the frontage. To do so would underplay the appreciable historic relationship between that area and the buildings. As Historic England note, the size of the garden area is indicative of the origins of the building(s) in a period when gardens large enough for growing produce and keeping livestock were common to houses in and adjoining the countryside. SPS consider this to be an *'important element'* of the host properties' setting; officers agree. As considered above, the land plays a positive role in respect of appreciating that historic interest and it makes a strong contribution to the significance of the host properties. It cannot be regarded in the same light as the frontage, in terms of both physical presence and that element of their setting, as they are key elements to the buildings' significance where the architectural/artistic interests of the assets are greatest; the listing descriptions underline this and it is in respect of those elements that most of the significance of the heritage assets are derived (along with the intrinsic interest of the fabric of the buildings themselves, as plain from the Alston assessment). Nevertheless, the site remains a strong contributor to the historic interest (and thus significance) of the host properties as a part of its setting.
239. Turning to the KCA, of itself the application site contributes positively to the significance of the asset as a connection between the villagescape and rural landscape beyond, but it could be argued (noting the opinions in favour of the application) that it makes only a limited contribution to the significance of the KCA overall. This is because while of historic significance, the site stands away from those parts of the conservation area that are of most evident quality, as described within the KCA Appraisal.
240. However, to take that position would be to view the site in isolation when of course it is inherently bound to the significance of the host properties, which in turn also contribute to the significance of the KCA (albeit

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<sup>36</sup> As various parties have highlighted on the 1841 Tithe Map.

with a greater focus to their physical presence and frontage as it relates to the street scene). When considered as an element of the setting of the host properties, and as means of appreciating the relationship between the buildings on The Street and the fields beyond (bearing in mind the intimate connection between the village and the surrounding landscape), the interest and value of the site immediately becomes much greater, albeit it is only a constituent part of a much wider area and is a trait found elsewhere within the KCA.

241. On that basis, and in summary, the application site makes a strong, positive contribution to the significance of the host properties; and a moderate, positive contribution to the KCA.

The effects of the proposed development upon the assets

242. In respect of the host properties the application proposes development on land that is effectively undeveloped; not least through the dwellings themselves but also parking/circulation space and the various other elements that naturally accompany domestic habitation. It appears incontrovertible that there would be significant change within the setting of those listed buildings and as an area constituting part of the KCA. It is important now to consider the effect of that change/impact.
243. The impacts would be irreversible and would result in a permanent fragmentation of the land. The proposed development would introduce new building that would separate the historic buildings from their historic curtilage and from the wider landscape beyond. Through the urbanisation of an area that has historically remained substantially undeveloped the link between the buildings and the wider rural landscape beyond would be permanently severed and the ability to understand and experience first-hand that historic relationship would be compromised. This amounts to harm as there would be a diminution of significance as a result of those impacts.
244. Mr Joubert suggests that the opening up of the historic carriageway through the northern access point of the site represents an enhancement to the historic environment, better revealing an element of the host properties' significance. This does not convince. While strictly speaking the driveway to the north of the site would receive treatment such that it would have a more open feel, it is nevertheless proposed to introduce other urbanising elements through surface treatment and other hard landscaping (and would most likely be regularly occupied by parked vehicles in the allocated spaces along that "carriageway"). Notwithstanding that officers caution against an internal balance of heritage harms and benefits, this aspect of the development makes no difference to the overall assessment and is nevertheless part of the wider assessment of the development as it impacts upon the setting of the host properties. Likewise, the provision of additional parking for the host properties, to potentially relieve on-street parking pressures, is not considered to result in a material change of heritage effect.
245. Having regard to the PPG and the *Bedford* judgment, realistically substantial harm could only be caused if the host properties derived most of their significance from their setting. This is because it would need to be a key element of the asset's significance seriously affected by the development, and it is difficult to see how very much if not all of the significance of the asset could be very much reduced or vitiated altogether if that were the case. That is not the case here. The element of the host properties' setting affected by this development is a strong contributor to the overall significance of the listed buildings but is not the primary or key source of it. In this case the majority of the significance of the listed buildings lies within their inherent special archaeological, historic and architectural/artistic interest and the contribution of their frontage to the

street scene. Those aspects of significance would remain unaffected; there would be no direct, physical harm to the assets.

246. The harm identified, however, is notable and clearly appreciable and affects a strong contributor to the significance of the listed buildings. The harm is less than substantial. In accordance with the graded approach previously set out, the harm is rated as “medium”. The harm is serious and requires clear and convincing justification were it to be accepted; the finding of such harm must attract considerable importance in any balancing exercise.
247. Turning to the effects of the development upon the KCA, it is correct that the vast majority of the designated area would remain unaffected by the proposed development and the degree of impact would be largely confined to the bounds of the application site and the role that the site plays in contributing to significance of the wider designated area. On that basis the assessment of Dr Edis is accepted where it is stated:

*‘The only noticeable visual change within The Street will be the formation of vehicular access, which is a minor engineering operation that can be designed so as to be sympathetic to the adjacent listed buildings. There will, inevitably, be a change at the rear of 1-6 The Street, but this will be almost entirely hidden from view. That is to say, it will be almost entirely hidden in close views from The Street, and it will be no more than a partial and minor change in long views (over a distance of some 280m or more) from the steps into the churchyard on Church Hill.’*

248. In respect of those longer views, the KCA Appraisal identifies a vista which is experienced from the top of the church steps. This is where the linear nature of Kersey and the relationship with its agrarian setting can be fully appreciated; it is a key feature of the KCA. As the original case officer noted, there are unfortunate detractors to that view but otherwise this element of the significance of the KCA is readily appreciable. Also noted by the original case officer was that the traditional design approach of the proposed scheme, coupled with the site’s position deeper into the valley, would ensure that the development would not be so jarring when viewed in context. Indeed, given the proposed siting of the dwellings it is debateable the degree to which they would be clearly discernible from that long view. Even if they were, it is not considered that they would challenge the inherent quality of the villagescape and the historic importance of the vista would be preserved.
249. In consideration of hierarchy of space and built form, the linearity of The Street is another strong contributor to the significance of the KCA. This is true not just in terms of the appearance of the KCA noting, for example, the vista described above, but it is relevant to its character, too. The nature of the application proposal as being a “backland” development has naturally been a matter of contention between the various heritage opinions. Officers consider the advice contained within the KCA Appraisal to be of particular relevance and importance:

*‘...backland areas are at risk of overdevelopment and this should not be permitted where views through to the countryside setting would be lost, or where the very linear form of the village would be compromised.’*

250. While not forming part of the development plan the two limbs of that “test” are no less useful in determining the degree to which the character and appearance of the KCA would be affected by development proposed

in a backland location. It is also noted that the document is not expressly prohibitive of such development coming forward, and so it should be expected that such proposals be tested on their merits.

