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COMMITTEE:	PLANNING COMMITTEE
DATE:	WEDNESDAY, 30 NOVEMBER 2022 9.30 AM
VENUE:	KING EDMUND CHAMBER, ENDEAVOUR HOUSE, 8 RUSSELL ROAD, IPSWICH

Members		
<u>Conservative</u> Simon Barrett Peter Beer Michael Holt	<u>Independent</u> John Hinton Alastair McCraw Stephen Plumb (Chair)	<u>Green and Labour</u> Alison Owen Leigh Jamieson (Vice-Chair)
<u>Independent Conservatives</u> Mary McLaren Adrian Osborne	<u>Liberal Democrat</u> David Busby	

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 in person 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

To receive any declarations of disclosable pecuniary interests and other registerable and non-registerable interests by Members.

3 **PL/22/18 TO CONFIRM THE MINUTES OF THE MEETING HELD ON 16 NOVEMBER 2022**

To follow

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

5 **SITE INSPECTIONS**

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

6 **PL/22/19 PLANNING APPLICATIONS FOR DETERMINATION BY THE COMMITTEE** 5 - 8

An Addendum to Paper PL/22/19 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/20/01094 LAND TO THE NORTH SIDE OF, CHURCH FIELD ROAD, CHILTON INDUSTRIAL ESTATE, CHILTON, SUFFOLK** 9 - 218

b **DC/21/02405 LAND EAST OF ARTISS CLOSE AND, ROTHERAM ROAD, BILDESTON, SUFFOLK** 219 - 238

c **DC/21/06977 182A BURES ROAD, GREAT CORNARD, CO10 0JQ** 239 - 250

Notes:

1. The next meeting is scheduled for Wednesday 14 December 2022 commencing at 9.30 a.m.
2. Where it is not expedient for plans and drawings of the proposals under consideration to be shown on the power point, these will be displayed in the Council Chamber prior to the meeting.
3. The Council has adopted Public Speaking Arrangements at Planning Committees, a link is provided below:

[Public Speaking Arrangements](#)

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

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

- A representative of the Parish Council in whose area the application site is located to express the views of the Parish Council;
- An objector;
- A supporter;
- The applicant or professional agent / representative;
- County Council Division Member(s) who is (are) not a member of the Committee on matters pertaining solely to County Council issues such as highways / education;
- Local Ward Member(s) who is (are) not a member of the Committee.
- Public speakers in each capacity will normally be allowed **3 minutes** to speak.

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

Date and Time of next meeting

Please note that the next meeting is scheduled for Wednesday, 14 December 2022 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

For more information about this meeting, including access arrangements and facilities for people with disabilities, please contact the Committee Officer, Claire Philpot on: 01473 296376 or Email: Committees@baberghmidsuffolk.gov.uk

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.



PL/22/19

BABERGH DISTRICT COUNCIL

PLANNING COMMITTEE

30 NOVEMBER 2022

SCHEDULE OF APPLICATIONS FOR DETERMINATION BY THE COMMITTEE

Item	Page No.	Application No.	Location	Officer
6A	9-218	DC/20/01094	Land to the North Side of, Church Field Road, Chilton Industrial Estate, Chilton, Suffolk	JH
6B	219-238	Dc/21/02405	Land East of Artiss Close and, Rotheram Road, Bildeston, Suffolk	DC
6C	239-250	DC/21/06977	182A Bures Road, Great Cornard, CO10 0JQ	EF

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

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

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Agenda Item 6a

Committee Report

Item No: 6A

Reference: DC/20/01094

Case Officer: Jo Hobbs

Ward: Lavenham

Ward Members: Cllr Clive Arthey and Cllr Margaret Maybury

RECOMMENDATION – REFUSE PLANNING PERMISSION

Description of Development

Outline Planning Application (some matters reserved, access to be considered) - Erection of up to 166 residential dwellings, a purpose built care home for up to 60 bedrooms, and associated infrastructure including landscaping, public open-space, car parking and means of access off Church Field Road.

Location

Land On The North Side Of, Church Field Road, Chilton Industrial Estate, Chilton Suffolk

Expiry Date: 03/12/2021

Application Type: OUT - Outline Planning Application

Development Type: Major Large Scale - Dwellings

Applicant: Caverswall Enterprises Ltd and West Suffolk NHS Foundation Trust

Agent: ROK Planning [Vincent Gorbng no longer represents the applicants, for reasons unknown]

Parish: Chilton

Site Area: 11.6 hectares

Density of Development:

Gross Density (Total Site): 14.3 dwellings per hectare (dph)

Net Density (Developed Site, excluding open space and SuDs): 27dph

Details of Previous Committee / Resolutions and any member site visit:

Member site visit March 2022

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 (DC/18/01981 and follow-up advice DC/18/05398) – potential for development on site, but need to comply with employment policy in development plan and need to consider site constraints including heritage.

PART ONE – REASON FOR REFERENCE TO COMMITTEE

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

- Major application of 15 or more dwellings

PART TWO – POLICIES AND CONSULTATION SUMMARY

Summary of Policies

Babergh Core Strategy and Policies (2014)

CS1 - Applying the presumption in Favour of Sustainable Development in Babergh
CS2 - Settlement Pattern Policy
CS3 - Strategy for Growth and Development
CS13 - Renewable / Low Carbon Energy
CS14 - Green Infrastructure
CS15 - Implementing Sustainable Development
CS18 - Mix and Types of Dwellings
CS19 - Affordable Homes
CS21 - Infrastructure Provision

Babergh Local Plan Alteration No. 2 (2006)

HS31 - Public Open Space (1.5 ha and above)
EM02 - General Employment Areas - Existing and New Allocations
EM24 - Retention of Existing Employment Sites
CR07 - Landscaping Schemes
CR08 - Hedgerows
CN01 - Design Standards
CN04 - Design & Crime Prevention
CN06 - Listed Buildings - Alteration/Ext/COU
CN14 - Historic Parks and Gardens - National
TP15 - Parking Standards - New Development
TP16 - Green Travel Plans

Supplementary Planning Documents

Affordable Housing Supplementary Planning Document (2014)
Supplementary Planning Guidance on Provision of Outdoor Recreation Facilities and Open Space (2010)

Other material planning considerations

National Planning Policy Framework (2021)
Suffolk County Council Adopted Parking Standards (2019)

Babergh and Mid Suffolk Joint Local Plan

The Babergh and Mid Suffolk Joint Local Plan ('JLP') was formally submitted to the Secretary of State for Housing, Communities and Local Government for independent examination on 31st March 2021.

Following an exploratory meeting with the examining Inspectors on 16th December 2021, it has been proposed to progress the JLP as a 'Part 1' local plan. This will be followed by the preparation and

adoption of a 'Part 2' local plan as soon as possible. Main modifications on the JLP Part 1 are awaited but it has been anticipated that public consultation on those proposed modifications will be undertaken in Autumn 2022, to be followed by further hearing sessions over the Winter. The recently agreed Local Development Scheme anticipates adoption in Spring 2023.

For reasons that will be set out, the JLP does not play a determinative role in the assessment of this application, at the present time.

Neighbourhood Plan Status

This application site is within a Neighbourhood Plan Area.

The Chilton Neighbourhood Development Plan is currently at:-

Stage 1: Designated neighbourhood area – designated December 2017

Accordingly, the Neighbourhood Plan has no weight as no policies are drafted and the plan is at a very early stage at present.

Consultations and Representations

During the course of the application Consultation and Representations from third parties have been received. These are summarised below. Due to the lengthy and technical nature of some of the responses received, Members are directed to consider them all in full.

A: Summary of Consultations

Cllr Margaret Maybury

10th June 2020: Notwithstanding the principle of any planning application at this site, I would like to suggest that any suggestion of a Care Home should be placed upon the NHS owned land behind the Health Centre rather than on the other part of the site. I am not suggesting that I am pre-determined on any future planning application for this site I just believe that NHS land should be used for medical/health/social need only.

14th April 2021: Thank you for the opportunity to be consulted on this application.

Firstly, I would stress the cumulative impact on successive planning applications on the parish, the Ward and this part of the district is excessive. For some three years I have highlighted (along with other local parish council Chairman at parish liaison meetings) the issue of cumulative planning application approvals on any one particular area. Currently in the parish of Chilton there are two major developments, one at Chilton Place and from November 2021 phase1 of Chilton Woods, a strategic site. The Chilton Woods site will be a continuous build out over 10-11 years as stated by Taylor Wimpey on Wednesday 7th April 2021 at the working party meeting convened at 5pm. Anything from 20 to 100 lorries per day will be using a one way system along Acton Lane through Aubrey Drive and out to the A134. TW will be using a one-way system to try and negotiate roads not built for even the current level of traffic and transportation as HGVs/Buses and other large agricultural vehicles cannot safely pass along local roads. Highways currently foul up easily with the amount of traffic generated before Chilton Place and Chilton Woods are even occupied.

Secondly, I note the site was originally earmarked as an economic site.

Thirdly, I note that the site is not allocated within the Joint Local Plan currently lodged with an inspector.

Fourth, I note the site is part of NHS land and earmarked for medical use only. This contravenes the Naylor Report of recent years.

Fifth, Chilton and the surrounding area of Sudbury is short of open space, despite some quoting agricultural land as "open space". Agricultural land is what it is described as agricultural therefore economic land and not an area for residents to use for recreation. Chilton and Sudbury need more open space. This site is an area adjacent to the Health Centre which could be used for such a purpose and help the "social prescribing" system for GPs which majors on mental health and the importance of being outside to exercise.

Sixth, any further residential development would require huge investment from the developer for infrastructure, including but not restricted to, a new secondary education facility at Sudbury to facilitate the vast numbers of primary age children expected from the recent developments within Acton, Great Waldingfield, Long Melford and Chilton itself. Further expansion of Health facilities. Further police numbers and facilities. Further library facilities now the local Sudbury library space is being used for a customer service point, my opinion is that a new library would need to be provided.

Seventh, the area has a lack of employment opportunities together with a low wage bias within the employment it currently has.

Eighth, BDC currently has a five year housing land supply. This would be a windfall site and is not needed.

In consideration of my points above, I DO NOT support the planning proposal and object in the strongest terms against any application that may be forthcoming or is being proposed. The site is adjacent to the listed Chilton Hall, the listed garden and the listed parkland. This heritage trio is part of the last remaining manor house in the vicinity as the those at Acton, Little Waldingfield and Great Waldingfield have been lost over the centuries (recently I learned that Acton Hall was demolished by 1825 as the building commodities were listed for sale). This unique heritage setting must be preserved for future generations. I therefore add this as a reason for objection to the proposed residential site.

Cllr Trevor Cresswell

Objection – land is industrial and should be kept for employment. The land near the health centre should be for NHS expansion as the town grows. Also, with Chilton Woods very nearby is there a real need for more houses when it will be jobs and services required?

Cllr Jan Osborne

I have always stated and continue to state that this site needs to be kept as employment land. And that the land at the back of the Health Centre should be retained for provision of our health service. As Sudbury grows the health centre will need to grow to accommodate the need.

Although there is no over-demand for employment land we need to retain for the future as employment opportunities come forward.

I strongly object to this application.

Town/Parish Council

Chilton Parish Council

Object

15th May 2020: Contrary to employment policies, will cause substantial harm to heritage assets, significant adverse impact on character of landscape, unacceptable traffic impact, negative impact on residential amenity, inadequate ecology investigations. Supporting reports provided by Michael Collins (listed building and heritage specialist), Alison Farmer Associated (landscape architects on landscape character and landscape visual assessments) and Elwood Landscaping Design (landscape architect on arboricultural issues). Also had regard to emerging Joint Local Plan, and evidence underpinning it including the Heritage Settlement Sensitivity Assessment 2018, Landscape Guidance 2015 and Landscape Character Assessment 2015.

12th May 2021: Heritage – note applicant’s heritage consultant finds no harm to heritage assets, surprising as a heritage impact assessment produced by the same consultant in 2010 for two large warehouses development identified harm to heritage assets. Several buildings proposed under this application of same ridge height to warehouses, namely 12.8m, fail to understand why height is required and object to it. We rely on evidence of own heritage consultant, who finds level of harm as substantial, which is supported by The Gardens Trust, Ancient Monuments Society. Historic England assess the harm at the higher end of less than substantial harm, and Place Services identified future development sites should avoid further encroachment on these assets in particular Chilton Hall and the Church. Request that your authority recognise the proposed development will cause a high level of harm and be substantially damaging to the heritage assets.

On accepting substantial harm with previous planning applications, your authority noted development was only acceptable as the site was allocated for employment, and were it not for those wholly exceptional circumstances such harm should not be permitted to occur. Do not consider there are clear and compelling justification for any harm to heritage nor are there such wholly exceptional circumstances relating to this application.

There needs to be clear and compelling justification to cause harm to heritage assets, there is no justification nor does the proposed development comply with the current local plan not the pre-submission Joint Local Plan.

Should the authority disagree with the assessment of substantial harm the benefits would not outweigh the level of harm to the heritage assets which could not be anything other than at the higher end of less than substantial. Note that recent appeal decision for the district the Inspector noted that any such harm is to be considerable importance and weight. These must be balanced against the public benefits.

Whilst the parish council accept there are certain public benefits of the scheme, principally the provision of some affordable housing, care home facilities and the economic benefits of the same. These benefits can be provided elsewhere and avoid the harm. Consider benefits are principally private in nature and observe that the council has a sufficient land supply and meets the requirements of the Housing Delivery Test. Sufficient land has been allocated in the JLP to meet its requirements for the plan period. Also the open space provided will principally benefit the future residents and is unlikely to function as public space.

The additional construction traffic in cumulation with all other developments permitted in the area will impact residential amenity.

Other developments in parish have not delivered in line with what was permitted at outline consent, including at Chilton Place an additional construction access points and reduced extent of landscaping indicated at outline, and no community woodland at Chilton Woods. Consider this application could be revised to alter the care home to residential or build on the open space, it is therefore important to give careful consideration to the heritage and landscape matters at the outline stage, as a more harmful reserved matters application could be submitted.

Continue to support the Joint Local Plan and deallocation of site for development and under emerging Neighbourhood Plan wish to conserve the site as open natural green space. Other green spaces such as Chilton Airfield are being lost for walking and cycling by residents to residential development.

There are restrictive covenants protecting the tree belt on both the title certificates for the Caverswall Enterprises and West Suffolk NHS Foundation Trust, preventing the construction of any building or article or item, and so inroads and paths proposed are not permissible.

Do not consider that the applicant can enter into a S106 agreement due to ongoing proceedings with liquidators of Caverswall Holdings Ltd (CHL).

29th October 2021:

We write in response to the ecological material recently filed by JBA, the applicants advisers. We note that JBA have carried out further investigations on part of the site but not on the site as a whole. It needs to be borne in mind that this site was deliberately deep ripped or spike harrowed previously which actions caused ecological harm and destroyed skylarks nests. We consider that the fact that the quality of the grassland and habitats may have been degraded because of such actions should not now be taken into account to assist or benefit those seeking the permission.

We note the responses by Natural England and in particular the detailed objection filed by Suffolk Wildlife Trust dated 21st October 2021. Suffolk Wildlife Trust are obviously an independent expert rather than an adviser retained to assist the Applicants to obtain planning permission. We echo and endorse what is said by SWT. We strongly recommend to your authority that you adopt the independent expert advice of SWT that "We are concerned that development on this site, which consists of a habitat mosaic of priority habitats and non-priority habitats both with ecological value for a range of protected and priority species including great crested newts, reptiles and a variety of bird species is contrary to the NPPF 2021 as well as local policies."

One of our concerns that this application is a very bare outline and deals only with establishing access, a care home and 166 residential units. Everything else is purely indicative and if permission were to be granted on this indicative Masterplan plan basis the final plans submitted under Reserved matters approval could be substantially different and much more harmful but the principle of development will have been established. We have seen how harmful these bare outline applications can be as they grant an applicant significant flexibility. Chilton Woods was such a bare outline application and although the indicative Masterplan submitted promised the provision of significant areas of community woodland which was a fundamental part of the scheme and public open spaces, regrettably a substantial part of the community woodland is not being provided by the developer. What is proposed to be delivered on that site is significantly different from that envisaged in the Masterplan and the outline permission.

We have read JBA briefing note dated 31 August 2021. It is important to recognise how unsafe it is to rely on the information put forward because it is purely indicative. JBA admit that "The metric will be recalculated when the plan is finalised at reserved matters stage. The metric as it currently stands is an indication to demonstrate what is potentially possible at this stage given that the Masterplan is only indicative as part of the outline planning application."

Put into plain English what this means is that your authority cannot rely on any of the information put forward in support because it is all vague, purely indicative and could substantially change in the future. Your authority needs to have much more certainty about the overall effects of this application to determine it properly.

In this letter references to the NPPF are to the July 2021 document which in parts amended the NPPF 2019 edition.

SWT advise you and we agree that this application is contrary to Section 179 of the NPPF 2021. That section requires all development to protect and enhance biodiversity. That includes “promoting the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species and to identify and pursue opportunities for securing measurable net gains for biodiversity.” This proposal breaches that requirement; it does the opposite; far from promoting and enhancing biodiversity it will damage and/ or destroy and / or degrade biodiversity as was done earlier by the deep ripping or spike harrowing of the site.

Further, this application fails to comply with SPO9 and in particular LP 18 of the Pre Submission Joint Local Plan (PSJLP) because if permission is granted it will result in the loss of Priority Habitats. Your policy provides that enhancement for biodiversity should be commensurate with the scale of the development. That is not the case with this application. The PSJLP was formally approved by your authority in November 2020 and is undergoing public examination by Inspectors. It is therefore at an advanced stage and significant weight can be accorded to it as a material consideration.

Further as we have previously referred this land is outside the settlement boundary as set out in SP03 in the PSJLP. In addition to the adjacent sensitive heritage receptors which constrain development on this site due to the harm that will occur if permission were to be granted, the non-allocation of this land for development in the PSJLP accords with section 175 of the NPPF 2021 which provides that “Plans should allocate land with the least environmental or amenity value.”

We continue to object to this development for the reasons stated in our earlier letters of objection dated respectively 15 May 2020 and 12 May 2021 and on ecological grounds for the reasons set out above. Accordingly we recommend refusal of permission.

Sudbury Town Council

Refuse – site is designated employment land and against planning policy. Sudbury Town Council would like to reiterate their views within the forthcoming local plan that this land should remain as designated employment land. Note that Viability and Employment report page 57 point 7.8 is incorrect as Taylor Wimpey have only purchased the residential land at Chilton Woods, not the employment land.

Great Waldingfield Parish Council

Object to this cross-boundary development due to loss of wildlife habitat in Chilton, extra traffic through Great Waldingfield, loss of green gap between the parishes that has existed for 1000 years and over-development in Chilton parish. Transport Assessment should consider the effects of consents granted that will use the B1115 and emerging Allocations in the Joint Local Plan.