251. In respect of the first limb the Applicant's position is accepted that views through to the countryside setting would not be lost as a result of the proposed development. Careful landscaping of new and reinforced planting at the boundaries of the site with ongoing management (which could be secured by planning condition) can ensure that this remains the case. Members will recall that on the site visit of February 2020 a section of landscaping had apparently been removed from the boundary at the south-western corner of the site by unknown hand, opening it up to views from Footpath 12 albeit with the host properties still exceedingly difficult to discern due to the thickness of landscaping elsewhere inside the site boundary; this was not something that could be explained by the Applicant. Regardless, the latest drawings show that area being reinstated and while such drawings are of rudimentary detail they are sufficient to demonstrate how the countryside setting could be maintained.
252. The key issue therefore relates to the impacts of the development as it relates to the 'very linear' pattern and grain of The Street. Dr Edis states that the linear form of the village would not be compromised because:
- i. *'the proposed development follows the same grain as the frontage buildings; and*
  - ii. *the linear plan and morphology of the village... that is, at the transitional point between the enclosed area and the vista, as identified by the [KCA Appraisal]... will be unaffected.'*
253. Those objecting to the proposal clearly dispute that position, considering that the proposed development would unacceptably challenge the very linear pattern and grain of historic development along The Street. It has also been pointed out that those other examples of backland development identifiable can be distinguished by their individual circumstances: replacement dwellings or low-key development in lieu of historic outbuildings, as examples.
254. Whatever the background of those permitted dwellings, the fact remains that examples of backland development exist and, even with the example of The Old Gardens being a notable detractor in the elevated vista from the church, the linear nature of the settlement has still survived and is dominant. As the original case officer observed, two distinct patterns of development are discernible from that key viewpoint with the buildings along The Street running parallel to The Old Gardens, the barn developments behind Ancient Houses, and then up to The Keep<sup>37</sup>. The proposed dwellings would be sited less conspicuously and with roof forms and materials complementary to the villagescape; as already noted, the degree to which those dwellings would be distinguishable from public vantage points is likely to be limited.
255. The original case officer, consistent with previous advice of the Heritage team, saw some merit in the design approach of the proffered by the Applicant. Current officers see no reason to demur from that view. The proposed development, while turning its face away from the rear of the host properties in order to form a courtyard development, does so in deference to them and as the original officer noted: it '*seeks to achieve harmony as a separate entity*'. The subordinate scale of the proposed dwellings, and their siting, ensures that the host properties and the linearity of The Street remains the dominant character of built form. Noting

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<sup>37</sup> The property known as Sunnyside is out of view but is nevertheless also part of that parallel grain of development.

the wording of the KCA Appraisal officers do not consider that the very linear form of the village would be compromised and the characteristic building frontages would be preserved.

256. The unresolved area of concern, however, relates to the historic interest inherent in the relationship between the host properties and the application site (as historic curtilage) that would be compromised through the development of the site. The site is part of the KCA and it necessarily contributes to the significance of the KCA as a result of that inherent value. There would be an erosion of that significance thus the scheme must be regarded as harmful.
257. The harm to the KCA is localised; the majority of the designated area would remain unaffected by the proposed development (with the key characteristics identified within the KCA Appraisal left unaffected). The magnitude of harm is then commensurately less than that identified in respect of the host properties. Dr Edis opined that where harm to the KCA is localised '*it is difficult to see how the character or appearance of the conservation area could be significantly changed, let alone significantly harmed.*' Notwithstanding the weight of opinion to the contrary officers find no fault in that position.
258. Therefore, in respect of the KCA the harm to significance is limited but it is not so low as to be negligible or trifling, as implied by the opinions of Dr Edis and Mr Taylor. The harm identified relates to a small area of the KCA but one which makes a moderate, positive contribution to its significance. The harm is less than substantial. In accordance with the graded approach previously set out, the harm is rated as "low". Nevertheless, the harm is still serious and still requires clear and convincing justification; the finding of such harm must attract considerable importance in any balancing exercise.
259. Officers have considered whether any alternative proposals could be put forward that would achieve a less harmful outcome in heritage terms. Where the harm identified essentially relates to the development of land that has historically remained undeveloped and has intrinsic interest, it is unavoidable. The development of the application site is harmful in principle.

#### The NPPF para. 196 balance

260. In respect of both the host properties and the KCA, it has been identified that the proposed development would cause less than substantial harm to their significance as designated heritage assets. Irrespective of findings of "low" and "medium" less than substantial harm, consistent with the calibration of gradation set out in a preceding section, the harms remain serious and ss66(1) and 72(1) of the listed buildings Act are actively engaged. There is a presumption that planning permission will be refused. It is a rebuttable presumption but there must be compelling countervailing considerations. Great weight should be given to the conservation of a heritage asset (and the more important the asset, the greater the weight should be).
261. Where less than substantial harm has been found, NPPF para. 196 requires that harm to be weighed against the public benefits of the proposal. The PPG defines public benefits as:

*'Public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives as described in the National Planning Policy Framework (para. 8). Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits, for*

*example, works to a listed private dwelling which secure its future as a designated heritage asset could be a public benefit.*<sup>38</sup>

262. With that in mind, it is necessary to address those benefits and they are set out as follows:

- Housing – of itself this relates to a basic need and poses inherent social, and economic (through construction and occupation) benefits.
- Space Standards – all dwellings would exceed NDSS with dedicated garden space, which is considered to be a social benefit ensuring quality of life for occupants.
- Efficiency – all dwellings would be highly efficient which poses economic benefits (through cheaper running costs) and obvious environmental benefit in the context of the Council having declared a “climate emergency”.
- Affordability/Local Need – provision of 4 no. affordable units and 3 no. rental units where there is a proven need. This is considered to be a benefit of itself separate to the benefits associated with housing *per se*.

263. The above benefits are of themselves significant. In respect of the provision of housing this is because the need to significantly boost the supply of housing is an important objective of the Government. The commentary of the Secretary of State in relation to the recent Long Melford appeal decision is pertinent where he states in his decision letter: *‘Although the local authority can now demonstrate a supply of housing land above 5 years, this figure is a baseline and not a ceiling.’* As well as meeting a basic social need, the housing will generate economic benefits through the construction period and ongoing spend on occupation (notwithstanding that local spend is not guaranteed and is likely to include a degree of displacement from elsewhere).

264. At the current time, and for a scheme of the nature proposed, there is no planning policy requirement to provide homes at or in excess of NDSS standards, or to build them to a standard of energy efficiency so far in excess of current building regulations as proposed under this application (35% above the BR). The present circumstances, against the backdrop of Covid-19 and the Council having declared a “climate emergency”, acutely highlights the need to provide homes that are fit for purpose in terms of providing decent living accommodation (and gardens where possible) and being resilient in respect of energy efficiency. Those material considerations demonstrate the importance of the benefits proposed in this instance. Such benefits are not typical of housing developments at this present time. Even if officers were persuaded that they were exceptional, Members are advised to view the application as being unexceptional as a whole (i.e. not meeting the policy CS2 test).