2nd July 2021:

Object on the following grounds 1. Loss of wildlife habitat. The land adjacent to the health centre has never been developed, the wild flowers and grasses are a huge asset to Sudbury. 2. Heritage. The grade 1 listed Chilton Church is, at present, surrounded by a small oasis of unspoilt countryside. The view of the Church from the Health Centre is particularly beautiful. Building anything close to the church would ruin its setting. 3. Urban sprawl. Sudbury is moving towards Chilton. The proposed development at Chilton Woods is being built as an addition to Sudbury rather than a standalone garden village. Building houses on both sides of the B1115 and developing both sides of Churchfield Road would contribute to sprawl and over-development. 4. Loss of green gap. It is important to Great Waldingfield that we stay separate from our neighbours. There must be green fields between Great Waldingfield, Chilton, Acton, Newton and Little Waldingfield, it is essential for our identity. Building between Chilton and Great Waldingfield, on this side of the B1115, would decrease the separation. 5. Traffic. Any further development on the B1115 will lead to increased traffic through Great Waldingfield. 6. Amenities. Local schools are full. Building more houses will cause educational problems.

13th October 2021:

At its Parish Council Meeting on the 11th October 2021, the Parish Council wished to reaffirm its previous objection on the grounds that Chilton has sufficient development for any Parish, that any development on this site will lead to increased traffic in Great Waldingfield, any development between Chilton and Great Waldingfield will reduce the green gap between the parishes that has existed for 1000 years and needs to be protected and also the loss of wildlife habitat in Chilton.

National Consultee

NHS England/West Suffolk Clinical Commissioning Group

No objection – one GP practice within 2km of proposed development which is the Cornard Surgery (a branch of the Hardwicke House Group). These practices do not have sufficient capacity for the additional growth. Therefore CIL monies are sought to increase capacity within the GP catchment area by way of extension, refurbishment or reconfiguration of The Cornard Surgery or other surgeries in the Hardwicke Group. Should the level of growth in this area prove this to be unviable, the relocation of services would be considered and funds would contribute towards the cost of new premises, thereby increasing the capacity and service provisions for the local community.

Anglian Water

No objection – capacity for used water flows and wastewater treatment at Great Cornard Water Recycling Centre, and surface water disposal method acceptable.

Environment Agency - Permitting

Response July 2020:

New development near an existing facility permitted under Part A (1) of the Environmental Permitting (England and Wales) Regulations 2016 (EPR) regulated by the Environment Agency could result in the nearby community being exposed to impacts including noise and odour. The severity of these impacts will depend on the size and nature of the facility and prevailing weather conditions.

Planning policy requirements (paragraph 182 of the National Planning Policy Framework) state that new development should integrate effectively with existing businesses and not place unreasonable restrictions upon them. Where the operation of an existing facility could have significant adverse effects on new development (including changes of use), the applicant should be required to provide suitable mitigation for these effects. Mitigation can be provided through the design of the new development to minimise exposure to the neighbouring facility and/or through financial contributions to the operator of the facility to support measures that minimise impacts.

Environmental Permitting Regulations require operators of Part A (1) activities under EPR to demonstrate that they have taken all reasonable precautions to mitigate impacts of their operations. This is unlikely to eliminate all emissions and there is likely to be residual impacts. In some cases, these residual impacts may cause local residents concern. There are limits to the measures that the operator can take to prevent impacts to residents. Consequently, it is important that planning decisions take full account of paragraph 182 of the NPPF. Where we consider that an operator has not taken all reasonable precautions to mitigate impacts of their operations therefore not complying with the conditions of the environmental permit we will consider action in accordance with our Enforcement and Sanctions Policy.

When a new development is built near to an existing facility this does not automatically trigger a review of the permit.

Subsequent response April 2021:

Previous response in terms of the proximity of the development to Nestle Factory and potential odour nuisance/permit compliance still stands and nothing further to add.

Discussed how likely was it that the improvements to the odour treatment systems would be completed and would be successful. Cannot provide any guarantees of the success of the final design (as the project is not completed and performance testing undertaken), but the construction/operation phase for odour abatement should be completed in May and the performance testing will follow that.

Natural England

No objection –proposed development will not have significant adverse impacts on designated sites. Following comments made on priority habitats on site:

This site was identified as containing two habitats, Lowland Calcareous Grassland (CG7) and Lowland Meadow (MG1e), of priority habitat quality by a Natural England survey in 2017. The survey identified that Lowland Calcareous Grassland CG7 was present towards the southern boundary and this aligns with the results of the botanical survey conducted by the applicants consultants. Natural England's survey also identifies that "intact" Lowland Meadow (MG1e) was approximately present along the eastern, northern and western boundary of 'Field A' as labelled on the Natural England survey map, alternatively labelled as Field 1 by the applicants botanical survey.

Natural England notes that the presence of 'intact' Lowland Meadow (MG1e) along the western boundary of Field A/1 is not captured by the applicants Botanical Survey, with Appendix C of the Botanical Survey report indicating that no quadrats were placed or surveyed in this location. As such, the presence of "intact" Lowland Meadow (MG1e) may cover a larger surface of the site than indicated by the applicants Botanical Survey as indicated by Appendix D: Approximate extent of priority habitat grassland.

Additionally, Natural England's previous survey identifies that the habitat to the north of the "barrow" structure of Field 1/A was recorded as recently harrowed Lowland Meadow MG1e priority habitat at the time of the 2017 survey and therefore distinct from areas of the site referred to as "intact" MG1e. This area of harrowed Lowland Meadow MG1e priority habitat is now identified by the applicants botanical survey as neutral grassland which is not of priority habitat quality. It is not clear why this habitat has not recovered to its prior quality as would be expected following harrowing, but with appropriate management would likely recover to its prior quality. Furthermore, Natural England's Field Assessment Form noted the following, "MG1e present is a species rich sub-community of MG1 and the richer elements are well expressed at the site; therefore it should be considered whether this can be regarded as lowland meadow and pasture priority habitat, particularly as this grades into the calcareous grassland." Natural England notes that the gradation, also highlighted in the Botanical Survey report, is not indicated as priority habitat by the Botanical Survey, with approximate locations identified in Appendix D of the Botanical Survey report.

Priority habitats are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. List of priority habitats and species can be found here¹. Natural England recommends that the expected loss of priority habitat is considered in line with paragraphs 171 and 174 of the NPPF and any relevant development plan policy. The expected loss may be reduced by the appropriate placement of site features, however, due to the extent and locations of priority habitat and the scale of development, it is not considered likely that loss can be avoided entirely. Natural England also recommends that the compatibility of the wildflower mix within the area of calcareous grassland and any other grassland mixes, or intended management techniques are properly assessed. Further to this, Natural England shares the concern within Suffolk Wildlife Trust's recent response that the variety of plans and strategies (e.g. reptile mitigation strategy) currently related to the management of the calcareous grassland and lowland meadow may conflict with the appropriate management of the priority habitat.

Suffolk Wildlife Trust

Objection – on following grounds:

- Do not believe the biodiversity net gain calculations are accurate in the absence of a detailed masterplan, misrepresentation of hedgerows as scrub creation and classification of neutral grassland as fairly poor.
- The competing uses of reptile translocation site and translocated Priority habitat.
- No dormice surveys completed, when they were previously requested and hazel dormice were present on adjacent site within 250m of this site in 2015. Consider species likely to be in woodland, dense scrub and hedgerow on site and within wider landscape.
- Bat activity surveys only partially completed, and required in terms of potential light spill to the north and east boundaries of the site.
- Annual monitoring of any translocation of reptile receptor sites
- A Biodiversity Enhancement Strategy should be produced.

Subsequent response 21st October 2021:

Maintain holding objection - We are concerned that development on this site, which consists of a habitat mosaic of Priority Habitats and non-priority habitats both with ecological value for a range of protected and Priority species including great crested newts, reptiles and a variety of bird species, is contrary to the National Planning Policy Framework (NPPF) (2021) as well as local policies.

Historic England

This application is an amendment which seeks outline planning permission for the erection of 166 residential dwellings, a 60 bedroom care home and associated infrastructure. Historic England were previously consulted in March 2020 on proposals for 190 residential dwellings, a care home with up to 60 bedrooms and associated infrastructure. In our letter of 09 April 2020 we objected to these proposals on heritage grounds due to the harm that would be caused to the significance of the grade I Church of St Mary and the grade II* Chilton Hall, with its grade II landscape and walled garden, due to the erosion of their rural setting. We have reviewed the amended proposal and our assessment of the likely impact remains the same and Historic England objects to the proposals on heritage grounds. We refer the council to our previous letter which sets out extensively our advice.

The site lies within the setting of two characterful and highly designated buildings with a close connection dating from the fifteenth century, the Church of St Mary and Chilton Hall. The landscape between the hall and church allows views between the two and reflects the historic relationship between the buildings. The existing footpaths connect the two and offer access around the perimeter of the application site, enabling the hall and church to be experienced in their rural setting. The church is listed at grade I, the Hall is listed grade II*, the walled garden and the historic landscape are both grade II. The proposed development would erode the rural setting of these assets and the relationship between them. We refer you to our previous letter of 9 April 2020 which sets out in detail the significance of the heritage assets and the contribution setting makes to that significance.

The impact on the significance of the historic environment

We note that the amended proposal has reduced the residential dwellings from 190 to 160. The applicant has removed 24 dwellings from the northeast boundary of the application site which is closest to the grade II* Chilton Hall. This would remove some development from the immediate boundary of Chilton Hall and the registered park and garden. However, the proposal to develop the site with a care home and housing would fundamentally change the character of the site from open rural land to that of a large, built development. It would result in the loss of this field which currently provides a buffer between the northern edge of Sudbury and Chilton Hall. The loss of the field would mean the hall and its landscape were no longer encircled by a rural landscape as it has been throughout its existence. This would significantly erode its rural setting which is an essential part of a country estate.

The development would still erode the rural landscape which forms part of the setting of the Church of St. Mary which has survived to the north of the churchyard. This would affect the key views of the church from this area and the way in which this landscape contributes to the aesthetic and spiritual values of the church. The open landscape between the church and the Hall enables the historic connection between the two to be understood. The loss of part of this rural land would undermine this link.

The policy context

The National Planning Policy Framework has at its heart the principle of sustainable development. This has three over-arching objectives which are described as interdependent and need to be pursued in mutually dependent ways: economic, social and environmental, paragraphs 7 and 8. In the historic environment section the document sets out how heritage assets are an irreplaceable resources and the desirability of sustaining and enhancing their significance, paragraphs 184 and 192. It continues that great weight should be given to an asset's conservation (and the more important the asset, the greater that weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance, paragraph 193. Any harm or loss requires clear and convincing justification, paragraph 194. Where a proposal will lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal, paragraph 196.

The Historic Environment Good Practice Advice Note 3: The Setting of Heritage Assets provides more detail on this subject. It provides general advice on understanding setting and a staged approach to making decisions on setting issues.

Position

Historic England has reviewed the amended application and remains of the position that the development of this site would erode the landscape setting which makes a strong contribution to the significance of the two neighbouring highly designated heritage assets, the Church of St. Mary and Chilton Hall and its landscape. This would result in harm to their significance which, although it would be less than substantial, this would be of harm of a considerable level. We refer you to our previous letter where we set out extensive advice.

Recommendation

Historic England objects to the application on heritage grounds due to the harm that would be caused to the significance of the grade I Church of St Mary and the grade II* Chilton Hall, with its grade II landscape and walled garden, due to the erosion of their rural setting. We consider that the application does not meet the requirements of the NPPF, in particular paragraph numbers 192 and 194.

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.

Your authority should take these representations into account in determining the application. If you propose to determine the application in its current form, please inform us of the date of the committee and send us a copy of your report at the earliest opportunity.

Also Members are directed to the following earlier response from Historic England dated 9th April 2020 that provides this additional more detailed assessment of the significance of the historic environment:

The Church of St. Mary lies to the southeast of the development site. It dates from the fifteenth century and has a chantry chapel of this date built for the Crane family who lived at Chilton Hall. Internally there are two surviving stained glass figures from this period and a fine series of monuments in the Crane Chapel dating from the fifteenth to seventeenth centuries. The red brick tower is distinctive feature and dates from the early sixteenth century.

The church is situated to the south of Chilton Hall. The village associated with the church may have been moved to create the deer park for Chilton Hall, had the village had not already been lost as a result of the Black Death. The church therefore stood in an open landscape setting formed by the deer park and farmland. The growth of Sudbury northwards with the construction of the industrial estate has encroached on the setting of the church to the south. However, beyond the churchyard to the north there remains an open setting formed by farm land and the application site which allows views to and from the church within a landscape context. In views from the surrounding landscape the church tower acts as a landmark.

The design and fabric of the church and its setting within the churchyard and wider landscape illustrate medieval ecclesiastical architecture and design and the historic relationship with its setting. The aesthetic appeal of the church is enhanced by the rural setting, which also complements the spiritual value of the church. The church is listed grade I placing it in the top 2.5% of all listed buildings.

Chilton Hall lies to the north east of the application site. It is the surviving wing of a sixteenth century house which was the seat of the Crane family. Built of red brick with a large embattled staircase turret and massive walls all surrounded by a moat, it is evocative this period. The west side was re-fronted in the eighteenth century.

The Hall sits in its historic landscape within the rural landscape to the north of Sudbury. The earliest parts of the landscape are contemporary with the hall or earlier and subsequent owners have enhanced this. The gardens lie to the south and west of the Hall, with a large seventeenth century walled garden with a number of decorative features. To the south of this are the earliest features, two ponds shown on a map of 1597 and beyond these a woodland garden laid out in the 1930s. To the south east was the large deer park.

Although Chilton Hall is not far from the northern edge of Sudbury, the wider rural landscape setting of the Hall has been retained with the application site to the south, the open fields between the church and hall and further fields to the east. The gardens and rural landscape illustrate the function of the building as a country seat and tell a storey about life here in terms of how the landscape was used for recreation and enjoyment and to feed and support the occupants. It also makes an important contribution to its aesthetic appeal. The landscape between the hall and church allows views between the two and reflects the historic relationship between the buildings. The existing footpaths connect the two and offer access around the perimeter of the application site, enabling the hall and church to be experienced in their rural setting. The Hall is listed grade II*, the walled garden and the historic landscape are both grade II.

The impact on the significance of the historic environment

The proposal to develop the site with a care home and housing would fundamentally change the character of the site from open rural land to that of a large, built development. It would result in the loss of this field which currently provides a buffer between the northern edge of Sudbury and Chilton Hall. The loss of the field would mean the hall and its landscape were no longer encircled by a rural landscape as it has been throughout its existence. This would significantly erode its rural setting which is an essential part of a country estate. The development would also erode the rural landscape which forms part of the setting of the Church of St. Mary which has survived to the north of the churchyard. This would affect the key views of the church from this area and the way in which this landscape contributes to the aesthetic and spiritual

values of the church. The open landscape between the church and the Hall enables the historic connection between the two to be understood. The loss of part of this rural land would undermine this link.

We recognise a sizeable planted perimeter boundary is proposed (partially strengthening existing planting) which would filter some of the views of the development from the surrounding land. However, setting is defined as 'the surroundings in which a heritage asset is experienced' (National Planning Policy Framework). This is a broad definition and the development of the site would change the character of the land and way these historic places are appreciated and understood within their surroundings. The degree to which the landscape belts filter views would also change seasonally and over time. Although setting does not depend on public access, the existing footpaths around the site are within the planted boundary close to the Hall and church. A development of this scale would also result in increased vehicle movements, noise and lighting which can also affect the setting of historic buildings.

In sum, the proposal to develop the site would erode the rural landscape setting of Chilton Hall and its landscape and the Church of St. Mary and would result in harm to the significance of these heritage assets. This would be less than substantial harm, but harm of a considerable level.

The Gardens Trust

Object

Initial response 13th May 2020:

Our concern is the considerable adverse impact that we feel the proposed development will inevitably have on the significance of this Registered Park and Garden (RPG), which includes not only the walled garden next to the Hall, but also the woodland garden lying between the Hall and the site, and the open parkland running along the northern boundary of the proposal site. The RPG forms part of a unique cluster of heritage assets whose significance is inextricably linked, the RPG enhancing the significance of the other assets and vice versa. The applicant has, in our opinion, substantially underestimated the significance of the RPG and other assets, and consequently, even the proposed 'mitigation measures' (namely some moderate planting), comes nowhere close, in our view, of overcoming the harm that this proposal will cause to the RPG and other assets. We set out our objection in greater detail below.

The significance of the four designated heritage assets (Grade I St Mary's Church, Grade II* Chilton Hall, the Grade II RPG and the Grade II walled garden) which will be affected by the development, is amplified due to the fact that the church, hall, RPG & walled garden, were all built by the Crane family within a short historical time-frame. In our opinion, these assets constitute an important cohesive group which interrelate with one another in a shared landscape. They should therefore be considered as a single entity as far as significance is concerned. A negative impact on any one of these assets will affect the significance of the whole, as well as individually. Your officers will be familiar with Historic England's (HE) *The Setting of Heritage Assets, Historic Environment Good Practice Advice in Planning Note 3, Part 1 – Settings and Views* (Second Edition), pub 2nd Dec 2017 (SHA, PN3) which corroborates this (p2) : heritage assets *'that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each'*.

We are surprised that the Heritage Assessment (HA) produced for the applicant by Jonathan Edis, Heritage Collective, does not include any illustrated map regressions earlier than the tithe map mentioned regarding the extent of the park prior to c1840. Such map regressions would have shown the extent of the Crane's holdings and the relationship between the church and Hall complex, especially as the Crane family association with Chilton dates back to the late C15. We therefore challenge Mr Edis's assertion (3.5) that *'there must be a question mark over the significance of the rest of the designation . . . The field boundaries in the area do not have the characteristics of a designed landscape that has been imposed on its surroundings, and the core of the designation seems to be quite localised, within the immediate*

surroundings of the Hall. The surrounding land was previously a deer park, part and parcel of the original Crane estate, and therefore of importance when looking to understand the setting of the heritage assets. The HA (4.14) mentions that the setting of the church and hall complex has been considerably altered and that *'it cannot be said that the historic setting is pristine in any way.'* SHA, PN3 rightly states (p4) *'Where the significance of a heritage asset has been compromised in the past by unsympathetic development affecting its setting, to accord with NPPF policies consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the asset'*. There is no need to make the situation worse.

The collective importance of this group of assets has been recognised in the Babergh & Mid Suffolk Heritage & Settlement Sensitivity Assessment Final Report (HSSA) of March 2018 quoted in the Heritage Assessment (1.4) : *'It is recommended that future development sites avoid further encroachment on these assets, in particular Chilton Hall and Church ...'* and that *'the hall is still discernibly separate from the edge of Sudbury and would be susceptible to any development which infilled this small section of open landscape between it and the edge of Sudbury'*. Allowing development across the whole of the proposed site would be extremely damaging to the significance of the RPG and related assets, completely removing their historic, rural setting outside the Sudbury settlement.

The emerging Joint Local Plan (JLP) proposes to de-allocate the site from its current employment use, as there is currently an oversupply of employment land for the plan period and also due to the site's heritage sensitivity (Vincent & Goring Planning Statement (PS) on behalf of Caverswall Enterprises Ltd and Suffolk NHS Foundation Trust, para 5.18). This assessment is backed up by the 2019 Strategic Housing & Economic Land Availability Assessment (SHELAA), which considers the site under Ref SS0933. It concludes that the site lies *'within an area of high heritage sensitivity'* which is why it has been discounted from employment use or any other development in the emerging JLP. There is also currently a sufficient housing supply within the 5 year housing plan, so this application, especially when taken with the additional housing developments already granted in Chilton : surrounding Chilton hall to the north (see Local plan proposals map for BDC CPO1 illustrating the area of the Chilton woods allocation for 1150 residential units) plus the 130 houses at the Orchard site, also wholly within Chilton parish, takes the housing requirement well over and above the required housing target for Babergh.

The northern boundary of the development site immediately abuts the RPG, which we reiterate, includes not only the walled garden next to the Hall, but also the woodland garden lying between the Hall and the site, and the open parkland running along the northern boundary of the site. Much is made in the documentation about the tree belt which is it claimed will conceal the development in views from within the RPG and other heritage assets to the north, as well as protect the experience of the assets from intrusive noise and light. We consider this reliance on the tree belt to be misplaced. The tree belt between Chilton Hall and the grassland was planted several years ago when the site was allocated for employment and has no understory. Since then it has not been well maintained and the trees are in poor condition (Arboricultural Impact Assessment, Para 6.3). It consists predominantly of moderate to low quality trees. In a recent local decision (APP/D3505/W/19/3230839) a planning inspector emphasised that limited reliance should be placed on the ability of planting to screen views of developments, given the variability of such planting. In order to fulfil even a partial screening role, trees and associated dense undergrowth must be managed and maintained permanently by the long-term implementation of a management plan. Even with such a management plan in place we remain unconvinced that the development will not result in urbanising, physical form at the edge of the RPG being prominent, even if filtered to some degree, from within the RPG, negatively affecting its significance.

In conclusion, we **OBJECT** to the above application as it does not comply with the emerging local plan, nor does it meet the requirements of NPPF 192(c) & 194, and if allowed, would seriously damage the setting of all the assets. The group of assets taken together will no longer be set in a rural landscape for the first

time in its entire existence, and the experience of and significance of the RPG in particular, will be significantly adversely affected by the development in the immediately adjoining field.

Further response 20th April 2021 to revised proposals:

The GT submitted a response to the above application on 13th May 2020 (attached), and whilst we note the slight reduction in dwellings, our objection remains and our previous comments are still relevant. We would like to repeat our grave concern that despite many statutory consultees and other relevant bodies, objecting strongly, many on heritage grounds, the applicant continues to maintain that this application will not cause harm to the setting or significance of the various heritage assets it affects.

The sensitivity of the site is recognised by the emerging Joint Local Plan (JLP) which proposes to de-allocate the site from its current employment use and also, crucially, due to its heritage sensitivity. This assessment is backed up by the 2019 Strategic Housing & Economic Land Availability Assessment (SHELAA), which considers the site under Ref SS0933. It concludes that the site lies 'within an area of high heritage sensitivity' which is why it has been discounted from any development in the emerging JLP. There is also currently a sufficient housing supply within the 5 year housing plan, so this application, especially when taken with the additional housing developments already granted in Chilton : surrounding Chilton hall to the north (see Local plan proposals map for BDC CPO1 illustrating the area of the Chilton woods allocation for 1150 residential units) plus the 130 houses at the Orchard site, also wholly within Chilton parish, takes the housing requirement well over and above the required housing target for Babergh.

Our other concern is that that although the number of houses has been reduced by 23, as this is an outline application with the drawings and plans being illustrative and not for decision, once the principle of development is established on the site, the applicants can seek to change the layout, including developing the open space currently proposed.

We concur with our colleagues in HE that if permitted, the proposal would 'fundamentally change the character of the site from open rural land to that of a large, built development. It would result in the loss of this field which currently provides a buffer between the northern edge of Sudbury and Chilton Hall. The loss of the field would mean the hall and its landscape were no longer encircled by a rural landscape as it has been throughout its existence.' We therefore disagree with the statement in the Updated Planning Statement Para 4.57 which says, 'the proposed application site does not materially contribute to the setting or significance of the heritage assets.' If permitted, we believe that this application would permanently erode the landscape surroundings, substantially damaging the setting of the suite of heritage assets affected.

The applicant clearly recognises that this application will cause harm, as in Para 2.8 of the Planning Statement Addendum they justify the reduction in the built footprint to the NE boundary of the site by saying : 'a larger area of public open space in this location will provide an additional buffer between the development and Chilton Hall, and will also allow additional views from the site to St Mary's Church.' The applicant here directly seeks to address heritage concerns raised by various respondents, which seems at odds with their further statement in Para 3.16 that 'Evidence has been included in the Heritage Assessment submitted with the planning application to demonstrate that the proposed development would not harm the significance of the heritage assets and hence all of the Site could be developed.'

In our opinion, this application is contrary NPPF Para 192c. In addition, as there is already a significant amount of development around Chilton, we maintain that the application also fails to meet NPPF 194 a & b, as harm to assets of the highest significance should be wholly exceptional, which this development is not. Your officers will be familiar with The Setting of Heritage Assets, Historic Environment Good Practice Advice in Planning Note 3 (Second Edition), pub 2nd Dec 2017, Part I – Settings and Views (GPA) where it states (p2) 'When assessing any application for development which may affect the setting of a heritage

asset, local planning authorities may need to consider the implications of cumulative change.’ (As mentioned above, the Chilton Woods allocation is for 1150 residential units as well as the 130 houses at the Orchard site.) The GPA also states (p5) that ‘The setting of a historic park or garden ... may include land beyond its boundary which adds to its significance but which need not be confined to land visible from the site, nor necessarily the same as the site’s visual boundary. It can include: land which is not part of the park or garden but which is associated with it by being adjacent and visible from it.’ This is entirely relevant here.

In conclusion, the GT OBJECTS to the above application as it does not comply with the emerging local plan, nor does it meet the requirements of NPPF 192(c) & 194, and if allowed, would seriously damage the setting of all the assets. The group of assets taken together will no longer be set in a rural landscape for the first time in their entire existence, and the experience of and significance of the RPG in particular, will be significantly adversely affected by the development in the immediately adjoining field.

Ancient Monuments Society (now known as Historic Buildings & Places)

Objection – due to significant impacts of the proposed development on a number of historic buildings, structure and landscapes, including Chilton Hall (II*), Chilton Hall garden wall (II), Chilton Hall registered park and garden (II) and Church of St Marys (I).

Development would fill in a large area of open land which has formed an important rural setting for these highly important heritage assets. The cumulative impact of other significant urban expansion has extended to Church Field Road, along with the approved 1,150 dwellings at Chilton Woods, and will dramatically erode and alter the rural setting of the Hall, gardens and the Church and cause a considerable degree of harm to the significance of these structure and their historic setting.

AMS does not agree with the applicant’s position that a vegetative buffer will fully mitigate these impacts or preserved the rural character around the Hall.

Current form of development causes a degree of harm to the setting and historic interest of a range of heritage assets. The immediate open and rural setting of Chilton Hall, garden, wall, and the church and are directly affected. In order to preserve the special historic interest of the area, significant amendments are required to this outline application that cannot be managed at the next stage with a reserved matters application. The general scale and extent of the overall development needs to be reviewed with greater importance to preserving the special interest of these heritage assets and scheduled ancient monuments, as per the requirements of the Planning (Listed Buildings and Conservation Areas) Act.

Churches Conservation Trust

Objection – impact on the setting of St Marys Church and the surrounding landscape which do not meet the requirements set out in the NPPF. St Marys Church and Chilton Hall have a strong historical connection and the preservation of the landscape between them in its present state is fundamental to the significance of the heritage and their settings. St Mary’s is a Grade 1 listed building which dates back to the fifteenth century with a splendid sixteenth century red brick tower. In the chapel there are stunning monuments to Robert Crane, High Sheriff of Suffolk and his two wives. There are also some fifteenth century glass which escaped from the restoration and therefore any impact on the surrounding landscape would not meet the requirements as set out in the NPPF. Further encroachment by development should be avoided. And the apparent lack of infrastructure to support the number of residents which will result in a significant increase of traffic.

Suffolk Preservation Society

Object

SPS previously raised objections to the outline proposals due to the harm to highly designated heritage assets and the reduction in the separation between Chilton and Sudbury (our letter 20 May 2020).

We note and welcome the reduction of the scheme from 190 dwellings and the removal of dwellings from the north east portion of the site in the indicative layout. The area of open space to the north east will go some way to preserving the historic relationship between Chilton Hall (grade II*) and St Mary's Church (grade I) and is an improvement to the previous layout. However, the reduction to 166 dwellings is modest, and the remaining developed area to the north of the proposed green corridor is disjointed from the rest of the site and will impact Chilton Hall and its designated Park and Garden. Existing residential development has been restricted to the west of Waldingfield Road and Chilton Hall therefore largely retains a sense of its original rural setting to the north of Sudbury. Regardless of existing and proposed enhanced tree screening, development close to Chilton Hall with associated increased lighting and traffic movements will have a significant impact on this setting. We therefore call for a further reduction of the scheme to increase the buffer along the north edge of the site in order to effectively protect the setting and maintain a sense of separation between Chilton Hall, its gardens and the built-up edge of Sudbury.

The 2018 Babergh Mid Suffolk Heritage and Settlement Sensitivity Assessment is clear that, in order to preserve the value of the distinct settlement of Chilton and the highly designated Chilton Hall, the surviving separation between Sudbury and Chilton should be preserved. The report concludes that Sudbury as a whole has a medium level of sensitivity but highlights this area as one highly susceptible to development. This conclusion is reflected in the emerging joint local plan which does not allocate the site for housing and the Babergh 2019 SHELAA which deems the site suitable for only 25 dwellings which should be sited along the road frontages of Waldingfield Road and Church Field, due to the heritage sensitivity of the site.

In conclusion, although the health centre to the south west corner of the site and industrial development on Church Field Road have urbanised this area to a degree, it is arguably more important to retain remaining rural agricultural land to ensure the significance of these heritage assets is preserved. The NPPG is clear that "When assessing any application for development which may affect the setting of a heritage asset, local planning authorities may need to consider the implications of cumulative change." (para 013 Conserving and Enhancing the Historic Environment).

SPS therefore continues to recommend that the application is refused and that a further reduced scheme is sought which increases the separation between the development area and Chilton Hall. We trust you will find these comments helpful in the consideration of this application and request that SPS is consulted on any further amendments.

Council for British Archaeology

Any development of this site will result in harmful impacts to the local historic environment. Undesignated archaeology will be lost, and the setting of highly designated heritage assets will be urbanised. If a balanced planning judgement finds the greatest public benefit in the creation of new housing, then the CBA believe there are means by which the public value generated by any development can be greatly enhanced through a dynamic and iterative archaeology and heritage strategy for this site. As detailed below.

Significance

The Suffolk Historic Environment Record (HER) shows the application site to be within an identified area of archaeological potential, specifically relating to Late Bronze Age / Iron Age settlement enclosure. Past excavations indicate that further significant deposits of the same period may be within the redline boundary. The site is between the Grade I Church of St Mary and the Grade II* Chilton Hall, both of which have medieval origins. The rural setting of the highly designated church and Chilton Hall will contribute to their significance. There is known to be buried archaeology relating to early medieval settlement in the area.

Comments

The impacts on the setting of the Grade I Listed church and Grade II* Chilton Hall will need to be minimised and mitigated against if this application is permitted. Paragraph 200 of the NPPF states “Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.” Enhancing and better revealing significance need not be solely considered as visual enhancement, but rather as encompassing experiential opportunities for the local community to interact with their local heritage. Incorporating a heritage strand into the redevelopment of shared public spaces adds a valuable place-shaping strand, which can have considerable benefits in terms of increasing a sense of community, belonging and pride of place.

Recommendation

If your Authority are minded to permit the development of this archaeologically sensitive area for housing, the CBA recommend that there should be consideration from the outset as to how good public engagement with the archaeology could benefit the local community. The CBA believe that there is strong potential to realise greatly increased public benefits by creating a pro-active and inclusive archaeology and heritage strategy for this site. A number of commercial archaeology units have extensive experience around the inclusion of public participation with archaeological digs and the finds which are generated onsite. The CBA strongly recommend that this strand should be included within your tendering process for the archaeological works that development of this site will require. Pursuing this approach will generate far wider reaching public benefits than for just those people who will live in the new dwellings.

Sudbury Ramblers

No comment to make, any public rights of way within or adjacent to the site should be preserved.

Sudbury Society

Objection – retain as employment land, huge provision for housing elsewhere, and make following comments (*repeated for ease of reference*):

We have studied the heritage and environmental objections to this development. We observe that the heritage arguments seem to revolve around the significance of the relationship between the Church and Chilton Hall. The existing development of Churchfield Road adjoining the Church is already in Employment use and so the principle of this use has been in existence for 20 plus years. We fully understand the significance of the heritage assets but if they are important now they were just as important when Churchfield Road was laid out.

Chilton Hall is protected by its listed park and grounds and is totally enclosed by a dense screen of trees meaning there is no line of sight between the two heritage assets, nor between the hall and any construction on this site below tree height.

The various flora and fauna on this site, about which various environmental concerns have been expressed, are only present because it has lain dormant awaiting development for several years. We do not believe that the site should be taken out of commercial use simply because of wildlife that has moved in since it was being actively farmed. There will be other, large and more suitable areas created for wildlife within the Chilton Woods development.

One of the Sudbury Society's principal aims is to retain the strong market town character of the town. We are concerned that the ever-increasing provision of housing with no related employment options will lead to Sudbury developing as a dormitory town to surrounding centres and as far as London. Meanwhile, our road links are already stretched even before all the other allocated residential schemes are completed.

For these reasons we urge that the current designation of the site for employment use be retained.

County Council Responses

Suffolk County Council (SCC) Highways

No objection subject to conditions and S106 contributions:

- Transport Assessment – trip rates suitable for this location. Roundabout of B1115 and Church Field Road would not operate within capacity in the PM peak. However the Chilton Woods development has mitigation proposed for the roundabout to improve capacity and therefore the impact of the committed and proposed development would be mitigated.
- Site access onto an unclassified road. The 85%tile speeds are measured at 35mph and so the visibility splay required is 2.4m x 85m, which is achievable.
- Development not considered to result in detrimental safety impacts on the highway.
- Primary school approximately 1.3 miles from the site. To improve cycle and pedestrian facilities developer will improve the footway on the north of Church Field Road roundabout and contribute £80,000 to the construction of a toucan crossing at the roundabout.
- Site within 300m of bus stop, raised bus stop kerbs and shelters are to be secured through Section 278 agreement.
- Proposed development would not create a severe impact on the highway as appropriate opportunities to promote sustainable transport modes can be supported, giving safe and suitable access to the site and development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- Conditions requested and S106 contribution for toucan crossing £80,000, Travel Plan Contribution £67,972 (£409.47 per dwelling), £50,000 contribution for enhancing demand responsive public transport services in the area. If raised bus stops were not completed as part of a S278 agreement looking to secure £25,000 contribution via S106 agreement.

Public Right of Way comments: We accept this proposal, however the Applicant should note that they have referred to RB3 as a footpath in their plans and this is not correct. RB3 is a restricted byway, and therefore can carry traffic on foot, on a bicycle, on a horse, or in a horse drawn vehicle (essentially all traffic other than motorised). The full legal width of the route should be accommodated within a wide green corridor and must not be narrowly constrained by overly close fencing or planting. Also:

- Site plan that depicts a yellow dotted link as a footpath – this path will need to be dedicated as a Public Right of Way.
- Cost of legal order is £5,000 to dedicate as a PROW, which will need to be secured via S106.
- The public footpath should connect to RB3 at the north east point of the development, not just the southern point.
- Surface improvements required to RB3 between the north east point of the development site and Church Field Road, secured via S278 agreement.
- South of Church Field Road RB3 continues to the A134, a section approximately 200m requires surface improvements to enable connections into Sudbury, £25,000 will be required via S106 for these works.

SCC Public Rights of Way

No objection – site contains Restricted Byway 3 Chilton. Full legal width of route should be accommodated in a wide green corridor. Require applicant to consider whether there are any unrecorded public right of way (PROW) on the site, applicant/future owner must have private rights to take motorised vehicle over a PROW and make good any damage to any PROW, separate consents may be required for PROW, any application for a PROW to be stopped up or diverted should be made at the earliest opportunity, consider S167 of Highways Act 1980 in terms of any structures near PROW and any hedges must be planted a minimum of 1m from the edge of paths and fencing 0.5m from the edge of paths.

SSC Strategic Development

No objection, following CIL and S106 requests are made based on 166 dwellings ad care home:

	Infrastructure	Total Contribution (based on 166 dwellings)	Per dwelling
CIL	Primary school expansion @ £18,187 per place 41 pupils arising	£745,667	£3,132.69
CIL	Secondary school expansion @ £25,253 per place 29 pupils arising	£732,337	£3,050.77
CIL	Sixth form expansion @ £25,252 per place 6 pupils arising	£151,518	£631.19
CIL	Early years expansion @ £18,187 per place 15 places arising	£307,620	£1,361.15
CIL	Libraries improvements & books etc @ £216 per dwelling	£48,816	£216.00
CIL	Waste Improvements @ £269 / dwelling	£44,654	£269.00
S106	Monitoring fee for each planning obligation trigger is applicable	£412	-

A new Household Waste Recycling Centre is proposed at Chilton Woods site to replace the existing Sandy Lane Recycling Centre.

[officer comment: due to the time that has elapsed, should Members be minded to grant permission contrary to officer recommendation, then updated figures should be sought]

SCC Lead Local Flood Authority

No objection subject to conditions.

SCC Fire and Rescue Service

No objection subject to conditions for fire hydrants.

SCC Archaeological Services

No objection subject to conditions – site lies in an area of archaeological potential. The site partially includes the site of a Late Bronze Age/Iron Age settlement enclosure. This enclosure, where it lies within the site, has already been archaeologically excavated. Archaeological investigations to the south of the application area has demonstrated that settlement evidence extends beyond the confines of the enclosure and are likely present within the application area. A prehistoric trackway also potentially crosses the site. The proposed development area also lies in close proximity to the medieval Church of St Mary, an associated medieval green and Chilton Hall. Early medieval settlement evidence has been excavated in an adjacent field and a medieval trackway crosses part of the site (ESF21827). As a result, there is high potential for the discovery of below-ground heritage assets of archaeological importance within this area, and groundworks associated with the development have the potential to damage or destroy any archaeological remains which exist.

The settings impact upon the Grade I Church and II* hall will also need to be properly assessed. We would advise consulting Historic England with regards to this at the earliest opportunity.

To inform the application, we would advise that an archaeological Desk Based Assessment should be commissioned, which draws together the results of previous archaeological work at this site and compares that to proposed development plans to identify the ongoing archaeological requirements for the project. We would be happy to provide advice regarding the expected scope of the archaeological Desk Based Assessment upon request.

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 199), 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.

Suffolk Police (to original proposal for 190 dwellings and care home only)

Comments relating to detailed layout – parking and central large alleyway, urge developers to adopt Secure by Design principles to prevent crime and ensure safety of future residents. Concern for anti-social behaviour to the rear of properties on the northern side of the site.

Internal Consultee Responses

Babergh and Mid Suffolk District Councils (BMSDCs) Strategic Planning Policy and Infrastructure

In summary: whilst an infrastructure solution can be found, the application is not considered consistent with policy (current and draft) and therefore is not supported by planning policy.