265. Given the out-of-datedness of policy CS19 (in so far as it relates to the trigger for providing affordable housing), the Council consistently applies the policy of the NPPF. Therefore, while the provision of affordable housing (57% in this instance) satisfies policy CS19 there is no broader requirement for it to be provided in this instance. The Applicant has demonstrated to the satisfaction of officers that there is a local need in this settlement, in line with the expectations of the development plan, for both market and affordable

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<sup>38</sup> Historic Environment: Paragraph: 020 Reference ID: 18a-020-20190723 (revised July 2019).

housing. Where officers consider that there is a proven local need for housing in general, and that the development in this instance could help to address those needs as well as providing homes for those in need of affordable housing, this is a separate, significant public benefit weighing in favour of the application (i.e. it can and should be distinguished from the general socio-economic benefit of housing set out above; thus there is no “double counting”).

266. In the interests of transparency further benefits would accrue through the New Homes Bonus and collection of Council Tax payments. While such considerations are inherently positive they are afforded no material weight in this decision; the PPG is clear that it is not appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body<sup>39</sup>.
267. The development would also generate a return in terms of CIL receipts (on the 3 no. market rent units) which is of itself an economic benefit, albeit of limited weight. While the primary purpose of the CIL is to mitigate the impact of new development, it would nevertheless allow for improvements to existing services and facilities that could result in wider public benefit.
268. A further benefit, in heritage terms, was suggested by Mr Taylor in stating that the opening up of the land to the rear of the host properties *‘will bring this rear elevation greater public exposure than it now enjoys, which might well lead to a little judicious tidying up to upgrade its current poor appearance.’* Officers afford no weight to this suggestion and Members should note NPPF para. 191 which states: *‘where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision’*. Likewise, as considered in an earlier section, the “opening up” of an historic carriageway is considered to be at best a neutral offer.
269. Officers consider that all of the material benefits identified above are important, however Members must hold in mind a sense of proportion given the minor nature of the scheme and limited number of dwellings proposed, notwithstanding the proven local need.
270. In respect of the balance set out under NPPF para. 196 it is not clear if the harm identified in respect of the KCA and host properties should be treated as independent balancing exercises between the assets harmed, or together i.e. as a cumulation of heritage harms; it is assumed from the language of the policy that each asset must be treated in turn. For sake of prudence, however, the para. 196 test has been considered all ways but the outcome nevertheless remains the same each time: the public benefits do not outweigh the harm identified. In accordance with the NPPF the application of its heritage policies provides a clear reason for refusing the development proposed.

## **Conclusion - Heritage**

271. Officers have undertaken to follow the clear route map of heritage policy within the NPPF in order to assess the heritage impacts and effects of the proposed development. In doing so officers consider that the statutory duties under the listed buildings Act have been satisfied along with following the policy requirements of the development plan, which are consistent with those statutory duties.

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<sup>39</sup> Determining a Planning Application: Paragraph: 011 Reference ID: 21b-011-20140612 (revised June 2014).

272. The outcome of that assessment is that the proposed development would pose harm to designated heritage assets, being: the listed buildings known as 1-6 The Street; and the Kersey Conservation Area. The harm would be less than substantial within the meaning of the NPPF. Applying an understanding of the meaning of “no harm” (i.e. preservation of significance), and “substantial harm”, officers have graded the finding of harm within that spectrum as being “medium”, and “low”, respectively. Both findings are serious and mean that this must attract great weight, or considerable importance and weight, in any balancing exercise. There is a presumption against planning permission being granted.
273. In accordance with NPPF para. 196 the harm identified has been weighed against the public benefits posed. The public benefits whilst significant do not outweigh that harm, whether that harm is taken individually by asset or cumulatively.
274. In accordance with the NPPF the application of its heritage policies provides a clear reason for refusing the development proposed. The proposed development would be contrary to policies CN06 and CN08. Thus, it would also fail to satisfy applicable criteria within CS11 and CS15; those policies would be breached also.
275. Policies CN01 and HS28 are engaged but are judged to be predominantly concerned with the design of new development; they are directly applicable to the matter of residential amenity discussed in a subsequent section of this report. Consistent with the original committee report officers remain satisfied with the overall design approach taken and the “backland” location in general terms; the unacceptable heritage harm identified is an in-principle matter relating to the development of an undeveloped site of intrinsic historic interest.

## Highway Access and Safety

276. The matter of highway access and safety has been a persistent concern of objectors to the application, which is understandable. There exist two vehicular points of access, with dropped kerbs, into the application site: north and south of the host properties. The access north of the host properties would provide access and parking to the new dwellings with at least two parking spaces allocated for the host properties. The existing southern access between the host properties and The Bell Inn would be retained and would be used to provide access and additional parking spaces for the host properties; it would not serve the new development. Officers do not consider that there would be a material change in circumstances such that the southern access requires any detailed assessment given that the *status quo ante* is generally proposed to remain; in any event, the visibility afforded from that access is considered to be acceptable<sup>40</sup>.
277. Paragraph 108 of the NPPF, among other things, requires that when assessing planning applications it should be ensured that:
- b) safe and suitable access to the site can be achieved for all users.*
278. Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

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<sup>40</sup> 2.4m x 43 (north); 2.4m x 43m (south).



279. As the original case officer noted, the LHA has provided inconsistent positions in respect of the suitability of vehicular access during the life of the application. This was explained by the officer in their report of 2017, as follows:

*'Highways advice issued 10.12.[15] acknowledged that the existing access had substandard visibility, but reasoned that in practise the characteristics of the specific local environment meant the LHA did not actively object to the proposal. A later response to a re-consultation issued 30.[06].17 gave a different view, reasoning simply that the standard visibility criteria cannot be met and it cannot be guaranteed that the intensification of use would be safe.'*

280. While the latest response does not expressly object to the proposal, and accepts that the proposed works to the northern access would be a *'betterment'*, it would be fair to acknowledge that there remains concern.

281. In response to those conflicting positions, officers at the Council commissioned an independent highway opinion, informed by traffic count, from *G.H. Bullard and Associates*. Members are advised to refresh themselves of that detail, which remains accessible on the planning file, but the findings of the Bullard assessment are summarised below.

282. A 7-day automated traffic count was undertaken in order to determine the speed of vehicles using The Street. The hourly 85th percentile speeds were 23.39mph travelling up the hill past the access and 25.12mph travelling down the hill, which are considered to be relatively low speeds. The traffic count confirmed that The Street is very lightly trafficked (less than 30 vehicles in peak hour).

283. Those findings tally with officers' assessment having visited the village and considered the local circumstances on multiple occasions. As the original LHA officer noted, there are natural traffic calming features on The Street, such as the ford and the tight bend at the northern end of The Street, which tend to encourage vehicles to slow down. Likewise, there are notable numbers of vehicles which park on The Street itself, which also tend to slow traffic and increase alertness in drivers navigating narrowed stretches of highway. While such visits – and the traffic count of Bullards – can only amount to snapshots in time, they are no less useful in understanding the context.

284. *Crashmap*<sup>41</sup> data reveal no accidents within the vicinity of the site – save for two slight incidents on Church Hill, in 2007 – since 1999. The data is reliant upon incidents reported to the *Department for Transport*. It should not be relied upon in isolation but serves to support the commentary above.

285. There is no dispute that having regard to widely accepted guidance, *Manual for Streets 2* ("MfS"), the visibility afforded from the access would be substandard. The key issue is the extent to which, having regard for that access and the local circumstances, the substandard access presents an unacceptable impact on highway safety and whether safe and suitable access can be achieved for all.

286. Visibility from the access can be improved by the removal of a section of wall within the applicant's land ownership to the north<sup>42</sup>, but beyond this no further improvements can be made.

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<sup>41</sup> [www.crashmap.co.uk](http://www.crashmap.co.uk) is a tool which allows users to identify reported traffic incidents on a map.

<sup>42</sup> Such works would not require listed building consent and pose no heritage impact further to that which has already been considered in the preceding section of this report.

287. The original case officer summarised the visibility issue in the following table:

	X - Distance	Y - Distance (North)	Y - Distance (South)
LHA Requirement:	2.4m	31m	31m
MfS Guidance:	2m <sup>43</sup>	31m	31m
Development Proposes:	1.24m	31m	34m

288. The point is also made that the criteria are set to apply to a *new* access onto a public highway, whereas the northern access is already in existence and capable of serving multiple properties. This existing access would have improved visibility in comparison to the current situation as it proposes the removal of the wall to the north, as noted above. Arguably, the proposed development proposes a minor intensification of use but with an improved access situation. There is some merit to that argument but adopting a cautious stance officers have considered the access on its own merits, as proposed.

289. In order to gain sufficient visibility in both directions it is inevitable that drivers would need to “nose out” into the public highway. Officers have considered this matter carefully and also benefit from the opinions of the planning inspector in the Linton House appeal, where the access issue is considered to be directly comparable.

290. In the Linton House appeal the inspector made the following judgements:

- The situation was similar to others on The Street.
- The footpath is straight and users would have a good view of any vehicle crossing the footpath to access the carriageway.
- The Street is not heavily trafficked.
- The width and gradient of the road deterred drivers from speeding (and those vehicles observed were considered to be travelling below the speed limit).
- There appeared to be a very low incidence of accidents near the site.
- Although the additional dwelling in that case would lead to a small increase in the use of the access, the proposed works would lead to a small improvement in existing visibility for occupants of the existing dwelling and so, on balance, would not lead to a worsening of existing highway conditions at the site.
- Whilst the visibility splays recommended in *Manual for Streets* were taken into account, the Inspector was *‘mindful that this document is only guidance, and that local circumstances are a material consideration in this case.’*

291. Officers agree with those judgements. Even if the situation in the Linton House appeal was not considered to be directly comparable, despite the proposed access in that case being effectively directly opposite the northern access of this application, officers have still looked at the proposed access in this case on its own merits and find it to be acceptable.

292. While drivers would need to creep out of the access in order to ensure that it is safe to exit, oncoming vehicles/cyclists approaching from the south would have good visibility of those drivers doing so and are

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<sup>43</sup> A reduced x-distance of 2m is permitted in the guidance where the highway is lightly trafficked/speeds are low.

likely to be travelling at slow speeds so would have adequate opportunity to slow down if necessary. Furthermore, traffic approaching from the north would be on the opposite side of the road. The footpath is straight and pedestrians would have good sight of manoeuvres occurring within the access and its splay. Given the lightly trafficked nature of The Street and the relatively low speeds of passing traffic, it is considered that the ordinary guidelines can be relaxed.

293. In respect of other access matters, at 4.2m-4.5m the width of the access is sufficient to accommodate vehicles (including vehicles passing one another within the access) and pedestrians; in accordance with the Bullard assessment the passing bays are not considered to be required. Parking provision is also acceptable having regard to the Suffolk parking standards and therefore it is not considered that the development would lead to additional on-street parking (in fact, a *reduction* in on-street parking is the most likely outcome).
294. While it has been suggested that a white “H” road markings could be used to prevent cars from parking immediately outside the access in the visibility splay, this is a matter for the highway authority to implement and therefore does not fall under the jurisdiction of a planning application to insist upon. Regardless, officers accept that as pointed out in the Bullard assessment MfS states that parking in visibility splays is quite common yet it does not appear to create significant problems in practice, particularly where vehicle speeds are low.
295. Having considered the access on its merits and taken local circumstances into account, officers are of the opinion that the proposed development would be unlikely to cause danger to pedestrians or other road users and so would not conflict with the policies of the NPPF. The development does not pose an unacceptable impact on highway safety, and safe and suitable access to the site can be achieved for all users.

## **Other Matters**

### **Residential Amenity**

296. The proposed development would be sited adjacent to existing residential dwellings: The Old Gardens to the north; the host properties to the east. The Bell Inn public house would be to the south east but the extent of its car park and garden run along the site’s southern boundary.
297. Officers have already stated that the scale, layout, landscaping, appearance, and access of the site are acceptable; the relevant details could be secured and managed (and strengthened, where required) through condition. In that respect the development would accord with local planning policies pertinent to design and the built environment. Heritage concerns relate to the in-principle matter of the development of the site itself. However, noting a number of objections received, and the proximity of the site to an existing pub use, it is important to consider residential amenity as a discrete issue.
298. Policies CN01 and HS28 require, among other things, that proposed development be of a scale, form, and detailed design appropriate for its location; permission should be withheld where a proposal represents overdevelopment to the detriment of residential amenity. The NPPF sets out similar design expectations

within section 12 and the criteria within paragraph 127, stating that planning decisions should ensure that developments secure a high standard of amenity for existing and future users.