The site is allocated under policy EM02 for a General Employment area within the current Babergh Local Plan, with the allocation saved under the adoption of the Babergh Core Strategy 2014. The emerging Joint Local Plan (JLP) has removed the allocation for employment and the site is no longer within the Sudbury settlement boundary.

Evidence has been provided with the application on the demand for employment land, and a study commissioned by the council (MENTA, Grow on Space Supply and Demand Analysis, October 2019) identified a lack of incubation and start up space and that this site would be suitable for such use. However, the district's evidence for employment land demonstrates that the District wide level there is a surplus of employment land. This does not negate the need to consider EM24, rather it evidences the need to retain those sites which are suitable and deliverable for employment use. Any proposals for net additional employment land are required to demonstrate enhancement of the overall economic position and will not jeopardise the ongoing retention of existing employment sites.

The site at present is allocated for employment use and the Council is of the opinion that the proposed development for residential use would be in conflict with the Babergh Local Plan Policy EM24.

Through the JLP process the site was appraised for housing use within the Babergh and Mid Suffolk Strategic Housing Land Availability Assessment (SHELAA, reference SS0590). Taking account of the identified constraints the SHELAA concluded the site is *potentially considered suitable for residential development, taking identified constraints into consideration. However only part development (road frontage along Waldingfield Road and Church Field Road) recommended to mitigate heritage impact.* The SHELAA estimated a dwelling yield of 25. It is noted that Historic England and heritage colleagues have made representations on this application on heritage constraints and sensitivities. Whilst it is acknowledged that the proposed development would have the potential to boost housing supply it is not proposed for residential use in the submitted JLP 2020.

In accordance with the NPPF paragraph 48, the local planning authority may give weight to the JLP and the supporting evidence in the determination of the application. This includes, where relevant, Part 1 strategic policies, Part 2 delivery policies and Part 3 place and allocation policies (specifically LA035) and have regard to the evidence base as appropriate in the determination of the above application.

Infrastructure position

The proposed development is not part of the proposed site allocations of the submitted JLP 2020. There are a number of consented major residential planning applications and emerging allocations in the area of Sudbury, Chilton and Great Cornard.

Education: Early Years and Primary education – capacity at new Chilton Woods primary school and pre-school. S106 contributions would need to be secured toward this new facility. For Secondary and Post 16 education provision can be made through school expansion at Ormiston Sudbury Academy and Thomas Gainsborough Academy. CIL contributions would be expected towards expansion of the existing schools.

Transport: Site specific contributions have been requested from Suffolk County Council (SCC) Highways and Public Rights of Way teams. Travel Plan and PRow improvements and contributions are still being resolved to the satisfaction of SCC.

Health: The Clinical Commissioning Group, the NHS Property Services and the NHS Foundation Trust are assessing the different options for additional provision for the Sudbury area. Currently, the existing health provision in this area includes the Siam Surgery (the Sudbury Community Health Centre) adjacent to the site, and the Cornard Surgery with other surgeries in the Hardwicke House Group. Options are currently being explored as to how this would be developed across the affected surgeries for the Hardwicke House Group. The response from the West Suffolk Clinical Commissioning Group of the 30/03/2021 also specifies that developer contributions via CIL are required to meet the cost of additional capital funding for health service provision arising in relation to the Hardwicke House Group.

Waste: CIL contributions will be sought towards the provision of a new Household Waste Recycling Centre at the Chilton Woods development.

Libraries: CIL contributions will be sought towards the expansion of the existing library network.

BMSDCs Economic Development

The Economic Development team would like to register their strong objection to this application.

The Churchfield Road site is a strategic employment allocation which is located directly adjacent to the largest industrial area within Sudbury and therefore offers excellent connectivity with existing businesses and an unparalleled opportunity to facilitate further growth of the Sudbury and South Suffolk economy.

This application in respect of a residential development, on what is currently allocated as employment land has failed to demonstrate any reason or viability issue that would prevent commercial development coming forwards.

In order to understand current commercial trends, our team commissioned a Grow on Space Supply and Demand Analysis which concluded that there is demand and supply shortfall for incubator space, and significant demand for grow on space. What's more the applicant and the Council have subsequently commissioned several studies in an attempt to understand commercial viability options for this site and all reports have found that not just is commercial land suitable and viable to deliver, but that there is active demand for space that this site could deliver on.

Babergh saved policy EM24 would require this site to be marketed to establish commercial interest and to connect with potential occupiers, yet this exercise has not been carried out, leaving the market no opportunity to express an interest in occupation and development of this site for commercial use.

The economic development team are currently aware of multiple enquiries for commercial land in Sudbury and have been directly approached by a planning agent with multiple enquiries for employment land and for which this site has been identified as their preferred location, but the lack of any marketing leaves these businesses and their agent with no route to progress their enquiries.

Our objections to this proposal are not limited to the lack of marketing and compliance with Policy EM24, but with the potential harm that siting not just residential properties, but potentially vulnerable people in a care home next to the significant industrial area in Sudbury.

The businesses on the Chilton Industrial Estate provide an enormous amount of employment to the local and regional population and offer an incredibly diverse range of industrial, manufacturing, and commercial uses together with all of the associated noise, lighting, operating hours and commercial traffic that you would expect as part of a thriving industrial area. There is significant concern that siting residential uses here could become an agent for change, threatening the commercial amenity of long established employers with the introduction of the conflicting needs and expectation of residential occupancy, leading to complaints and challenges over the impact of one use against another.

The recent NPPF revision continues to recognise the value of a strong and competitive economy asking that the conditions for businesses to invest, expand and adapt are supported, and that significant weight is placed on the need to support economic growth and productivity. However, the limited availability of commercial land currently available to support business expansion and inward investment in Babergh is evidenced by the very recent loss to another region, when a significant local employer was forced to locate their business expansion elsewhere, as they failed to find commercial land within the Sudbury industrial area. This is an unacceptable loss to the district particularly when there is allocated commercial land lies undeveloped in a prime position adjacent to the industrial estate.

BMSDCs Environmental Health Land Contamination

No objections subject to condition.

BMSDCs Environmental Health Air Quality

No objection - Concur with the findings of the report that the existing good air quality at the site is unlikely to be compromised by the proposed development nor is the application in an area that is of poor air quality so we are not introducing new receptors to an area of concern. On that basis I can confirm that I have no objection to the proposed development from the perspective of local air quality management. I would note that the application site is very close to a proposed gas fired grid balancing facility which is currently within the planning process but has yet to be determined. Should this application be approved then we would request that we are reconsulted to ensure that this is taken into consideration in the determination of this (20/1094) application.

Members will note that the aforementioned gas-fired grid balancing facility application was refused planning permission, ref: DC/21/00357 but allowed on appeal. The EHO has been re-consulted and views are awaited; an update will be provided at Planning Committee.

BMSDCs Environmental Health Noise/Odour/Light/Smoke

13th April 2021

Noise

Existing noise at the site is characterised predominantly by traffic noise from Waldingfield Road and Church Field Road, along with some noise from commercial units to the East (described as vehicular movements and loading). The existing noise levels on site are, in part, slightly above those given in the World Health Organisation (WHO) Guideline Values for Community Noise and also BS8223:2014 Guidance on Sound Insulation and Noise Reduction in Buildings, meaning that attenuation will be needed to provide adequate noise levels. To the west of the site an acoustic screen is proposed to attenuate noise for plots nearest to the road. I would recommend that a condition be attached to any permission to the effect that, prior to occupation of any dwelling, an acoustic screen with a minimum height of 2.5m and a minimum surface mass of 20kg/m² should be installed as shown in Appendix E of the report 'Proposed residential and Care Home Development, Land North of Church Field Road, Sudbury, Environmental Noise Assessment, prepared by H&H Acoustic Technologies, dated 18th February 2020'(reference HHAT/Q18759/01/IRF). Elsewhere on the site, external noise levels, particularly if properties closest to the roads are orientated so that gardens are 'shielded' by houses, are likely to be below the 55dB limit to avoid 'serious annoyance', with the majority being below the 50dB limit to avoid 'moderate annoyance'.

In terms of internal noise levels, the ENA determines that dwellings along the western element of the site (adjacent to Waldingfield Road) and those overlooking Church Field Road will require a glazing package comprising of a minimum of 6mm glazing – cavity – 6mm glazing with standard trickle vents (equivalent open area of 8000mm² or less) in order to meet BS8223 and WHO internal noise levels. The areas of the development requiring this package is shown in Appendix E. Dwellings in this area will be expected to keep windows shut (other than for purge ventilation) in order to enjoy a good acoustic environment. Dwellings elsewhere in the development will be able to have windows open and still enjoy a good acoustic environment. I would recommend that a condition be attached to any permission to the effect that, prior to commencement of residential development of each phase, a scheme for acoustic glazing and ventilation (to meet the performance standards as outlined in sections 4.9 – 4.10 and table 4.3 of the report 'Proposed residential and Care Home Development, Land North of Church Field Road, Sudbury, Environmental Noise Assessment, prepared by H&H Acoustic Technologies, dated 18th February 2020'(reference HHAT/Q18759/01/IRF) for each dwelling shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented in respect of each dwelling prior to the first occupation of that dwelling.

It is of note that the introduction of residential dwellings to this area will place restrictions on any future industrial/employment uses which might come to the area as well as the development opportunities for those existing units in the vicinity, as a noise assessment, based on BS4142 will be needed to determine the effect of any new industrial noise (such as the installation of mechanical plant such as air handling units, or unit expansion) on the proposed dwellings.

Given the size of the site and its proximity to existing dwellings on Waldingfield Road, I would suggest that a noise assessment to take into account the construction phase should be undertaken so as to ensure that these properties are properly protected from adverse impacts of noise, particularly if piling is proposed. This could be required either at this stage, or by means of enhancing the construction management plan condition I have suggested below.

The Design and Access Statement suggests that Air Source Heat Pumps may be installed. Air Source Heat Pumps can result in loss of amenity due to noise if not located sensitively. For this reason, I would request that, once known, any details for such units – to include precise acoustic specification and location, be submitted to the LPA for approval.

Lighting

I have had regard to the report 'Land north of Church Field Road, Sudbury, External Lighting Report, prepared by ALH (issue P3, dated 13th February 2020). The report identifies that the impact of lighting from outside the site will have minimal impact on proposed dwellings. It also suggests a lighting strategy which

should be used to inform the lighting scheme, once known. This is based on the site being categorised as 'E2' in the Institute of Lighting Professional guidance GN01. I would therefore recommend a condition be attached to any permission to the effect that prior to commencement of development, a written scheme shall be submitted to and agreed in writing by the local planning authority that specifies the provisions to be made for the level of illumination of the site and to control light pollution. The scheme shall be implemented prior to beneficial use of the approved development and maintained for the lifetime of the approved development and shall not be altered without the prior written approval of the local planning authority. The scheme shall follow the principles set out in sections 2.5 n 4.4 of the report Land north of Church Field Road, Sudbury, External Lighting Report, prepared by ALH (issue P3, dated 13th February 2020) and be compliant with the values for an E2 site as given in the Institute of Lighting Professionals Guidance Note for the reduction of obtrusive light 2011. The submitted scheme shall include an isolux diagram showing, using contour lines if possible, the predicted luminance in the vertical plane (in lux) at critical locations on the boundary of the site and at adjacent sensitive properties (including those within the scheme where appropriate).

Odour

I have had regard to the document 'Land North of Church Field Road, Sudbury, Odour Assessment', prepared by BWB, (dated February 2020, document reference LNP2019). The odour assessment identifies that the principle source for odour at the site is from the Nestle Purina pet food factory which is 300m south of the site, Sniff test surveys indicate that the odour from the factory has the potential to 'significantly affect residential amenity at the proposed development site when unabated'. The factory is operated under an environmental permit, issued by the Environment Agency, Section 6 of the report details an investigation into the odour by the Environment Agency which has resulted in a proposed odour abatement solution – however, this will not be in operation until September 2020 (presumably subject to change, given the current situation). I understand from section 6 that the residential development is unlikely to be complete until 2024. If this abatement technology is successful then it is anticipated that the effect of odour on the proposed development will be unlikely to cause an unacceptable level for odour, having reduced odour concentration by approximately 84%. Given that the Environment Agency are the regulating body for the factory, you may also wish to consult them on this proposal.

BMSDCs Environmental Health Sustainability

No objection subject to conditions.

BMSDCs Heritage/Place Services Heritage

This Outline Planning Application (with access to be considered) concerns the 'Erection of up to 166 residential dwellings, a purpose built care home for up to 60 bedrooms, and associated infrastructure including landscaping, public open-space, car parking and means of access off Church Field Road'.

The issues of Heritage Team concern focus on the impacts of the development on various designated assets in the immediate vicinity which include the Grade I listed C16th Church of St Mary, the Grade II* listed Chilton Hall, the Grade II listed garden wall and the Grade II listed registered garden. The Hall, its wall and its garden are located to the north east of the site, and the church is to the south east.

This outline for access includes a relatively detailed heights and density plan, sufficient for me to make a judgement on the impacts and harm to the designated assets.

Heritage and Settlement Sensitivity Assessment

I am aware of the history of the site and the current LPA proposal to deallocate it, based at least partly on the Heritage and Settlement Sensitivity Assessment (HSSA) which suggests that the land around Chilton Hall is 'highly susceptible to development'. For clarity, I take this to mean the land which is defined as forming a positive part of the setting of the Hall is highly susceptible to harm caused by development,

because as a result it could or would diminish the significance of the Hall. The HSSA further states that ‘for future development in these areas [including the church/hall complex] the importance of the siting of these heritage assets and their historic relationship and setting to other assets needs to be preserved’.

Applicants’ HIA

I note the thrust of the applicants’ Heritage Impact Assessment (HIA) concerns the lack of views between the church and the hall, and the ‘somewhat abstract’ nature of the relationship, because of the density of landscape cover and consequent lack of intervisibility. However, the Historic England guidance note, ‘The Setting of Heritage Assets’ defines the setting as the ‘surroundings in which an asset is experienced’, and that setting is influenced by ‘our understanding of the historic relationship between places’. It also states that ‘as screening can only mitigate negative impacts, rather than removing impacts or providing enhancement, it ought never to be regarded as a substitute for well-designed developments within the setting of heritage assets’. Nevertheless, the conclusion of the applicants’ HIA is that ‘on present evidence there is no reason to believe that any of the heritage assets described above will be less significant as a result of the change within their setting arising from the proposed housing development’.

Opposing HIA

I also note the view in a countervailing Heritage Statement that the proposed development of the land ‘to the south-west of the Hall would have a serious impact on the significance of both the Hall and the church such that their significance would be very much reduced. This would amount to substantial harm in the terms of national planning policy...’ (my italics) I am aware of a previous planning committee report in which the chief planning officer considered the level of harm (from a proposed industrial development of the site) to be substantial. However, that was 11 years ago, and apparently only a matter of months after the publication of the NPPF. The fact that this current Heritage Statement continues to rely on the use of this adjective to describe the level of harm that might be caused to the significance of the assets, suggests a lack of awareness of the development of the term ‘substantial’ in relation to harm, in light of the numerous Appeal decisions since the introduction of the NPPF which have helped the reader understand the appropriate use of the terms ‘substantial’ and ‘less than substantial’. Substantial harm is very rare and is usually related to a catastrophic loss of significance, such as the demolition of a listed building, rather than the diminution of those aspects of a setting which contribute to significance - so whilst I consider that the proposed development of the site as illustrated in the accompanying building heights and density plans impinges on the settings of all the assets, I do not consider it would result in a substantial level of harm. Nor however do I consider the development would leave unaffected the significance of any of the assets.

LPA Heritage and Design Team

The landscape surrounding the complex, which includes the proposed development site, certainly contributes to the medieval and early post-medieval agrarian development of the complex. I appreciate the issues around defining setting and defining the extent and location of the registered park and garden (RPG), but I consider that, because of the interrelated cultural, spiritual and probably tenurial nature of the complex the development site, the agricultural land and the formal garden land (to both east and west of the hall) play an important role in the setting of the hall and the church. Notwithstanding the interconnectedness of the assets and the immediate landscape however, my view is there is scope for a limited level of development on the site, situated furthest from the hall, towards the south western corner of the site.

Previous comments I made in relation to the proposed erection of up to 190 dwellings and a 60 bed care home under the same reference, and dated April 8th 2020, remain entirely pertinent, and are copied below for completeness.

‘Whilst the detailed layout has yet to be formulated, I consider that the indicative layout and massing would impinge upon the settings of all the assets identified. The landscape in between the Hall, the walled garden, registered park and garden (RPG) and the church is clearly a part of the setting of all the assets and its contribution to the significance is no less than fundamental to all of them. It cannot be separated out from the historic buildings and demoted, despite its recent compromise through development adjacent. The current site is rough grassland and it plays a role in narrating the meanings and evolution of the group and in combination with the fields to the east the historic connection amplifies the experience of all assets. Despite the fact that during my site visit there were no views of the Hall from the churchyard, (and potentially therefore no views of the church or its yard from the Hall or its gardens) the NPPG states that ‘buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each’. This is the case in this instance [as I have proposed, above]. To remove the site from the equation because some of the ‘historic’ character and visual quality of the land adjacent to it has been diminished might suggest that further redevelopment in the settings of listed buildings could be undertaken if a piecemeal reduction in the apparently historic landscape has already occurred.

As I noted at pre-application stage, the level of impact of the indicative layout might be quite limited, with a consequence that it would result in a low to medium level of less than substantial harm – though the final level of harm will be determined by the details provided in the Reserved Matters.

The Heritage Officer who responded to the application, reference B/09/00932, suggested in his report that a smaller scale development nearer to the road which served the industrial estate would be more suitable. He stated that ‘the retention of that part of the site nearest the Hall in an undeveloped form is essential to sustaining the significance of the Hall, and also the church’. I agree that the principle of reducing the scale of any development is important. To withdraw the development towards the south west would see the contribution that the landscape plays in the setting of the assets largely sustained, and this could in turn ensure the significance of the assets is preserved’.

Therefore, on the basis of the current proposed development area, and on both the building heights and building density plans, my concern remains. The development continues to be too close to the northern and north eastern tree belt and boundary, and does not appear to have been reduced since preapplication details were discussed (though I am happy to be corrected on this point). Move the dwellings back towards the south western corner and the level of harm will naturally reduce. Furthermore, two storey houses ‘up to 10.1m’ is excessive. Why so tall? A maximum ridge height for a two storey dwelling should be reduced to nearer 7.5m. Three storey properties should probably be less than 11m. This reduction in scale would help mitigate the effect of the new development, and along with a sensitive materials palette, including hard surfacing and a considered lighting schedule, the impact of the scheme need not be a high level of less than substantial harm.

In summary the current development area, height and density shown within this Outline application will result in a low to medium level of less than substantial harm to the settings and therefore the significance of all the assets described, but may be subject to change on receipt of details provided at Reserved Matters stage.

Place Services – Landscape

First response dated 1st April 2020:

Site is fairly well screened and views onto the site are limited to a small number of viewpoints, site has ability to accommodate some development. The Landscape Visual Impact Assessment (LVIA) has been prepared following the Guidelines for Landscape and Visual Impact Assessment (GLVIA3) and includes a comprehensive assessment of the proposal and mitigation recommendations. Footpath routes run through the site and the mixed woodland area, the development edge the looks onto the woodland area should be carefully designed with an appropriate boundary treatment to mitigate the negative impacts of the

development along this route. Landscaping Strategy required before we can recommend approval. Recommendations made to be considered at future reserved matters applications.

Second comments dated 2nd June 2020:

Further to a site visit, following additional comments:

- Views to St Mary's Church should be protected.
- Chilton Hall and St Mary's Church are key landmarks and should be suitably referenced in any proposal.
- The site is well used by the community; informal paths and desire lines within the site are present and should be noted to inform the emerging proposed layout.
- Boundary planting to the north and east should be protected and maintained appropriately to improve its value as a screening planting belt and create woodland habitat. Long term management plans will be required to be submitted.
- Building heights should be informed by the sites context and should be no higher than existing surrounding buildings.
- The sites natural topography should shape the scale, design and height of any future development.

The rural character of the surrounding area has been impacted by recent development, this however should not be used as an argument to devalue the existing local landscape character, landscape features and views to key landmarks. The sensitivity and landscape value of the site should not be underestimated. As previously stated, appropriate green infrastructure, mitigation strategy and layout design should be integrated into any emerging proposal to deliver a good quality development.

St Mary's church tower can be seen from most parts of the site and from a number of nearby PROW. The LVIA identifies the church tower as a key characteristic of the local landscape and refers to the retention of a "view cone" towards the tower of St Mary's Church which will seek to maintain views towards it within the site. As a response to this, the proposed layout design shows development (two storey buildings) within this "view cone. It was clear from my recent site visit that any development within the "view cone" will change the existing landscape character and its relationship with the church. This will remove the key visual connectivity affecting the site's visual experience and landscape value. It is felt that the proposed layout compromises the retention of this view which has not responded appropriately to this historic asset and its surrounding landscape.

A large proportion of planting associated with Chilton Hall is noticeable from various viewpoints across the site including views back towards the site from southeast footpaths and from south and northwest. During my recent site visit, the presence and visual influence of St Mary's Church tower in the local landscape was felt to be very strong. On review and with the benefit of undertaking a site visit the photographs from the submitted LVIA do not reflect this.

There is an informal path that runs outside the existing boundary planting (to the north and east) which is well used by the community suggesting the site is of a certain local and amenity value.

The site itself already benefits from existing vegetation which, if appropriately maintained will add to its landscape and amenity value. However, the proposed development layout backs onto this landscape feature, missing both the opportunities and benefits a natural visual amenity could provide, especially in creating a positive active frontage to the development.

The natural topography of the site area and surrounding landscape allows views of the tower of St Mary's Church together with the industrial buildings and Health Centre from public footpath to the southeast. Any new development higher than the existing buildings will dominate the skyline. New development should be designed to respond to the site topography in order to manage visibility and landscape impact. The proposed care home will clearly dominate the skyline if not designed appropriately (height, materials, massing, scale). Glimpses of the rooftop of houses along Waldingfield Road occur from public footpath 192-5. This area sits on high ground making it visible from distant views from the southeast.

In conclusion and following the site visit and review of the recently submitted information relevant to landscape, it is considered that the proposed development layout and landscape strategy fails to appropriately respond to the landscape setting of the site and the overall landscape context.

In response to the latest proposal we would consider the following are required before the application can be supported:

- 1) Local landscape character around St Mary's Church envelop should be protected from development alongside views to the Church and Chilton Hall. The proposal should seek to deliver this appropriately.
- 2) Existing informal paths and desire lines within the site should be mapped to inform the emerging proposed layout.
- 3) Boundary planting to the north and east should be protected and maintained appropriately to improve its value as a screening planting belt and create woodland habitat.
- 4) Where possible, any proposed development should front onto existing boundary vegetation to benefit from its amenity value, support its protection long term and provide some level of surveillance to existing PROW and informal routes.
- 5) Building heights should be informed by the sites context and should be no higher than existing surrounding buildings.
- 6) The sites natural topography should shape the scale, design and height of any future development. It should also inform the landscape strategy to provide appropriate mitigation.
- 7) The provision of street trees and landscaping will be critical to deliver a good quality integrated green infrastructure and provide effective landscape mitigation.
- 8) Car parking should be well integrated so that it does not dominate the street. In the interest of visual amenity, soft landscaping should be incorporated within car park areas to mitigate the harsh environments these spaces can create and break up parking spaces (for example: soft landscaping strip every three spaces or tree planting to provide height).

Addendum to the LVIA

The addendum to the submitted LVIA seeks to address concerns raised in reference to landscape character and visual amenity. The addendum also refers to changes made to the updated Indicative Masterplan ref 3898-0310 PO9. The two main changes influencing the layout are;

- a reduction in residential dwellings to 170 units along with a 60 bed care home, including the removal of 4 dwellings to the northern end of the large open space, allowing extension of the open space and greater consideration of the historic alignment and relationship between the Hall and Church.
- retention of a view cone to the tower of St Marys Church and as such the alignment of the built form now ensures that it will be visible from within the site as it is a key landmark feature within the local landscape.

On review of these changes and the updated supporting information, the northern most development parcel seems isolated between the main residential area and the existing natural green arc and woodland further north. The importance also of sustaining the visual link to St Marys Church and the opportunities to retain this visual link remains compromised, as shown on the Landscape Strategy. As a result, we still have reservations about this area of the development and although not insurmountable at this stage, we recognise that the illustrative layout will develop further to address these concerns.

Illustrative Cross Sections

The illustrative cross sections are useful tool to understand the implications of height and massing across the spread of the site. To avoid any doubt of misrepresentation, we seek clarification that the ground level contour has been sourced from the necessary topographical survey data. The sections also indicate the

need for appropriate landscaping between the site edge and Church Field Road and the parking surround the Health Centre.

Landscape Strategy Plan Revision

The updated Landscape Strategy Plan provides the landscape framework for the development. The strategy includes the visual connections to St Marys Church as well as indicative locations of play space, structural and screening planting. A consideration for a cycling strategy and active play strategy to address health and wellbeing impacts are current omissions of this work, however, at this outline stage, the information covered is deemed appropriate.

Place Services - Ecology

No objection, subject to conditions - sufficient information to consider impact on protected species relating to bats, reptiles, badgers and skylarks.

BMSDCs Strategic Housing

No objection subject to S106 agreement to secured 35% affordable housing, equating to 58.1 dwellings of which 58 dwellings on site and a commuted sum for the remaining 0.1 dwelling.

The applicant has included a 60-bedded care home for this site. It could also come forward as an Extra Care Housing scheme (also known as very Sheltered Housing) which would meet the housing needs of the district more appropriately. Suffolk County Council have advised that there is a net deficit of extra care scheme in Babergh and this site would provide a suitable location for such a scheme. ECH schemes have separate flats for occupants and there is either a tenancy or lease on the individual flats. Again, this would provide employment opportunities in the same way as the applicants Agent has detailed in the planning statement. An ECH would be use class C3 or could be Sui generis.

BMSDCs Public Realm

Note the number of concerns surrounding the biodiversity net gain associated with this development and are supportive of these concerns. From the perspective of the provision of open space then it is the opinion that the level of public open space and play provision proposed is appropriate and we would offer no objections to this development on the grounds of open space provision.

BMSDCs Arboricultural Officer

No objections subject to conditions.

BMSDCs Waste Services

No objection subject to conditions on road surfaces and bin presentation points.

B: Representations

At the time of writing this report at least 41 letters/emails/online comments have been received. It is the officer opinion that this represents 41 objections. A verbal update shall be provided as necessary.

Views are summarised below:-

- Affects ecology/ wildlife (28)
- Loss of open/green space (25)
- Harm to listed building (Chilton Hall and St Mary's Church) (21)
- Chilton Woods development nearby (21)
- Increased traffic/ highways impacts (19)
- Overdevelopment of the site (14)
- Medical centre overstretched (12)

- Do not need more housing (11)
- Strain on existing community facilities (11)
- Loss of Priority Grassland Habitat (10)
- Out of character with area (9)
- Landscape impact (8)
- Land should be preserved for future medical centre expansion (7)
- Sustainability (7)
- Trees (6)
- Landscape impact (6)
- Loss of employment land (6)
- Inappropriate within Conservation Area (6)
- Conflicts with NPPF (5)
- Inadequate public transport (5)
- Loss of Skylarks (5)
- Inadequate access (4)
- Settlement coalescence (4)
- Need hospital (4)
- Increase in pollution (4)
- Loss of outlook (4)
- Noise (4)
- Heavy car reliance (3)
- Loss of market town (3)
- No local employment (3)
- Health of trees should be managed (3)
- Conflicts with District Plan (3)
- Not reducing carbon emissions (3)
- Boundary issues (2)
- Loss of parking (2)
- Inadequate parking provisions (2)
- Dominating/ overbearing (2)
- Not enough GPs (2)
- Not an appropriate location for a care home (2)
- Inadequate consultation time (2)
- Employment land has not been properly marketed (2)
- Application lacks information
- Health and safety
- Conflicts with Neighbourhood Plan
- Increase Sudbury house prices by becoming a commuter town
- Need dentist
- Need more sheltered housing
- Unskilled jobs
- Construction noise
- Poor design
- Fear of crime
- Increase in anti-social behaviour
- Loss of privacy
- Light pollution
- Sewage works at capacity
- Relocate play area

- Health & Safety
- More open space needed on development

A 'letter of support' was received from the Applicants' new planning agent in September 2022. It has been duly considered and is published on the public planning pages of the website.

A valid petition was received signed by 162 valid signatures. The petition statement reads: 'Proposed development of 235 houses on Churchfield road, Chilton, Sudbury. I the undersigned oppose all housebuilding on this land, and call on Babergh District Council to reject any planning application, other than limited development for special health needs'

(Note: All individual representations are counted and considered. Repeated and/or additional communication from a single individual will be counted as one representation. Again, Members are directed to consider all representations received in full.)

C: Other Advice

During the course of determination, officers have sought independent, external advice on matters of economic impact, noise, and heritage.

To aid Members, those relevant reports are appended but are nevertheless summarised and considered at various points in this report.

- Economic Impact – DLP Strategic Planning Research Unit (September 2020, and addenda January 2021 and June 2021)
- Noise – Sharps Acoustics (October 2022)
- Heritage – Roy Lewis MRTPI IHBC (October 2022)

In short, the economic advice received points to a failure of the application to demonstrate compliance with policy EM24. The application fails to accord with the development plan on this matter alone.

The noise advice sets out that amenity for future occupiers of the development could be adequately safeguarded. This would not stand up as a sustainable reason for refusal, subject to planning condition(s) should Members be minded to grant planning permission.

The heritage advice finds less than substantial harm to the Chilton Hall collection of assets and Church of St Mary; the former is articulated as being a considerable level of harm and the latter would not be far short of substantial. This is a very serious issue and the public benefits of the development do not outweigh that harm. The application fails to accord with the development plan on this matter alone.

PLANNING HISTORY

REF: DC/20/01094

Outline Planning Application (some matters reserved, access to be considered) -
Erection of up to 190 residential dwellings, purpose built care home for up to 60 bedrooms, and associated infrastructure including landscaping, public open-space,

DECISION: Pending consideration

car parking and means of access off Church Field Road.

REF: B/11/00830	Erection of a new community health centre.	DECISION: Granted 13.12.2011
REF: B/09/00932	Erection of 2 no. detached industrial buildings (Use Class B1, B2 & B8), centrally located service yard area, surface car parking, landscaping and associated works.	DECISION: Granted 31.01.2014, , but subsequently quashed by High Court judgement [2014] EWHC 3261 (Admin) CO/1126/2014 on 14 th October 2014.
REF: B/06/01298	Variation of condition 02 attached to P. P. B/05/00813/ROC - to extend the period of time for application for approval of reserved matters by 2 years to 29th July 2008.	DECISION: Not determined.
REF: B/05/00813	Variation of Conditions 01 and 02 attached to O. P. P. B/01/01747/OUT - to extend the period for application for approval of reserved matters to four years and to permit development of the community hospital to commence in advance of reserved matters being approved for the industrial/commercial development on the remainder of the site.	DECISION: Granted
REF: B/05/00589	Submission of details under O. P. P. B/01/01747/OUT - the siting, design and the external appearance of, and the landscaping of the site for the erection of industrial/commercial development - Classes B1, B2 and B8 and construction of vehicular/pedestrian access, as amended by agents supporting statement received by the Local Planning Authority on 14/04/05, and further amended by agents letter dated 16/08/05 and accompanying information/plans received by the Local Planning Authority on 22/08/05 and as amended by The Noise Impact Assessment submitted under cover of agents letter dated 13/09/05 and further amended by a Noise Impact Assessment from Acoustic Design Consultants received by the Local Planning Authority on 15/11/2005 and further amended by a Noise Impact Assessment from Acoustic Design Consultants received by the Local Planning Authority on the 2nd December 2005 and as further amended by	DECISION: Granted, but decision subsequently quashed)

agents email dated 18/04/06, 2 letters from the agent dated 25/04/06 and further amplified by agents letter dated 24/04/06.

REF: B/01/01747	Outline - Erection of community hospital (north west part of site) and erection of industrial/commercial development - Classes B1, B2 and B8 (on remainder of site) and construction of vehicular/pedestrian access (as amplified by agents letter dated 27/11/01 and revised by agents letter dated 14/12/01 and amended site plan received by the Local Planning Authority on 19/12/01)	DECISION: Granted, but decision subsequently quashed.
REF: B/98/00537	Erection of building to provide warehouse and ancillary offices and alteration to existing vehicular access as amended by plan received 16/06/98	DECISION: Granted
REF: B//97/01482	Erection of building for use as headquarters, administrative facility and training centre.	DECISION: Granted
REF: B/97/01132	Outline – erection of single storey, two storey, and three storey buildings to provide offices, training, warehousing and production facilities for the manufacture of diagnostic equipment with construction of 2 vehicular accesses to Church Field Road.	DECISION: Granted 10.12.1997

PART THREE – ASSESSMENT OF APPLICATION

1. The Site and Surroundings

1.1 The site is located approximately 1.5km north-east of Sudbury town centre in the parish of Chilton. The site itself is located to the north of Church Field Road, and to the east of Waldingfield Road (B1115). Directly to the south-west of the site is Sudbury Community Health Centre, for which the vehicular access is located on Church Field Road. To the south of Church Field Road is employment land with a number of different commercial uses. There is a public right of way along the boundary of the east of the application site, and paths around and within the application site that are not formal public rights of way.

1.2 To the north-east of the site is the Grade II* Chilton Hall and gardens (Grade II listed garden wall, and Grade II listed Registered Park and Garden). The Grade I Church of St Mary is also close to the east. Finally, to the west of the application site is existing residential development to the west of Waldingfield Road. The site is outside of but adjoins the built up area boundary as identified in the adopted local plan, which runs along the west side of Waldingfield Road. The site identified as a General Employment Area in the adopted local plan (policy EM02).

1.3 The land identified within the site location plan for this application currently comprises an area of around 11.6ha of undeveloped land, forming grassland and planted woodland part of which is covered by Tree Preservation Orders. The area of land to be developed in the site is 7.8 hectares. The site is

bounded by spindly woodland and vegetation along most boundaries of the site, although there are gaps most notably to the southern boundary of the site around the health centre and associated access. There are also self-set trees scattered within the site.

1.4 The site is relatively level although the land levels fall towards the east of the site i.e. the western area is of a more elevated position. The site is wholly located within Flood Zone 1, where there is a very low probability (less than 1 in 1000 annually) of fluvial - i.e. river - flooding. The site also is identified in the supporting Flood Risk Assessment submitted with the application as having a low probability of pluvial – i.e. surface water – flooding or flooding from sewers or other artificial sources.

1.5 There are no Conservation Areas covering this site or near this site. Nor is it within or adjacent to an Area of Outstanding Natural Beauty or Site of Special Scientific Interest. The site is within the risk impact zones of Sites of Special Scientific Interest, but the type and quantum of development does not require further consultation or mitigation towards these sites. The site is within approximately 2.2km of Sudbury Air Quality Management Area.

1.6 There are no designated heritage assets within the site boundary, however as described above a number of heritage assets are in proximity to the site. Principally, these include:

- Church of St Mary (Grade I) to the east of the site
- Chilton Hall (Grade II*) to the north-east of the site
- Chilton Hall Garden Wall (Grade II) to the north-east of the site
- Chilton Hall gardens are a Grade II Registered Park and Garden

1.7 A Public Right of Way runs along the east boundary of the site, and well-established but informal paths that run from the west boundary of the site to the east, to the north of the site. There are no sites with nature designations within the site, with the closest site being Sudbury Common Lands Local Nature Reserve which is approximately 1.6km west of the application site and a number of County Wildlife Sites within 2km of the site.

1.8 The site is located in a Nitrate Vulnerable Zone. The agricultural grade of the land is not known across the whole of the site, although part of the site and land to the south-east of the site is shown to be Grade 2 on Defra's website Magic.gov.uk.

2. The Proposal

2.1. The proposed development is an outline application (all matters reserved except for access points from the public highway) for up to 166 dwellings including 35% affordable housing provision (up to 58 dwellings of the total), and a 60-bed care home, and associated infrastructure including landscaping retaining mature woodland and planting along site boundaries, maintenance of the woodland footpath within the site, public open-space, children's play space, car parking and means of access off Church Field Road.

2.2 The 60 bed care home would cover 2,500sq.m floorspace within use class C2. Information submitted with the planning application indicates that this would generate 50 full-time equivalent jobs.

2.3 Whilst all matters are reserved except for access, the applicants have provided a masterplan for the proposed development to demonstrate how this quantum of development could be accommodated within the site. Parameter plans submitted indicate the development would be two storey across the majority of the site, with indicate plans showing three storey development near the existing three storey health centre adjacent to this site.

2.4 The housing mix of the dwellings has not been indicated at this outline stage but if Members were minded to grant planning permission then conditions/obligations would ensure that an appropriate mix of housing within the open market and affordable housing types is secured at the reserved matters stage. The Applicants are under an impression that a 100% affordable housing scheme is capable of being delivered irrespective of those controls. Officers disagree and this scheme is considered on the basis that it was submitted: up to 166 dwellings, of which a fixed proportion would be 35% affordable, compliant with the policies of the development plan (plainly, the two approaches represent materially different schemes).

2.5 Development parameter plans, building heights, massing (densities), cross sections and an indicative site layout have been submitted to support the outline application. These give broad parameters for where development would be located within the site to the east and centre of the site, where open space and surface water drainage features would be located to the east of the site and broad principles such as height and density of development.

2.6 The building heights proposed would locate two storey development to the edges of the development (of up to 10.1m in height), with three storey (up to 12.8m in height) fronting onto Church Field Road (including the proposed care home) and to the rear of the existing health centre where incidentally the land level is higher. The density of the residential development is proposed to be lower towards the north of the developable area under 30 dwellings per hectare (dph), with development around 30 to 40 dph to the north-west and south-east of the developable area, and over 40 dph to the rear of the health centre and proposed care home. The overall gross density of the site when taking account of the open space is 14.3 dph.