299. NPPF paragraph 182 states that policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities, like public houses. In that regard such existing operations should not have unreasonable restrictions placed on them as a result of development permitted after they were established. The policy further states:

*'Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.'*

300. The relationship between the proposed development and existing residential properties has been considered carefully. In respect of the host properties, back-to-back distances between dwellings is c.30m; there is approximately 20m of space between the proposed dwellings and the rear gardens of 1-6 The Street. This is considered acceptable such that privacy would be maintained and the development would not be overbearing or present an unacceptable loss of outlook.
301. Likewise the siting and orientation of the proposed dwellings, and their fenestration, would not pose detriment to the occupants of The Old Gardens. Some oblique views might be afforded down and into the rear amenity space of that property (from plots 1 and 2) but due to the degree of separation involved the relationship between properties is considered acceptable.
302. Notwithstanding that the northern access is already in existence, the siting of parking and turning areas are also considered acceptable so as to not unacceptably erode the peaceful enjoyment of existing amenity space within adjacent properties. The requirement of a detailed hard/soft landscaping scheme could secure surface finishing appropriate for the context and which would dampen noise in respect of vehicle movement.
303. Within the development itself the siting and design of the dwellings would ensure that there would be no adverse impacts posed between properties. Garden sizes are acceptable and provide sufficient space for sitting out, children's play, and the drying of clothes. Likewise the resultant garden area(s) for the host properties (if it were considered that they would be constricted by this proposal) are considered to be acceptable.
304. The relationship between the application site and the Bell Inn public house has been considered carefully and the comments of the Environmental Protection team have been taken into account. The relationship between the application site and the public house garden/parking area is similar to that of Carlton House and the EP team have confirmed that there are no historic complaints in relation to the operations of the public house. This by no means gives certainty that issues could not arise in the future – and fetter the operations of the business contrary to NPPF para. 182 – but it is nevertheless evidence that the uses can exist in harmony, especially noting that the public house is itself sited in the centre of the village close to a large number of residential properties.

305. While on that basis the principle of the development is not considered to be unacceptable, as the “agent of change” officers consider it prudent to secure detailed design measures to ensure that mitigation is provided such that the amenity of future occupants can be safeguarded to an acceptable degree. As recommended by the EP team this would include an acoustic barrier along the inside of the site boundary (which could be brick or timber), and thermal double-glazing with trickle vents. Such details could be secured and agreed by condition. In relation to the boundary treatment, and when integrated with reinforced soft landscaping, it is not considered that the significance of the adjacent listed buildings or the KCA would be materially affected beyond the impacts and effects already considered.
306. Subject to mitigation, it is considered that the development complies with local and national planning policies in so far as design and residential amenity is concerned.

## Ecology

307. Policies CS11 and CS15 require applications to satisfactorily address environmental matters, which includes ecological considerations. Further, it is important that developments protect and enhance biodiversity.
308. The NPPF echoes this objective at paragraph 8. Paragraph 170 states that planning decisions should contribute to and enhance the natural environment by minimising impacts on, and providing net gains for, biodiversity. Paragraph 175 states that planning permission should be refused for developments that pose significant harm to biodiversity (in the absence of avoidance, mitigation, or, as a last resort, compensatory measures).
309. ODPM Circular 06/2005<sup>44</sup>, which is referenced in the NPPF at footnote 56, states at paragraph 99:

*‘It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is granted. In appropriate circumstances the permission may also impose a condition preventing the development from proceeding without the prior acquisition of a licence under the procedure set out in section C below.’*

310. The application is supported by an Ecological Appraisal, dated 2015. Through site walkover and desk study the Appraisal found that the application site may provide a habitat for amphibians and reptiles, but that impacts upon these species could be mitigated through site management prior to, and during, construction. In response to comments received from the Suffolk Wildlife Trust a further site walkover was undertaken

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<sup>44</sup> *Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System* (2005).

in June 2020 to see if conditions on site have changed and to determine if the conclusions of the previous Appraisal are still valid. In addition, the site was assessed with regards to the potential for the site to support the Hazel dormouse, which is a protected species under the *Wildlife and Countryside Act 1981*.

311. While a significant period of time has passed since the original Appraisal, the nature of the application site and its use has not changed and the conclusions of the ecological update provided by the Applicant are accepted; the Appraisal and update report can be relied upon. In respect of Hazel dormice the report states:

*'The site is located close to a native mixed species hedgerow along the northern boundary of the allotments (Photo 6) and included some hazel but is dominated by common hawthorn (Crataegus monogyna). The site itself is mostly lawn or unmanaged grassland (unsuitable habitat for hazel dormouse), but it supports a small number of scattered shrubs and trees (the majority are close to the existing cottages) including a mature apple tree as well as a slightly overgrown blackthorn (Prunus spinosa) dominated hedgerow along the western site boundary. This hedgerow habitat will be largely retained with some minor cutting back potentially required prior to works commencing. The site is considered to be too open for hazel dormouse which prefer coppiced woodland, dense hedgerows, and dense scrub such as bramble (Rubus fruticosus). The single hazel bush is immediately adjacent to the cottages and too isolated for being used by hazel dormouse.'*

312. Like the original appraisal, the report sets out recommendations and mitigating/compensatory measures through landscaping, construction methodology, and design features. Nesting/habitat boxes and enhanced planting would provide net biodiversity gains. The report concludes that subject to those recommendations *'the risk of potential ecological impacts as a result of the proposed scheme is considered minimal'*. Officers have already advised that in the event Members are minded to grant planning permission, a further landscape condition would be required; this is capable of taking into account the ecological recommendations set out by the Applicant's ecologist. Lighting, like the other recommendations of the report, is capable of being controlled by planning condition also.
313. It is therefore considered that there is sufficient ecological information available to enable the application to be determined favourably and for the Council to demonstrate compliance with its statutory duties, including its biodiversity duty under s40 of the *Natural Environment and Rural Communities Act 2006*<sup>45</sup>. The proposal adequately demonstrates that the development would not have an adverse impact on protected and/or priority species, contrary to policies CS11 and CS15 of the development plan and paragraphs 170 and 175 of the NPPF.
314. It is noted that in the Linton House appeal the inspector considered that the site fell within the 13km "zone of influence" of the Stour and Orwell Estuary Special Protection Area (SPA) and Ramsar site. The Suffolk *Recreational disturbance Avoidance and Mitigation Strategy* ("RAMS") requires that in order to mitigate the potential effects of development within the SPA, a mitigation contribution should be made for relevant development within the zone of influence. No contribution has been made in this instance.
315. Planning appeal decisions are important material considerations. However, local planning authorities are not bound to follow them though of course they should be taken into account where relevant. In respect of the RAMS issue officers must respectfully disagree with the planning inspector for that appeal: the

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<sup>45</sup> To have regard, so far as is consistent with the proper exercise of its functions, to the purpose of conserving biodiversity.

application site (including the properties on The Street and Church Hill) does not fall within the 13km zone of influence<sup>46</sup>. Officers are therefore satisfied that the proposal is in accordance with the requirement to prevent development which would lead to the deterioration of irreplaceable habitat; the development is unlikely to pose any adverse impact through recreational disturbance to the designated area.

316. The application is considered acceptable in relation to its impacts upon the natural environment, complying with policies CS11 and CS15, and the NPPF.