2.7 Access points to the site include two vehicular access points from Church Field Road. The first access comprises of the existing access forming a T-junction to Sudbury Community Health Centre, and a T-junction proposed further to the east along Church Field Road. Pedestrian access to the site includes at the vehicular access points above along with an existing footpath to the west of Sudbury Community Health Centre. An existing public footpath runs along the east and north boundaries of the site between Church Field Road and Chilton Hall, connecting to the wider public footpath network. Informal, but well-established footpaths have been created through areas of woodland on the site. It is intended to retain these on site and create new connections from the developed areas to existing public footpaths.

2.8 The parameter plans indicate that the south-east part of the site would be retained as open meadowland with swales and opportunities for habitat to enhance biodiversity. The indicative masterplan reflected in the parameter plans shows how the development and landscaping have been designed to enable a sightline from the development to St Marys Church, with low level planting and wildflower drifts right across the site from west to east, with a large open meadow area to the east of the site. A landscaped community square has been proposed at the centre of the developable area, which is identified in the proposed parameter plan.

2.9 The application has been subject to amendments, with the original proposals totalling 190 dwellings, 60-bed care home, public open space, landscaping and car parking, with the same points of access as the current proposals. The application was revised to reduce the number of dwellings, provide an additional landscape buffer along the northern boundary of the site adjacent to Sudbury Community Health Centre and further ecological mitigation measures including a pond for great crested newts and an area of relocation of priority grassland within the site.

3. Principle of development

3.1 The starting point for any planning decision is the development plan, as identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004. Determination of any application must be made in

accordance with the plan unless material considerations indicate otherwise. A key material consideration regarding the principle of development is the National Planning Policy Framework (NPPF) 2021.

3.2 Paragraph 7 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. At paragraph 8, this is defined as meaning that there are three overarching objectives which are interdependent and need to be pursued in mutually supportive ways: economic, social, and environmental. The NPPF goes on to state, however, that they are not criteria against which every decision can or should be judged (para. 9).

3.3 Babergh benefits from a five plus year land supply position as required by paragraph 74 of the NPPF. However, paragraph 219 of the NPPF identifies that the weight attributed to policies should be according to their degree of consistency with the NPPF. The closer the aims of the policy are to the NPPF the greater the weight that can be attributed to them.

3.4 The application has been assessed against the development plan as a whole. However, having regard to the application and nature of the development proposed, alongside the locational context and responses received through the consultation, and the key issues identified, the most important policies for the determination of the application are considered to be:

- CS1 - Applying the presumption in Favour of Sustainable Development in Babergh
- CS2 - Settlement Pattern Policy
- CS15 - Implementing Sustainable Development
- CS18 – Mix and Types of Dwellings
- EM02 - General Employment Areas - Existing and New Allocations
- EM24 - Retention of Existing Employment Sites
- CN06 - Listed Buildings - Alteration/Ext/COU
- CN14 - Historic Parks and Gardens - National

3.5 Taken in the round, these are the most important policies for the determination of this application and are up to date when viewed as a whole, although as explained below policy CS2 is afforded less than full weight.

Emerging Joint Local Plan

3.6 The Babergh and Mid Suffolk Joint Local Plan ('JLP') was formally submitted to the Secretary of State for Housing, Communities and Local Government for independent examination on 31st March 2021.

3.7 Following an exploratory meeting with the examining Inspectors on 16th December 2021, it has been proposed to progress the JLP as a 'Part 1' local plan. This will be followed by the preparation and adoption of a 'Part 2' local plan as soon as possible. Main modifications on the JLP Part 1 are awaited but it has been anticipated that public consultation on those proposed modifications will be undertaken in Autumn 2022, to be followed by further hearing sessions over the Winter. The recently agreed Local Development Scheme anticipates adoption in Spring 2023.

3.8 Overall the JLP is not considered to play a determinative role in the consideration of this application at the present time. This is because, whilst of somewhat advanced preparation, a significant number of policy modifications to the Part 1 plan are required and the outcome of consultation and the Inspectors' views on those modifications are not yet known. Further policy revisions may be necessary and additional hearing sessions are likely. The Part 2 JLP is not anticipated to be ready for submission until Winter 2024. Prematurity as a reason for refusal is therefore not presently a factor in this case.

3.9 In any event, whilst on the one hand the submitted JLP proposes to deallocate the site for employment purposes, it also does not allocate it for any other use either. Thus, that consideration neither supports nor detracts from the current application and its ultimate assessment. Put another way: whilst a newly-adopted plan might remove employment safeguarding as an in-principle concern (because the site would no longer be an employment allocation), the application proposes a significant amount of housing in a location where such development would not be supported.

The National Planning Policy Framework

3.10 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.

3.11 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)
- Paragraph 38 (decision making – approve sustainable development)
- Paragraphs 48, 49 and 50 (policies in emerging plan, weight to policies and prematurity)
- Paragraph 60 (boosting supply of homes)
- Paragraph 81 (need to support economic growth)
- Paragraph 83 (specific locational requirements of different sectors)
- Paragraphs 92, 93 and 100 (healthy and safe communities)
- Paragraphs 104, 105, 110, 111, 112 and 113 (promoting sustainable transport and considering planning applications)
- Paragraphs 119 and 122 (making effective use of land)
- Paragraph 124 (achieving appropriate densities)
- Paragraph 126, 130 and 131 (achieving well-designed places)
- Paragraph 154 (meeting challenge of climate change)
- Paragraphs 167 and 169 (flood risk and sustainable drainage systems)
- Paragraphs 174 and 180 (natural environment, habitats and biodiversity)
- Paragraph 183 (ground conditions and pollution)
- Paragraph 185 (effect of pollution on health, living conditions and the natural environment)
- Paragraph 186 (air quality)
- Paragraph 187 (new development and existing businesses)
- Paragraph 188 (acceptable use of land/pollution control regimes)
- Section 16 (conserving and enhancing the historic environment)
- Paragraph 219 (Annex 1: implementation)

3.12 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.

3.13 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: there are relevant policies engaged in the determination of this application, the Council can demonstrate a deliverable housing land supply of over 5 years and a positive delivery record

when measured against the 'housing delivery test' and taken in the round the most important policies for determining the application are considered to be up to date and consistent with the NPPF.

3.14 Paragraph 219 states that existing policies should not be considered out of date simply because they were adopted prior to the 2021 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'.

3.15 Policies CS1, CS15, CS18, EM02, EM24, CN06, and CN14 are all considered to be consistent with the NPPF and so they should be afforded full weight.

3.16 In letters of representation, local plan policy EN04 – Semi Natural Habitats has been identified as a relevant policy to this proposed development. This policy looks to protect and retain semi-natural features on site, including rivers, streams, ponds, marshes, woodlands, hedgerows, trees, features of geological interest, and also including wildlife corridors and green wedges. This policy however was identified in Appendix 1 of the Babergh Core Strategy as being replaced by core strategy policy CS15, and Core Strategy Objectives 4, 5 and 6, and NPPF paragraph 17, 117-118 in the 2012 version (which have broadly continued through the 2021 version in the forms of paras 8, 174, 179 -180.) Policy EN04 is therefore not considered to be a policy engaged in the determination of this application.

4. Assessment against CS2, CS1, CS15 and CS18 of Core Strategy

Policy CS2 Settlement Pattern Policy

4.1 Policy CS2 identifies Sudbury (and Great Cornard) as a town/urban area. Chilton is a parish settlement that is neither a Core nor Hinterland Village but shares the settlement boundary with Sudbury and Great Cornard. Policy CS2 requires that in the countryside, outside the towns / urban areas, Core and Hinterland Villages, development will only be permitted in exceptional circumstances subject to a proven justified need. The site is outside the town / urban area and settlement boundary for Sudbury/Chilton and policy CS2 therefore applies.

4.2 Policy CS2 has previously been examined through the plan-making process as being consistent with national policy, 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 Joint Local Plan) it should be afforded less than full weight.

4.3 A momentum in favour of securing development that satisfies the objectives of sustainable development, and the need for a balanced approach to decision making, are key threads to Policy CS1 and CS15 of the Core Strategy. Unlike Policy CS2, these policies are consistent with the NPPF, carry full weight and alongside other policies provide an assessment framework as it applies to the subject application.

Policy CS1 Presumption in Favour of Sustainable Development

4.4 Policy CS1 takes a positive approach to new development that seeks to secure development that improves the economic, social and environmental conditions in the Babergh district. Consistent with the NPPF it also applies the 'presumption in favour of sustainable development' which is an operation engaged as a consideration under certain circumstances.

Policy CS15 Sustainable Development

4.5 Policy CS15 sets out how the Council will seek to implement sustainable development and requires development to demonstrate the principles of sustainable development. It is a long, criteria-based policy and not every criterion is automatically engaged by a given application, dependent on the circumstances. This policy identifies the following areas for consideration, that are numbered separately for ease of reference.

5. Landscape and heritage

5.1 Policy CS15 states:

“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. Adaptation or mitigation will be required if evidence indicates there will be damaging impacts if a proposal is otherwise acceptable and granted planning permission.”

i) respect the landscape, landscape features, streetscape / townscape, heritage assets, important spaces and historic views;

5.2 The NPPF emphasises as a core principle the need to proactively drive and support sustainable development to deliver homes. It states that both the intrinsic character and beauty of the countryside should be recognised and that pursuing sustainable development involves widening the choice of high quality homes. The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

5.3 Furthermore, policy CS15 of the Core Strategy requires development proposals to protect the landscape of the district. The Planning Practice Guidance advises that ‘The opportunity for high quality hard and soft landscaping design that helps to successfully integrate development into the wider environment should be carefully considered from the outset, to ensure it complements the architecture of the proposals and improves the overall quality of the townscape or landscape’.

5.4 The site lies within the landscape character type of Ancient Rolling Farmlands, which has an overall objective to retain, enhance and restore the distinctive landscape and settlement character.

5.5 The site itself due to local topography and vegetation along with existing adjacent development leads to key views being within close proximity to the site. The development would no doubt have an impact on the landscape character of the site but have little influence on the character of the wider landscape (as opposed to issues of distinct heritage nature, considered further later in this report).

5.6 The visual effects of the development would be greatest at locations directly adjacent to the site, including users of Church Field Road and the health centre. Users of the public rights of way, residents of Waldingfield Road, users of the footpaths within the site and users of Church Field Road Industrial Estate would also be key visual receptors.

5.7 In purely landscape character terms, the impact on the overall character of the site would be moderate to minor adverse at construction to minor adverse by 15 years after completion. The land use would be permanently altered by the proposed development resulting in a moderate adverse harm to the land use. The key visual receptors affected would be users of Church Field Road which would have a moderate to minor adverse effect, the users of the health centre which would have a moderate adverse reducing to minor adverse 15 years after completion, and moderate adverse effect to users of the public rights of way at construction reducing to negligible by 15 years after completion. There would be a negligible impact to the wider landscape.

5.8 Further assessments of additional viewpoints were provided by the applicant, which are views from public rights of way further east of the site, including PRow W-192 006/0, 005/0 and 008/X. The visual impact to 006 is negligible, but the visual impact to 005 and 008 is moderate adverse. These harms must be considered in the wider planning balance, but it should be noted that the harms occur in a relatively small extent of the wider landscape and the site is not within a valued landscape. Heritage matters are considered separately.

5.9 The council's Landscape Architect has provided comments to this application. Concerns have been raised relating to the views to St Mary's Church that should be protected, that Chilton Hall and St Mary's Church are key landmarks that should be suitably referenced in any proposal, the site is used by the community with informal paths and desire lines within the site and should inform the proposed layout, boundary planting to the north and east should be protected and maintained with long term management plans submitted, that building heights should be no higher than existing surrounding buildings and the site's natural topography should shape the scale of development. It is noted that the rural character of the surrounding area has been impacted by recent development, but this does not give cause to devalue the landscape further. The tower of St Mary's Church is a key characteristic of the local landscape.

5.10 Revised plans to reduce the development from the original proposal of 190 dwellings down to 166 dwellings sought to remove development from the 'view cone' of St Mary's Church from the site. The revised plans are considered to reduce the incursion into this view cone to a degree but the visual link between the site and the church is still affected. Cross sections provided have demonstrated the relationship of the proposed development with the church and existing built form.

5.11 It was also noted by the council's Landscape architect that existing informal paths and desire lines should inform the layout of development. It is difficult to insist upon this point however as the informal paths are not designated rights of way, and the applicant has indicated there is no agreed public access to the site.

5.12 Other matters such as site layout to ensure the final development responds well to the existing landscaping, e.g. the woodland belt to the north and north-west of the site, provision of landscaping within development and integration of car parking into good design can be determined at the reserved matters stage.

5.13 The council's Landscape Architect raises concerns and reservations at the outline stage, but concludes that these are no insurmountable and the illustrative layout will develop further to address the concerns. Further work to the illustrative layout, appropriate landscaping between the site edge and Church Field Road and the parking area surrounding the Health Centre, cycling strategy and active play strategy all require further consideration at the reserved matters stage. If Members were minded to grant planning permission then conditions would be recommended relating to a landscaping scheme, revised landscaping strategy and landscape management plan.

5.14 In conclusion to landscape considerations, as a worst-case scenario the application development is likely to pose a moderate adverse effect to the land use and a minor adverse effect to the character of the site by 15 years after completion. The land use would be permanently altered by the proposed development resulting in a moderate adverse harm to the land use. There would be moderate adverse impacts from some viewpoints, but such effect is likely to be limited and relatively localised to the site and its immediate surroundings. As a matter of judgement, the application is therefore considered to accord with this discrete element of policy CS15. This is because officers are satisfied that the local landscape characteristics and features have been dealt with appropriately, or there is sufficient comfort that matters can be adequately addressed through reserved matters and conditions. It is important to re-state that whilst there is no landscape objection to the application, this does not mean that there is no issue as

pertaining to the land as it falls within the setting of designated heritage assets. That matter is dealt with later in this report.

Agricultural Land Classification

5.15 The site is currently undeveloped land but designated for employment use. The Best and Most Versatile (BMV) agricultural land is sought to be retained under paragraph 174 and 175 of the NPPF. An assessment has not been submitted to identify the agricultural grade of this land, and does not appear to have been in agricultural use in recent years. The site is under 20ha in size and so there is no requirement to consult Natural England on these proposals in this regard. It is not known whether the site forms BMV land and is a potential harm of the scheme. However, this land is designated for employment use which establishes the principle of the loss of this land from agricultural use to a degree. But given the small scale of the loss, even if the site comprised all Best and Most Versatile land and when taken cumulatively with other consented schemes in the locality, would be minimal to the wider agricultural land available and so would not be sufficient to merit a reason for refusal for this development.

Trees

5.16 A supporting Arboricultural Impact Assessment has been submitted with the application. The council's Arboricultural Officer has reviewed this report and has no objections subject to conditions. The proposals entail the following works or removal of trees on the site:

- Group G5 – trees to the north-west of the site, forming category C trees.
- G3 - trees along eastern section of site closest to the proposed development, as a group representing category B trees.
- G4 – removal of trees to the edge of group forming category B trees.
- G2 – removed to accommodate eastern proposed access road on southern boundary of site

5.17 Groups G3 and G3 are part of wider group of trees which are subject to a Tree Preservation Order (BT375 W1). The removal of trees from G3 and G4 would be minimal to the overall group of trees. The loss of trees to enable the access in G2 and removal of self-sown trees in G5 is regrettable, but must be balanced against the proposed tree planting within the application.

5.18 All trees proposed to be removed within the site are of lower quality. The layout ensures the retention of the significant body of trees within the site. If Members are minded to grant planning permission contrary to officer recommendation, then conditions are recommended to require a detailed arboricultural method statement and tree protection plan as part of future development.

5.19 Landscaping is proposed to be strengthened and increased as shown in the illustrative plans. An appropriate landscaping scheme could be secured through condition to ensure a high standard of landscaping is provided, as required by local plan policy CR07, and it is not considered any hedges of amenity or landscape significance would be adversely affected by the small extent of removal proposed and suitable replacement planting more than mitigates the impact of the hedges removed. Policy CR08 is therefore considered to be complied with. Conditions would be recommended in the event of an approval, including a landscape management plan, landscaping strategy as detailed above in the Landscape section of this report, further details of soft and hard landscaping details, adherence to the arboricultural method statement and tree protection plan. The balance of this moderate adverse harm is considered further in the planning balance/conclusion to this report where it is accepted that the harm identified would not be sufficient in its own right to direct that permission should be refused; hence, whilst falling on the adverse side of the balance it does not form a reason for refusal in its own right.

Heritage

5.20 The site is not located in or near a conservation area, but there are a number of listed buildings and heritage assets near the site and potential for archaeological interest on the site. There are a number of listed buildings in the vicinity of the application site as noted above, but the heritage assets materially impacted by the proposals are the Church of St Mary Grade I listed building and Chilton Hall Grade II* listed building. The walled garden at Chilton Hall is also Grade II listed and a Grade II Registered Park and Garden.

5.21 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the listed buildings Act") states: "in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority ... shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses" i.e. having special regard to the desirability of keeping designated assets from harm.

5.22 Members are now well-versed in understanding that such a principle is a matter of considerable importance and weight, and that where harm is identified there is an inherent strong presumption that planning permission should be refused.

5.23 The development plan policies directly applicable to this application in heritage terms are policies CN06, CN14 and CS15. They are among the most important for the determination of this application, where they specifically reference the historic environment.

5.24 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 Chilton Hall and garden wall, and the Church of St Mary. 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'*.

5.25 Policy CN14 also identifies *'Development in or adjacent to parks and gardens of historic of landscape significance (listed in the National Register of statutorily protected historic parks and gardens) which would lead to the erosion of their character, appearance or setting will be refused'*.

5.26 As already noted, policy CS15 is a long, criteria-based policy but the criteria i. and ii. 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."*

5.27 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. 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.'

5.28 The NPPF of 2021 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.

5.29 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).'

5.30 "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.'

5.31 "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.'

5.32 Within section 16 of the NPPF, paragraph 194 states that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance.

5.33 Paragraph 194 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, it is no less useful within the context of this committee report.

5.34 Paragraph 195 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.'

5.35 Paragraph 199 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.

5.36 Paragraph 200 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.

5.37 Paragraphs 201 and 202 address the balancing of harm against public benefits, whether that be “less than substantial harm” (para. 202) or “substantial harm” (para. 201). As will be made clear it is only the paragraph 202 test that applies to this application.

5.38 Paragraph 202 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...’

5.39 Policies CN06 and CN14 do not explicitly import a balance for resolving heritage conflicts in the manner of NPPF paragraph 202. 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. 219). Officers disagree. Firstly, they are entirely consistent with NPPF paras. 199 and 200. 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.

5.40 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).

5.41 Having regard to the statutory duties imposed by the listed buildings Act, 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 202 and the final s38(6) planning balance. 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.

Guidance – National Planning Practice Guidance

5.42 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’

5.43 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.'

5.44 The courts have also defined "substantial harm" as "*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.*" Having regard to that guidance and case law, it is therefore important to emphasise that substantial harm is characterised as 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. For example in relation to works affecting a listed building, it is important to consider whether the adverse impact seriously affects a key element of the significance of the asset.

5.45 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:

- '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

5.46 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. 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.*'

5.47 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 (2nd Edition, 2017).

5.48 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.’

5.49 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).

5.50 GPA3 is relevant because the development in this case impacts upon the setting of adjacent heritage assets which are Grade II* and Grade I listed buildings. 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.

5.51 Within this section officers provide an assessment as to the impacts and resultant effects of the proposed development upon the heritage assets identified: the Church of St Mary, Chilton Hall, Chilton Hall garden wall and Chilton Hall gardens. That assessment has been prepared having regard to the policy and guidance framework set out above.

Assessment

5.52 Having regard to the various expert opinions expressed, it is apparent that the task to be exercised by Members, in reaching a judgement on heritage impacts, is not clear cut. However, it is considered that the general consensus is that the development would be harmful to the significance of the listed buildings Chilton Hall, Chilton Hall garden wall, Chilton Hall gardens and St Mary’s Church.

5.53 The level of harm attributed to the significance ranges from no harm (applicant), to less than substantial harm at the lower to medium level (Heritage Officer), less than substantial harm at the higher end (Historic England and other heritage bodies) and substantial harm (Chilton Parish Council and neighbouring resident). Although arguably some consultants have ‘skin in the game’, no opinion has been approached with a view to seeing it as being more or less important than any other. That said, it is recognised that the views of statutory consultees are particularly important and should be afforded great weight.

5.54 To assist Members, and officers in the drafting of this report, an independent external review has been sought. Members are directed to read the full content of that review appended to this report (Roy Lewis MRTPI IHBC, October 2022) and reach their own conclusions. However, having considered matters very carefully and paying attention to all the representations and opinions received, officers accept the external review as being robust and the preferred position for the determination of this application (which itself finds the opinion of Historic England to be most reliable). The final conclusions of that review are copied below:

“5.12 In relation to the degree of less than substantial harm, I consider the conclusions of HE and HB&P that the proposal would result in a considerable amount of less than substantial harm to be the most reliable. These assessments do not differentiate the assets. As Chilton Hall, its listed walled garden and its registered park and garden are heavily inter-related, I consider it reasonable to conclude that the impact on all three assets would be the same. However, the Church of St Mary is located a considerable distance from the Hall and its setting has suffered a much greater adverse impact as a result of the industrial development that has taken place in recent decades to the immediate south. In my view, the cumulative impact of the proposed development together with the existing industrial development would be greater than the impact on Chilton Hall and its grounds. The adverse impact on the Church would be reinforced by the loss of views towards the grade I listed building across its open setting from the higher level western parts of the application site. Consequently, I consider that the level of harm to the significance of the Church of St Mary would be greater than that assessed for Chilton Hall and its grounds. In my view the level of harm to the significance of the Church would be not far short of substantial.

5.13 In summary, I consider that the proposed development would cause a considerable amount of less than substantial harm to the significance of the grade II listed Chilton Hall, its grade II listed garden wall, and its grade II registered park and garden, and a level of less than substantial harm to the significance of the grade I listed Church of St Mary not far short of substantial.*

5.14 It should be noted that all harm, whether substantial or less than substantial should be afforded considerable importance and weight in the planning decision (see Barnwell Manor [2014] EWCA Civ 137 (26) and (28-29) and Jones v. Mordue and others [2015] EWCA Civ 1243 at (28)).”

5.55 It is officers’ opinion that the level of harm identified to the various assets is within the range of ‘less than substantial’, though clearly at a very high and serious level as articulated by Mr Lewis.

5.56 For the avoidance of doubt, 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 in play in this case are very important and include both Grade II* and Grade I assets among others.

5.57 There is a strong presumption that planning permission will be refused. It is a rebuttable presumption but there must be compelling countervailing considerations which provide clear and convincing justification for the development proposed.

5.58 Where less than substantial harm has been found, NPPF para. 202 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.’

5.59 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.
- Provision of affordable housing – again provides inherent social benefits
- Care home – social benefits for future residents and economic benefits through employment of staff, and contributing towards meeting an unmet need.
- Open space – that would formalise the provision of public open space and the formalisation of an existing informal footpath to a PRow, whereas at present the provision within the site is informal and not secured in perpetuity for public use.
- Biodiversity net gain – an improvement on the existing biodiversity value of the site

5.60 The above benefits, particularly in relation to specialist accommodation providing care, are of some notable significance when viewed in the round. That said, the benefit of general housing must be viewed in the context of the healthy land supply position that the Council is able to demonstrate (and strong delivery record).

5.61 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. The development would also generate a return in terms of CIL receipts for the market dwellings provided. The primary purpose of the CIL is to mitigate the impact of new development and is not considered to be a benefit of the scheme.

5.62 In respect of the balance set out under NPPF para. 202 it is not clear if the harm identified in respect of all identified heritage assets 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. 202 test has been considered all ways but the outcome nevertheless remains the same each time: the public benefits do not come close to outweighing the harm that has been identified to heritage assets including those which are highly graded.

Conclusion – Heritage

5.63 The proposed development would cause a considerable amount of less than substantial harm to the significance of the grade II* listed Chilton Hall, its grade II listed garden wall, and its grade II registered park and garden, and a level of less than substantial harm to the significance of the grade I listed Church of St Mary not far short of substantial.

5.64 The finding of harm attracts great weight, or considerable importance and weight, in any balancing exercise. There is a strong presumption against planning permission being granted, especially where assets of particular importance are involved.

5.65 In accordance with NPPF para. 202 the harm identified has been weighed against the public benefits posed. When viewed in totality the public benefits are of some significance but do not come close to outweighing the considerably high levels of harm that have been identified, whether that harm is taken individually by asset or cumulatively.

5.66 Consequently, the policies of the NPPF direct that permission should be refused, and the application also conflicts with development plan policies CN06, CN14¹, and CS15 such that it fails to accord with the development plan as a whole for this reason alone.

Archaeology

5.67 A desk based archaeological assessment has been submitted with the application, which identifies the site has potential for archaeological deposits from late prehistoric, a Bronze Age and Iron Age settlement, and medieval activity across the site, but particularly to the south-east of the site. There is considered to be high potential for below-ground heritage assets of archaeological importance. However there are no grounds to consider refusal in order to achieve preservation in-situ of any important heritage assets. Whilst part of the site has been subject to previous archaeological investigation there are some areas that have not been investigated. Whilst the comments of the Council of British Archaeology are noted, Suffolk Archaeology Service raise no objection to the scheme subject to appropriate conditions. If minded to approve this application, a condition would be recommended to record and advance understanding of the significance of any heritage assets before it is potentially damaged or destroyed, to be in accordance with paragraph 194 and 205 of the NPPF. This again would ensure that no harm is caused to archaeological assets.

6. Design, Open Space and Green Infrastructure

ii) make a positive contribution to the local character, shape and scale of the area;

ix) make provision for open space, amenity, leisure and play through providing, enhancing and contributing to the green infrastructure of the district;

x) create green spaces and / or extend existing green infrastructure to provide opportunities for exercise and access to shady outdoor space within new developments, and increase the connectivity of habitats and the enhancement of biodiversity, and mitigate some of the impacts of climate change e.g. enhancement of natural cooling and reduction in the heat island effect, provision of pollution sequestration for the absorption of greenhouse gases, and through the design and incorporation of flood water storage areas, sustainable drainage systems (SUDs);

6.1 Local plan policies CN01 on design and CN04 on designing out crime are also key considerations albeit the application effectively remains in outline form except for access. The character and layout of the proposed development is indicatively shown in plans supporting the application. The proposed development has been designed around the landscaped green open spaces and woodland. It is proposed the south-east corner of the site would be retained as open meadowland with swales for surface water runoff and provide further opportunity for wildlife habitat. The proposed development seeks to provide spacious and attractive street scenes with sufficient space for street trees and pedestrian and cycle routes. The resulting indicative layout shows development set back from Waldingfield Road and from the existing landscaping to the north of the site, with lower density towards the north and east of the site. The proposals attempt to address the setting of the heritage assets, but for the reasons assessed by Mr Lewis officers do not consider that it would be possible to ‘design away’ the harm identified because it runs to the principle of the development proposed on the site.

¹ Whether policy CN15 is engaged or not is of no material difference to the outcome of this application bearing in mind policy CN14 expressly deals with nationally protected historic parks and gardens, and CN15 deals with locally listed/important sites, in exactly the same way.

6.2 Sight lines of St Mary's Church from inside the site have sought to inform the indicative layout of roads and public space as considered earlier in the Landscape section of this report. Those steps are positive, at least in strict design terms, but one's overall experience of the heritage setting, and significance of affected assets would be irrevocably transformed. Open space within the site and low level planting and wildflower drifts would enable views from the west to the east. A landscaped community square is proposed at the centre of the development to provide a focal point for the development, and a safe open space away from roads within the development.

6.3 The revised scheme does lead to an area of development to the north of the site that appears somewhat detached from the remainder of the development, however the reserved matters stage could finalise the layout of any development at which time an appropriate design solution could be found within any agreed parameter plan.

6.4 A variety of house types and sizes have been suggested in the indicative mix including single storey bungalows, and higher three storey development adjacent to the existing health centre which is of similar scale. A maximum of two storey development would be sited around the edges of the site. The indicative density of the scheme is shown to be greater than 40 dph near the existing health centre, 30-40 dph towards the east and north-west of the site, and less than 30 dph along the north-east boundary adjacent to the existing woodland. The average density across the residential area proposed would be 27 dwellings per hectare. Materials have indicatively been identified as brick, render and Suffolk pantiles but all would be secured at the reserved matters stage.

6.5 It has been questioned why the proposed three storey care home cannot be provided to the rear of the existing health centre, on land owned by the NHS. Whilst the land ownership is not a material planning consideration, the design impacts are a consideration. The siting of the care home in this location would lead to a large building and mass of development that would be significantly higher and greater in bulk than the surrounding development. It would stand out visually whereas the current proposed location would be nearer existing larger scale development on Church Field Road.

6.6 The height of the care home has also been questioned. It is understood that future potential operators have expressed a preference for a three storey building rather than a two storey building over a larger footprint, with 60 beds being a required quantum of places to operate a care home. The position of the care home on the site has also been questioned with future operators apparently expressing a view to the applicants that a presence on Church Field Road was preferred. Officers do not consider that its overall siting makes a significant amount of difference in determination of the application; a smaller scale, and siting behind the health centre would not overcome the heritage harm identified, for instance.

6.7 Consideration has been given to the provisions of Section 17 of the Crime and Disorder Act, 1998, in the assessment of this application but the proposal does not raise any significant issues. The NPPF, at Paragraphs 92 and 130, states that developments should be "safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion". In accordance with the preceding section addressing Design there is no reason to consider that the scheme could not be presented acceptably at the Reserved Matters stage so as to meet those policy requirements relating to crime and safety.

6.8 Open space and public rights of way have been provided and enhanced through the parameter plan provided with the application. The development seeks to provide a mix of dwellings of one, two and three storeys, and at the reserved matters stage can seek to ensure affordable housing would be well integrated into the development. Detailed matters of design would be considered at the reserved matters stage, but sufficient information has been provided in the indicative site layout and parameter plans to ensure the proposals can lead to a high quality development and compliant with policies CN01 and CN04 (notwithstanding the heritage harms identified).

6.9 Policy CS14 requires green infrastructure to be a key consideration and central to the character and layout of development. *“All new development will make provision for high quality, multi-functional green infrastructure appropriate to the scale and nature of the proposal. Particular consideration will be given to ensuring new provision establishes links with existing green infrastructure, providing a well-connected network of green infrastructure in urban and rural areas.”*

6.10 The open space proposed on site would provide a sufficient level of open space as required by local plan policy HS31 Public Open Space and a play area, which would be secured through a Section 106 agreement. The applicant has confirmed that 1.1ha would be public open space, which exceeds the requirement of 10% of the gross site area. The application also take opportunities of formalising existing informal paths that provide wider connections to the public rights of way network, which is explored further below in the Highways section to this report. Matters relating to surface water are considered further in the Flooding and Surface Water section to this report.

7. Economy and employment

iii) protect or create jobs and sites to strengthen or diversify the local economy particularly through the potential for new employment in higher skilled occupations to help to reduce the level of out-commuting, and raise workforce skills and incomes;

7.1 The development of 166 dwellings and care home would create short term employment opportunities during construction, and longer term employment opportunities through the care home. The future residents of the dwellings would also support local services in the town.

7.2 A key issue for consideration for the proposed development is the current designation of the site in employment use, under local plan policy EM02, and the loss of this designated employment land.

7.3 The proposal for residential development and care home would lead to a loss of employment land. Whilst the care home would provide an element of employment, it is only part of the proposed development and can be argued to be more residential in nature than employment generating. It is therefore reasonable to state that the proposed development would lead to a loss of designated employment land.

7.4 The current local plan policy EM24 seeks to only allow the development of existing or vacant employment land for non-employment policies if either sub-sections 1 or 2 of the policy below are met:

Planning applications to redevelop or use existing or vacant employment land, sites and premises for non-employment purposes, will only be permitted if the applicant can demonstrate that their retention for an appropriate employment use has been fully explored. This may be undertaken in one of the two following ways:

- 1. by an agreed and sustained marketing campaign, undertaken at a realistic asking price; or*
- 2. where agreed in advance, the applicant can demonstrate that the land, site or premises are inherently unsuitable or not viable for all forms of employment related use.*

7.5 The compliance with this policy is explored further below.

Material considerations

7.6 The NPPF also provides material considerations relevant to this application. Paragraph 81 identifies that significant weight should be given to the need to support economic growth:

“Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation⁴², and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.”

7.7 Paragraph 81 relates to planning policies, but is relevant when considering the degree of consistency of EM24 with the NPPF. This identifies:

“Planning policies should:

- a) set out a clear economic vision and strategy which positively and proactively encourages sustainable economic growth, having regard to Local Industrial Strategies and other local policies for economic development and regeneration;*
- b) set criteria, or identify strategic sites, for local and inward investment to match the strategy and to meet anticipated needs over the plan period;*
- c) seek to address potential barriers to investment, such as inadequate infrastructure, services or housing, or a poor environment; and*
- d) be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices (such as live-work accommodation), and to enable a rapid response to changes in economic circumstances.”*

7.8 Paragraph 83 goes on to consider specific locational requirements of different sectors:

“Planning policies and decisions should recognise and address the specific locational requirements of different sectors. This includes making provision for clusters or networks of knowledge and data-driven, creative or high technology industries; and for storage and distribution operations at a variety of scales and in suitably accessible locations.”

7.9 Paragraph 122 requires consideration to be given to changes in demand for land and need for regular review of land:

“Planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:

- a) it should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped); and*
- b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.”*

Justification submitted with planning application

7.10 In terms of policy EM24, the applicants have chosen to try and address limb ii) of the above policy. The applicant has not submitted any evidence relating of a marketing campaign as identified under the first limb of this policy. The second limb of this policy requires the applicant to demonstrate that the land is inherently unsuitable or not viable for all forms of employment related use.

7.11 The applicant has submitted two reports to demonstrate that the site is not suitable or viable for employment. In turn the council has sought independent expert advice on these reports to assess the proposals against EM24.

7.12 A report was also separately commissioned by Babergh and Mid Suffolk Economic Development Officers with Menta titled Economic and Employment Study for Development at Church Field Road, Sudbury (March 2020).

7.13 A summary of these reports is provided below;

Employment Land Report - Fenn Wright October 2019 (obo applicants)

7.14 This report concludes that the site is inherently unsuitable and not viable for B class uses for the following key reasons:

- Modern requirements of occupiers, and site not being capable of meeting their demands
- Site constraints, including topography and proximity to heritage assets limiting the potential scale, type and location of employment development
- Greater supply of commercial land than required
- Low demand for employment space coupled with low rents and capital values making the site unviable
- Demand for office accommodation poor with high vacancy rates.

7.15 The report refers to the then position of the JLP in proposing to deallocate the land and supporting evidence documents, concluding that the site is not suitable for B class employment uses or viable. It identifies that the proposals would provide some employment, but that it would fall outside of B class uses. The report also identifies that identifying non-B class uses (i.e. care home) is fully compliant with paragraph 120 (now paragraph 122 of the NPPF 2021).

Economic and Employment Study for Development at Church Field Road – Menta (2020)

7.16 The overall finding of this report is that there is demand for smaller employment units (1,000sq.ft to 3,000 sq. ft.), with a number of businesses occupying several sites as they have grown and wanting to stay in the area. It goes on to note that developments are coming forward, but they are hindered by build costs versus the return on the investment, and the cost of infrastructure requirements. It considers that working with the local authority or the Local Enterprise Partnership to assist with the high upfront costs, such as accessing loans such as the New Anglia LEP Growing Business Loans. Alternatively a mix of residential along the B1115 and remainder of the site being developed for employment could help funds for the initial infrastructure needs.

7.17 The report goes on to identify there is a local pent up demand, with questionnaires sent to businesses identifying a desire to grow, but barriers include a lack of finance and lack of availability (of sites/premises). It is considered that an established industrial area that is vibrant creates a connected and ambitious business community.

7.18 It considers that the additional traffic movements from employment use on the land would not have an adverse impact on the wider road network, but any housing on this site would likely have a poor standard of amenity.

7.19 The existing mix of businesses on the estate identifies the contribution the existing area makes to the local economy. The lack of supply of premises in the Sudbury area, in particular the Chilton Industrial Estate means that speculative development is expected to be well received. It is noted there are

challenges around build costs and infrastructure, but other developments in Suffolk have shown that these issues can be overcome.

7.20 It concludes the site is very suitable for employment and there is strong demand for commercial space in this location. It considered the strong demand would result in a speculative development coming forward, particularly if the development focussed on small industrial units for mixed use.

Review of Employment Land Need and Viability – DLP/Strategic Planning Research Unit (SPRU) September 2020

7.21 To review the above submitted Employment Land Report, the Council instructed DLP/SPRU to review the submitted information and provide an independent appraisal of the evidence relating to the site-specific issues of employment land need, suitability and viability.

7.22 The overall conclusion of this report was that the Fenn Wright report (2019) did not provide clear advice that the site was not suitable for each employment use (B1, B2 and/or B8) or a detailed site-specific viability assessment, in particular B1 office use as either all office or a mixed use development. The report raises the issue of low rents/sales values, restriction on the size of units due to site constraints and high infrastructure and construction costs, along with the oversupply of available commercial land reflected in the JLP evidence base. Available alternative sites are referred to, although the suitability of those sites in comparison with Church Field Road is not assessed.

7.23 It also noted that the Menta report (2020) did not provide any explicit conclusions on the suitability of the site for B class or other uses, and no detailed costed site-specific viability assessment if provided. No evidence of planned units or units under development, or quantitative evidence of current floorspace demands is provided, with no alternative, suitable sites identified.

7.24 In conclusion, the report identifies that there is insufficient information to demonstrate that the site is inherently unsuitable for all forms of employment related uses, and that no site-specific viability is provided.

Review of Employment Land Need and Viability Addendum Report - DLP/SPRU (January 2021)

7.25 Fenn Wright produced a viability assessment to respond to the above report, which initially was submitted on an informal basis. This report was later incorporated into the wider report submitted on the application by Fenn Wright dated February 2021, which is detailed further below.