### **Scheme Benefits**

317. It has already been set out that by law Members must have regard to material planning considerations and that this application should be determined in accordance with the development plan unless material considerations indicate otherwise. The benefits of the development, as material considerations, must therefore be taken into account.
318. The scheme benefits, as public benefits, have already been set out within the planning balance relevant to the heritage harms identified (see §262 - §268); they are not repeated here, especially where the heritage assessment provides a standalone and clear reason for refusing the development proposed.

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## **PART FIVE – CONCLUSION AND RECOMMENDATION/STATEMENT OF REASONS**

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### **OFFICER PLANNING BALANCE**

319. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Planning law also requires decision-takers to have special regard to the desire to keep designated heritage assets from harm. The NPPF, an important material consideration, reiterates these fundamental points.
320. The circumstances of this application are not exceptional and, while there is a proven local need, the proposed development is not justifiable. Where the application conflicts with policy CS2 it conflicts with the development plan taken as a whole, on this matter alone. Furthermore, the heritage harm identified, which is not outweighed by the public benefits that would flow from allowing the development to proceed, reinforces this point; the application therefore also conflicts with policies CN06, CN08, CS11, and CS15.
321. Assessed against the policies of the NPPF taken as a whole, the application performs no better where the application of its heritage policies provides a clear reason for refusing the development proposed.
322. The Council can demonstrate that it has a five-year housing land supply and taken in the round its most important policies remain up to date. The application therefore cannot benefit, even if it could be engaged

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<sup>46</sup> Mapping of designated area can be found here:

<http://eastssuffolk.maps.arcgis.com/apps/webappviewer/index.html?id=ec07051688d9460e918d3cc69829f9be>

in the event the heritage impacts were deemed acceptable, from the “tilted balance” set out under policy CS1 and the NPPF.

323. The proposed development would be contrary to the development plan and national planning policy and there are no material considerations that justify a departure from those policies; the harm that has been identified significantly and demonstrably outweighs the benefits.

324. Members are therefore invited to refuse planning permission.

## **OFFICER RECOMMENDATION**

That Members resolve to:

- (1) Refuse planning permission, for the following reason(s):
  - i. The circumstances of the application and the proposed development are not exceptional, contrary to policy CS2.
  - ii. The application proposes development on land that is historically undeveloped, irreversibly fragmenting land that forms the historic curtilage of the Grade II\* listed buildings known as 1-6 The Street and is within the Kersey Conservation Area. The proposed development would introduce new building that would separate the historic buildings from their historic curtilage and from the wider landscape beyond. Through the urbanisation of an area that has historically remained substantially undeveloped the link between the buildings and the wider rural landscape beyond would be permanently severed and the ability to understand that historic relationship would be compromised. This amounts to harm to both the listed buildings and the conservation area as there would be a diminution of significance as a result of those impacts. That harm would be less than substantial within the meaning provided by the NPPF. The harm is serious and requires clear and convincing justification; it must attract considerable importance in any balancing exercise.
  - iii. In accordance with NPPF paragraph 196 the less than substantial harm to those designated heritage assets has been weighed against the public benefits of the development. The outcome of that balancing exercise is that the public benefits do not outweigh the harms and this provides a clear reason for refusing the development proposed.
  - iv. The development is therefore also contrary to policies CN06, CN08, CS11, and CS15 of the development plan.
  - v. The development conflicts with the development plan when taken as a whole and there are no material considerations which indicate that a decision should be taken other than in accordance with the development plan.



## **STATEMENT OF REASONS, LEGAL AGREEMENT, AND PLANNING CONDITIONS**

325. The previous resolution of the Planning Committee still stands but following receipt of the PAP Letter officers ask that Members take the decision again afresh and with an open mind, taking into account this report and all of the application material including the representations of Richard Buxton Solicitors (among all other comments received).
326. However, having assessed all of the evidence while officers come to the view that the application should be refused planning permission and advise that the recommendation above should be accepted, it would not be unreasonable planning judgement for Members to reach an alternative conclusion in undertaking the planning balance by affording differing weights to the considerations material to the decision.
327. On that basis, and where the officer report above can still be relied upon in respect of its individual assessments (save for the heritage balance/overall planning balance and weighting of the scheme benefits), a Statement of Reasons is provided should Members ultimately find that they remain of the view that the application is acceptable (for such reasons provided), contrary to officer judgement.
328. To be clear: this is not a binary choice. Members are not obliged to follow the officer recommendation – though it is of course commended to them – and they do not have to follow the Statement of Reasons if they disagree with the officer recommendation on a different basis or disagree with those Reasons. Members need to exercise their own planning judgement paying due regard to the information before them and adhering to their statutory duties (notably s38(6) of the *PCPA 2004* and ss.66(1) and 72(1) of the listed buildings Act). Nonetheless, the advice provided in the Statement of Reasons is one course of action which officers consider legitimate and is provided to assist Members' debate and deliberation recognising the history of this application.
329. In the event that the Statement of Reasons below is adopted, a recommended instruction to secure a s106 legal agreement and a schedule of planning conditions are also included.

### **STATEMENT OF REASONS**

- i. The application proposes development on land that is historically undeveloped, irreversibly fragmenting land that forms the historic curtilage of the Grade II\* listed buildings known as 1-6 The Street and is within the Kersey Conservation Area. The proposed development would introduce new building that would separate the historic buildings from their historic curtilage and from the wider landscape beyond. Through the urbanisation of an area that has historically remained substantially undeveloped the link between the buildings and the wider rural landscape beyond would be permanently severed and the ability to understand that historic relationship would be compromised. This amounts to harm to both the listed buildings and the conservation area as there would be a diminution of significance as a result of those impacts. That harm would be less than substantial within the meaning provided by the NPPF. The harm is serious and requires clear and convincing justification; it must attract considerable importance in any balancing exercise.
- ii. In accordance with NPPF paragraph 196 the less than substantial harm to those designated heritage assets has been weighed against the public benefits of the development. The public benefits presented by the development are as follows:

- Housing – of itself this relates to a basic need and poses inherent social, and economic (through construction and occupation) benefits.
  - Space Standards – all dwellings would exceed NDSS with dedicated garden space, which is considered to be a social benefit ensuring quality of life for occupants.
  - Efficiency – all dwellings would be highly efficient which poses economic benefits and obvious environmental benefit in the context of the Council having declared a “climate emergency”.
  - Affordability/Local Need – provision of 4 no. affordable units and 3 no. rental units where there is a proven need. This is considered to be a benefit of itself separate to the general benefits associated with housing *per se*.
- iii. The general housing, space standards, and efficiency benefits are of themselves significant.
- iv. The provision of housing in the context of there being a proven local need is a compelling benefit. Where the provision of 4 no. units for local connection affordable housing, with 3 no. further 2-bedroomed units for market rent, would contribute to meeting those needs Members afford that contribution considerable weight.
- v. Benefits relating to Council Tax and the New Homes Bonus have not been afforded any material weight. Any CIL benefit attracts only a limited weight.
- vi. Notwithstanding the findings of harm to the significance of designated heritage assets, including to particularly important buildings of more than special interest, and the strong presumption against the grant of planning permission in such circumstances, it still remains possible for other considerations to be even more weighty.
- vii. In the circumstances of this application it is judged that the heritage harms, while notably serious and clearly appreciable, do not outweigh the particularly strong and compelling benefits identified above. Members fully acknowledge that the presumption should be to refuse planning permission in the face of such harm. However, the outcome of the balancing exercise set out under NPPF paragraph 196 is that the public benefits do outweigh the harms identified, whether taken individually by asset or together. Even in the event that harm had been identified in relation to the Bell Inn, which realistically could only be a low level less than substantial harm, the outcome(s) of the para. 196 balance remains the same. The application therefore accords with the heritage policies of the NPPF and policies CN06, CN08, CS11, and CS15 of the development plan.
- viii. While compliance with policy CS11 weighs in favour of a grant of permission, it cannot override the requirement to satisfy policy CS2. Though it has been demonstrated that there is a proven need for the development, the circumstances of the application and the proposed development remain unexceptional, contrary to that policy. Adopting a cautious stance the application is considered to conflict with the development plan taken as a whole.
- ix. However, it is considered that there are other material considerations which indicate that planning permission should be granted and such considerations outweigh the harm reflected in the breach of the development plan identified above, not least the broader compliance with the development plan in all other respects.

- x. Those other considerations include the NPPF where the proposed development would comply with its policies taken as a whole. As noted, the public benefits to flow from the development, including an identified need for housing locally, are compelling and outweigh the heritage harms identified. Further, where the application conflicts with policy CS2 it does so only in respect of an element of the policy which is considered to be out of date and where that policy is afforded less weight on account of the absence of an allocations document and settlement boundaries review.
- xi. In light of the above, the benefits of allowing the development to proceed outweigh the harms (conflict with the development plan as a whole, the listed buildings, and the conservation area) and planning permission should be granted at variance to the direction of the development plan.
- xii. The Planning Committee therefore resolves the following:
  - 1. That authority be delegated to the Chief Planning Officer to grant planning permission, subject to the prior completion of a legal agreement pursuant to s106 of the Town and Country Planning Act 1990, to secure the provision of affordable housing (4 no. affordable rent units) on the terms recommended by the Strategic Housing Manager.
  - 2. And the grant of planning permission shall be subject to planning conditions drafted to the satisfaction of the Chief Planning Officer but including the following matters:
    - a. Standard time limit
    - b. Development shall accord with the approved plans
    - c. Detailed hard and soft landscaping plans inc. boundary treatments
    - d. Noise mitigation measures
    - e. Proposed site and finished floor levels
    - f. External facing and roofing materials
    - g. Control of lighting/agreement of
    - h. Implementation of ecology measures/adherence to recommendations
    - i. Arboricultural measures (inc. protection of Beech tree at The Old Gardens)
    - j. Archaeology – investigation and assessment/recording
    - k. As recommended by the Local Highway Authority
    - l. Bin and cycle storage/presentation
    - m. EPC to be rated at least “B”, with evidence adduced at key build stages.
    - n. Fire hydrants
    - o. Construction management plan

[end]

## **APPENDIX A – Minutes of 22/11/2017 Planning Committee**

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MINUTES OF THE MEETING OF THE BABERGH PLANNING COMMITTEE HELD IN KING EDMUND CHAMBER, ENDEAVOUR HOUSE, 8 RUSSELL ROAD, IPSWICH ON WEDNESDAY, 22 NOVEMBER 2017

PRESENT: Nick Ridley - Chairman

Sue Ayres	Simon Barrett
Peter Beer	David Busby
Luke Cresswell	Derek Davis
Alan Ferguson	Kathryn Grandon
John Hinton	Michael Holt
Adrian Osborne	Stephen Plumb
Ray Smith	

100 DECLARATION OF INTERESTS

None received.

101 MINUTES

**RESOLVED**

**That the Minutes of the meeting held on 25 October 2017 be confirmed and signed as a correct record.**

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

None received.

103 QUESTIONS BY THE PUBLIC

None received.

104 QUESTIONS BY COUNCILLORS

None received.

105 SITE INSPECTIONS

David Busby requested a site inspection in respect of cross boundary Application No. B/15/00649 – land at Stafford Park, Clare Road, Long Melford (Paper PL/17/23 refers).

The request was proposed and seconded but it was agreed to defer consideration of the motion to allow the officer presentation of Paper PL/17/23 to proceed under Agenda Item 9 (Minute No 107 refers).

106 PL/17/22 - PLANNING APPLICATIONS FOR DETERMINATION BY THE COMMITTEE

In accordance with the Council's arrangements for Public Speaking at Planning Committee, representations were made as detailed below relating to Paper PL/17/22 and the speakers responded to questions put to them as provided for under those arrangements.

Application No.

B/15/01196/FUL      John Hume (Parish Council)  
Iqbal Alam (Objector)  
Andrew Rogers (Supporter)  
Andrew Harding (Applicant)  
Phil Branton (Agent – to answer technical questions)  
Alan Ferguson (Ward Member)

**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) a decision on the item referred to in Paper PL/17/22 be made as follows:-**

**a      KERSEY**

**Application No. B/15/01196/FUL      Full Application – Erection of 7 two storey dwellings, land to the rear of 1-6 The Street.  
Paper PL/17/22 – Item 1**

The Case Officer, Steven Stroud, referred to the date of the SCC Highways comments at the bottom of page 5 of Paper PL/17/22 which should read '10.12.15' (not 10.12.17).

Members in discussing the application were aware that the key issue was the need to balance the benefits to the village as a whole with the identified harm to heritage assets. The Case Officer referred to the independent highway advice set out in the letter and Appendices from civil and traffic engineering consultants GH Bullard & Associates LLP (as attached to the officer report) which had been sought in view of the conflicting advice received at different times from SCC Highways officers.

The officer recommendation for refusal for the reasons set out in the report was proposed and seconded, with the suggestion that a further reason for refusal relating to highway safety might be appropriate. However the officer advice that the consultants' view did not support a reason for refusal on highway grounds was accepted. The officer recommendation as set out in Paper PL/17/22 was lost on being put to the vote.

A proposal to grant permission was then moved on the basis that the benefits of the affordable housing substantially outweigh any harm which may be caused to a rear view of heritage assets. The proposed development was considered to accord with policies CA11, CS15 and CS19 of the Core Strategy and saved policies HS28 and CN06 of the Local Plan. The motion for the grant of permission took into account suggested conditions, together with the options put forward by the Legal Adviser, Ian De Prez, for securing the affordable housing element.

## **RESOLVED**

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

- **Affordable housing (if not secured by condition):**

**and that such permission be subject to conditions including:-**

- **Standard time limit**
- **Details of materials**
- **As required by LHA**
- **As required by SCC Archaeology – scheme of investigation and assessment**
- **As recommended by the Arboricultural Officer**
- **Contamination – condition on ground gases**
- **To secure the provision of the affordable housing element as offered by the applicant (if not secured by a Section 106 or Undertaking)**

107 PL/17/23 - RESPONSE OF BABERGH DISTRICT COUNCIL TO THE CROSS BOUNDARY PLANNING APPLICATION IN RESPECT OF LAND AT STAFFORD PARK CLARE ROAD LONG MELFORD FOLLOWING DEVOLUTION OF DECISION-TAKING POWERS TO BRAINTREE DISTRICT COUNCIL.

Ben Elvin, Strategic Projects and Delivery Manager presented Paper PL/17/23 and referred Members to the Addendum to the report which contained a letter from Lambert Smith Hampton on behalf of Liston Residents Association together with a Legal Opinion on the 'Polluter Pays' principle in relation to remediation.

Having listened to the presentation and commented on matters relating to the remediation aspects, traffic concerns and construction management arrangements, Members agreed that consideration of the Council's response to Braintree District Council should be deferred to allow them to visit the site.

## **RESOLVED**

- (1) **That a site inspection be held on Wednesday 29 November 2017 in respect of cross boundary Application No. B/15/00649, prior to the Committee's consideration of Paper PL/17/23.**

- (2) That a Panel comprising the following Members be appointed to inspect the site:

**Sue Ayres  
Simon Barrett  
Peter Beer  
David Busby  
Luke Cresswell  
Derek Davis  
Alan Ferguson**

**Kathryn Grandon  
John Hinton  
Michael Holt  
Adrian Osborne  
Stephen Plumb  
Nick Ridley  
Ray Smith**

Note:

The meeting adjourned for refreshments between 11.20 a.m. and 11.40 a.m.

The business of the meeting was concluded at 12.15 p.m.

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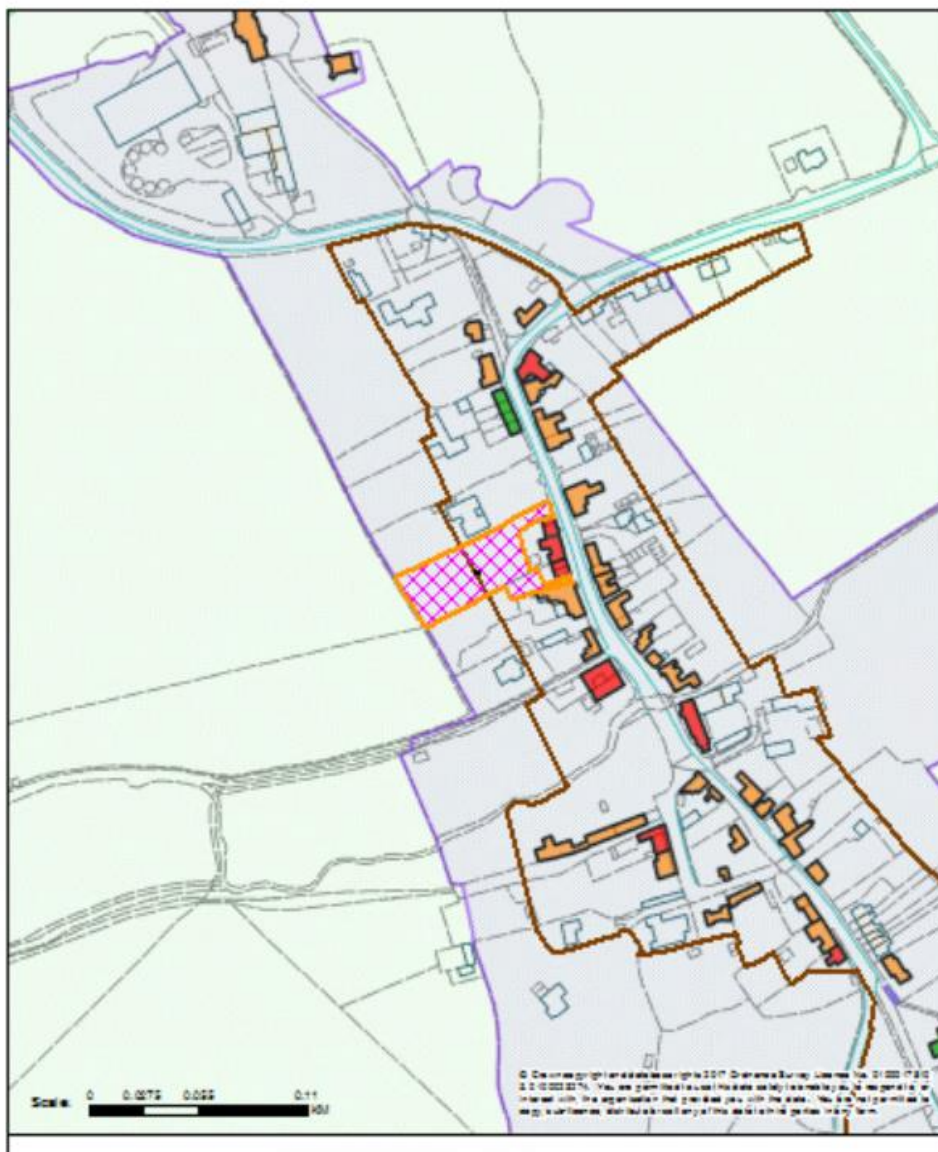
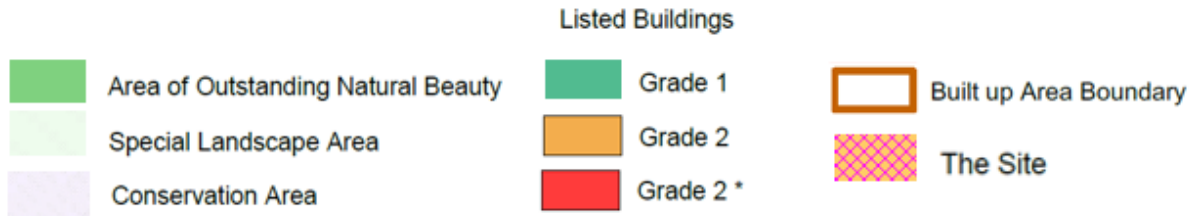
Chairman



Application No: B/15/01196

Parish: Kersey

Location: Land to the Rear of 1-6, The Street



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