7.26 The comments DLP made to this initial report were that in the respect of the demand and availability of suitable alternative sites, the addendum still did not provide a quantitative comparison of existing employment floorspace demand versus supply. Also based on the viability information submitted, the DLP report identifies the scheme is viable for delivering either B2/B8 uses or serviced employment land.

Addendum to Employment and Land Viability Report – Made in response to comments from DLP 01/21 - Fenn Wright (February 2021, obo applicants)

7.27 Contest findings of DLP report dated January 2021, and note specific issues with the site and that the need for employment in Sudbury and the entire district for the next 20 years would be met through the mixed use development permitted at Chilton Woods including 15 hectares of unconstrained employment land. Fenn Wright also consider that incorrect information has been relied upon when reaching a conclusion on viability, giving the wrong impression that the site is viable. It considered that DLP (and by inference Rider Levett Bucknall RLB who assisted DLP in producing their report) had erred in their approach to understanding both developer profit and interest calculations, and had no regard for

timeframes to sell serviced plots. It concludes that the site is not suitable or viable for either entirely employment or a mixed use site.

Review of Addendum to Employment Land and Viability Report by Fenn Wright 02/21 – by DLP (June 2021)

7.28 The final report on this matter by DLP continued to state the position that the applicants had not demonstrated the site was inherently unsuitable, and that it was viable for employment uses. The irregular shape of the site and proximity to residential uses were not considered sufficient to render the site unsuitable for all employment uses. The demand for employment sites and consideration of alternatives has not been sufficiently demonstrated.

Conclusion of employment

7.29 There remains a conflict with policy EM24, as it has not been adequately demonstrated that the site is not suitable or viable for employment uses. There is a conflict with this local plan policy. It is important however under para 219 of the NPPF to consider the weight that can be attached to this policy in terms with its consistency with the NPPF.

7.30 The NPPF references the importance of economic growth in para 81, with significant weight needing to be placed on the need to support economic growth. Para 81 goes on however to direct planning policies to be flexible and enable a rapid response to economic circumstances. Para 122 also identifies that planning policies and decisions should reflect changes in the demand for land, informed by regular reviews through development in plans. It goes on to note where there is no reasonable prospect of land coming forward for the allocated use a plan should be updated to reflect updated needs and in the interim planning decisions allowing alternatives uses should be supported, where the proposed use would contribute to meeting an unmet need.

7.31 EM24 follows the same principles of seeking to fully explore opportunities to retain employment before enabling other uses to come forward on designated employment land such as this site. This approach is placing significant weight on supporting economic growth and is considered to comply with para 81 of the NPPF. The requirement of paras 81 and 122 for policies to be flexible and enable a rapid response to economic circumstances and consider other uses that provide for unmet needs, also chimes with the requirements of the policy to allow other uses to come forward if it is demonstrated through a marketing campaign the site will not come forward OR the site is not suitable OR the site is not viable (for all forms of employment related uses). The policy shows flexibility in this regard and therefore complies with the NPPF.

7.32 It is therefore considered that EM24 is consistent with the NPPF and should be given full weight. The breach of the policy is a serious matter and represents a failure to accord with the development plan as a whole, for this reason alone. The application also does not comply with policy CS15 to this degree.

8. Services and accessibility

iv) ensure an appropriate level of services, facilities and infrastructure are available or provided to serve the proposed development;

v) retain, protect or enhance local services and facilities and rural communities;

vi) consider the aspirations and level and range of support required to address deprivation, access to services, and the wider needs of an aging population and also those of smaller rural communities;

8.1 The nearest bus stop to the site is located approximately 300m from the site. The site is in close proximity to Sudbury which could enable future residents from the site to cycle as an alternative to using a private car. The accessibility of the site is considered further in the Site Access and Highways section below but this aspect of the development is acceptable.

9. Ecology and Biodiversity

vii) protect and enhance biodiversity, prioritise the use of brownfield land for development ensuring any risk of contamination is identified and adequately managed, and make efficient use of greenfield land and scarce resources;

9.1 Policy CS15 of the Core Strategy seeks to protect and enhance biodiversity. These requirements are considered to be supported by the relevant paragraphs in the NPPF, including 174 and 180 on minimising impacts on and providing net gains for biodiversity, 180 which seeks to avoid, mitigate, or compensate for adverse impacts or lastly refusing harmful development, and looking for opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity. Therefore the above development policies are considered to carry full weight. In assessing this application due regard has been given to the provisions of the Natural Environment and Rural Communities Act 2006, in so far as it is applicable to the proposal and the provisions of Regulation 9(3) of the Conservation of Habitats and Species Regulations 2017 that requires all 'competent authorities' (public bodies) to have regard to the requirements of the Directive. For a Local Planning Authority to comply with regulation 9(3) it must engage with the provisions of the Habitats Directive.

9.2 The site is within 2km of Sudbury Common Lands Local Nature Reserve, and whilst the application is within several Impact Risk Zones for Sites of Special Scientific Interest, the development type and amount does not meet any qualifying criteria for further consultation or mitigation. There were also several county wildlife sites within 2km of the site, the closest being Waldingfield Airfield Arable Margins at 460m north of the application site. A number of supporting reports have been submitted with the application including a Preliminary Ecology Appraisal and surveys/reports relating to protected species including badgers, skylarks, reptiles, Great Crested Newts, bats and dormouse, along with surveys reports relating to botanical and priority habitat on site, landscape management plan, biodiversity strategy, along with calculations for Biodiversity Net Gain for the proposed site.

9.3 These reports have identified that the site supports breeding skylarks, common lizard and is terrestrial habitat for great crested newts. Foraging and commuting bats and a badger sett is present close to the boundary.

9.4 In 2017 the site was assessed by Natural England as supporting priority grassland habitat. A botanical survey was submitted with the application which identified priority habitat to the south-east of the scheme and an arc across the southern boundary of the existing trees and woodland along the north and east boundary of the site. The site contains both CG7 with Lowland Calcareous Grassland Priority Habitat and MG1e with Lowland Meadow Priority Grassland.

9.5 A small amount of habitat is required to be removed due to the proposed site access and development to the north of the site. It is proposed to translocate some of this priority habitat to the proposed open space on the site. Further information to justify the translocation of priority habitat on the site, which forms Lowland Calcareous Grassland was requested from the applicants, and information on how the translocated turfs would be managed to ensure successful relocation of this priority habitat. Further mitigation measures also identified the retention of a large area of neutral grassland to provide scope to enhance the overall grassland interest of the site and the diversification of species.

9.6 Recommended enhancements from the submitted ecology reports also include retention and enhancement of boundary planting, scrub planting, woodland management, creation of a pond for newt habitat, wildflower grassland creation, reptile mitigation area, nest box provision and skylark mitigation area. Any scrub, hedgerow, tall ruderal or tree management or clearance work should be undertaken outside of bird breeding season, with any unavoidable works in such areas during this season requiring a further nesting bird survey prior to any works being carried out.

9.7 The reports have been reviewed by Council's Ecology Consultant who agreed with the report's findings to enable consideration of the likely impacts on designated sites, protected species and Priority species and habitats. With the identified mitigation measures identified that could be secured by condition the development is considered to be acceptable in respect of ecological impacts.

9.8 Suffolk Wildlife Trust had requested further surveys for Hazel Dormouse prior to determination. It is considered that the woodland boundaries and scrub do appear to contain optimal habitat for this European Protected Species and is indicated that Hazel dormice were recorded on the site of application (B/15/01718/OUT), albeit the landscape is relatively fragmented from the adjacent site. Nevertheless, it is not reasonable that a survey for Hazel dormice is required for this application given that the majority of the boundary habitat will be maintained.

10. Land contamination

10.1 A Phase 1 Desktop Contamination Report supports the application. Environmental Health raise no objection to the proposed development from the perspective of land contamination subject to a condition in the instance that any unknown contamination is found. The proposal complies with criterion vii of Policy CS15 insofar as it relates to land contamination.

11. Sustainability and climate change

viii) address climate change through design, adaptation, mitigation and by incorporating or producing sources of renewable or low-carbon energy;

xiv) minimise waste (including waste water) during construction, and promote and provide for the reduction, re-use and recycling of all types of waste from the completed development;

xv) minimise the energy demand of the site through appropriate layout and orientation (passive design) and the use of building methods, materials and construction techniques that optimise energy efficiency and are resilient to climate change (e.g. resilience to high winds and driving rain);

11.1 Along with the above provisions of CS15, policy CS13 on Renewable/Low Carbon Energy seeks to ensure all new development minimises dependence on fossil fuels. This policy sets a target of 10% for renewable, decentralised or low carbon energy, but on Strategic Allocations and Broad Locations for growth identified in the Core Strategy. This site does not fall within either of these so this target cannot be insisted upon in this application.

11.2 The sustainability of the location has been considered with good access to local services and employment, the potential for homeworking through Superfast Broadband provision and good accessibility to green infrastructure (such as the open space and connections to wider public rights of way provided with the development).

11.3 The application is supported by a Design and Access Statement, that identifies whilst the sustainable and energy usage technology will be determined at a reserved matters stage, these could include the use of air or ground source heat pumps, photovoltaics, wastewater heat recovery, combined

heat and power, whole house ventilation or mechanical and heat recovers. Rainwater harvesting and reduced water use fittings are also suggested.

11.4 The application is in outline form, sustainability and renewable energy features can be secured at the reserved matters stage. Sustainable design and construction standards with renewable/low carbon energy sources are identified under policies CS12 and CS13 of the core strategy. However, the Written Ministerial Statement on Housing Standards (reference HCWS488) made on 25th March 2015 is clear that requirements should not be set over revised Building Regulations Part L1A and Part G that came into force in 2015. Meeting revised Building Regulations is considered to provide a good standard of construction, carbon dioxide emissions rate, energy performance of buildings and reduced water usage of 125 litre of water per person per day. With the required compliance with Building Regulations the proposed development is considered to meet the requirements of paragraph 152 and 154 of the NPPF which seeks to reduce greenhouse gas emissions. The Council's Environmental Health officer has no objection to the application. Conditions would be recommended for a Sustainability and Energy Statement to detail the measures to be taken and for ducting for Broadband infrastructure.

12. Flooding, surface water and foul water disposal

xi) minimise the exposure of people and property to the risks of all sources of flooding by taking a sequential risk-based approach to development, and where appropriate, reduce overall flood risk and incorporate measures to manage and mitigate flood risk;

xii) minimise surface water run-off and incorporate sustainable drainage systems (SUDs) where appropriate;

xiii) minimise the demand for potable water in line with, or improving on government targets, and ensure there is no deterioration of the status of the water environment in terms of water quality, water quantity and physical characteristics;

12.1 Criteria xi and xii of saved Policy CS15 require development to minimise the exposure of people and property to all sources of flooding and to minimise surface water run-off and incorporate sustainable drainage systems (SUDs), where appropriate. Paragraph 154 of the NPPF seeks to avoid increasing vulnerability to impacts of climate change, with development needing to demonstrate it does not increase flood risk elsewhere. Paragraph 174 of the NPPF also seeks to ensure new development does not contribute to water pollution, and as this site is in a Nitrate Vulnerable Zone so the water quality of surface water run-off is a key issue.

12.2 The application is accompanied by a flood risk assessment (FRA). The site is in Flood Zone 1 where there is a very low probability (less than 1 in 1000 annually) of fluvial - i.e. river - flooding. Site investigations have been carried out to see whether infiltration would be possible for surface water disposal. This has indicated that for the majority of the site this may not be possible, but would be subject to further testing at the reserved matters stage. There is no watercourse in the vicinity of the site but there is a surface water public sewer. The intention is to discharge surface water at an agreed rate as detailed below to this sewer in agreement with Anglian Water. Whilst the details of the surface water drainage strategy would be fully designed at the reserved matters stage there is sufficient information to demonstrate that surface water could be attenuated on site with runoff post-development at the same rate as the current greenfield run-off rate. This includes up to a 1 in 100 year rainfall event, with a 40% allowance for climate change. Suitable ongoing maintenance and management can be agreed via planning condition. The Sudbury and Great Cornard Surface Water Management Plan has been considered in arriving at the proposed surface water strategy. The Lead Local Flood Authority raise no objection subject to conditions.

12.3 Foul water would be disposed of via a connection to the public sewer network on Church Field Road Great Cornard Water Recycling Centre which Anglian Water have identified have available capacity for these flows. No conditions have been requested by Anglian Water in this regard. Informative Notes

13. Air Quality

xvii) protect air quality and ensure the implementation of the Cross Street (Sudbury) Air Quality Action Plan is not compromised;

13.1 Policy CS15 seeks to minimise the need to travel by car using alternative means and improving air quality. The site is approximately 2.2km northeast of Sudbury Air Quality Management Area, which is designated for the potential exceedance of the annual mean nitrogen dioxide air quality objective. An Air Quality Assessment has been submitted with the application which has been produced in accordance with the relevant guidance. This has considered dust during the construction phase and road traffic emissions for the duration of the lifetime of the development. It is identified that with a dust management plan secured through condition the impact of dust emissions would not be significant in accordance with the Institute of Air Quality Management guidance. The road traffic emissions were modelled at identified sensitive receptor locations, using the relevant guidance from Defra and the Institute of Air Quality Management. This identified the development would not lead to any exceedance of the relevant air quality objectives and the impact of the development on local air quality would be negligible.

13.2 The site is well connected in highway connectivity terms. The proposal will generate vehicle trips for travel to employment and other services not provided in the surrounding town. The future proposed development has been considered against these existing air quality conditions but it is not considered that the level of traffic movements would necessitate further air quality assessments or adverse impact to air quality or the Cross Street . A condition to ensure electric vehicle charging points are installed in the new dwellings has been recommended. The promotion of sustainable transport modes is also considered further in the Highways section to this report. The development is considered to meet the requirements of paragraph 186 of the NPPF.

14. Accessibility and sustainable transport

xviii) seek to minimise the need to travel by car using the following hierarchy: walking, cycling, public transport, commercial vehicles and cars) thus improving air quality;

xvi) promote healthy living and be accessible to people of all abilities including those with mobility impairments;

xix) where appropriate to the scale of the proposal, provide a transport assessment /Travel Plan showing how car based travel to and from the site can be minimised, and proposals for the provision of infrastructure and opportunities for electric, plug-in hybrid vehicles, and car sharing schemes.

14.1 CS15 also seeks to minimise the need to travel by car using alternative means and improving air quality. The site is well connected in highway connectivity terms. As acknowledged above, the proposal will generate vehicle trips for travel to employment and other services not available in the immediate vicinity of the site. This said, Sudbury has many day to day services and employment opportunities in walking and cycling distances.

15. Policy CS18 and assessment of principle of care home

15.1 The principle of the proposed care home use also requires consideration against policy CS18. This policy identifies that residential development that provides for the needs of the District's population, particularly the needs of older people, will be supported where the needs exist.

15.2 The needs for residential accommodation for older people in Babergh, specifically specialist accommodation is set out in the Ipswich and Waveney Housing Market Areas Strategic Housing Market Assessment Volume 2 (2017). This document identifies the need for 1,369 specialist accommodation units by 2036. The proposed care home would provide towards this identified need for older people.

15.3 The site is also in an accessible location for visitors and staff for the care home (and future residents, depending on the nature of care and level of independence for residents any future operator provides), with good access to services and public transport connections as explored further in the Highways section to this report below.

15.4 The care home would front onto Church Field Road and adjacent employment area and the amenity of future residents of the care home requires careful consideration. This matter is explored further below.

15.5 The proposed care home is considered to meet an unmet need for the District in relation to specialist accommodation and be in an accessible location. This is a benefit of the scheme.

16. Conclusion on CS15

16.1 Whilst scoring positively in some respects, the application fundamentally fails to accord with policy CS15 when taking into account the loss of protected employment land and the considerable levels of harm posed to the historic environment.

17. Ownership of land

17.1 One of the applicants is West Suffolk NHS Foundation, who own part of the site, behind the existing Sudbury Health Centre adjacent to this application site. The Siam Surgery, one of two GP practices serving Sudbury, is located on the ground floor of Sudbury Health Centre. A supporting report to this application has been submitted by the applicants titled 'NHS Health Strategy'. Within this document it outlines background as to why the land owned by the West Suffolk NHS Foundation Trust was identified as surplus to requirements in 2009. The applicants have advised in a supporting report that the land has been on the NHS Surplus Land Register since 2011 (although this fact is disputed by Chilton Parish Council) and a recent Estates and Facilities Strategy dated 2018 has confirmed the land continues to be surplus to requirements.

17.2 The report goes on to identify the background work that has contributed towards the decision that the land is no longer required. In the report 'Five Year Forward View' (2014) followed up by 'Next Steps on the Five Year Forward View' (2017), specific reference is made to estate and facilities management services, including the modernisation of primary care facilities, the sharing of facilities between organisations and the improving of estates and facilities and the splitting of emergency/urgent care from planned surgery clinical facilities. Further reviews including the Lord Carter Review and Naylor Review went on to consider effective estate management and disposal of surplus estate, and that the NHS must manage and use its estate more efficiently. This of itself is not a material consideration for this planning application.

17.3 The provision of adequate health infrastructure is however a material planning consideration. West Suffolk NHS Foundation Trust have been involved with the West Suffolk Alliance Strategy (2018) and prepared an Estates and Facilities Strategy, and are working with One Public Estate which is an initiative to provide hubs integrating public sector services in six key towns, including Sudbury.

17.4 The Hardwicke House Group Practice recently confirmed that it had reached an agreement to buy land at Station Road in Sudbury from Babergh District Council, and launched a public consultation for a 1,9000sq.m health centre at the site. The proposals look to cater for the area's expanding population and

replace its branches in Stour Street, Meadow Lane and The Cornard Surgery in Pot Kiln Road. That proposal has subsequently been granted planning permission.

17.5 The NHS/West Suffolk Clinical Commissioning Group (CCG) have confirmed in their response to the planning application that sufficient capacity to accommodate the future residents from this development can be met through CIL monies directed to increasing capacity at a surgery in the Hardwicke Group. The potential relocation of the Cornard Surgery to a new surgery is not considered to alter the position previously stated in the CCG's response.

17.6 In the supporting report to this application the capacity and use of the Sudbury Health Centre is also considered. The range of tenants who occupy that site were identified as the Siam Surgery GP practice, acute and community services, phlebotomy, physiotherapy, mental health services, community dental services along with services from Suffolk GP Federation and Suffolk County Council. The level of utilisation at the health centre has been identified to not be at capacity as the NHS moves to a 7 day working week and extended working days, and so additional capacity has been identified to be available for future development of these services. The report therefore concludes that the proposed planning application will not prevent facilities and services from being provided at the Sudbury Health Centre in the future. The rest of the land is therefore identified to be disposed of and proceeds from the sale be reinvested in services in accordance with the West Suffolk Alliance Strategy and Estates and Facilities Strategy.

17.7 Ultimately the matter to be considered by Members is whether there is sufficient health infrastructure to accommodate the proposed development. With CIL monies that would be subject to a bid at the appropriate time by the NHS it is considered that sufficient infrastructure would be provided in accordance with CS21 of the core strategy, as detailed further in the Planning Obligations/CIL section to this report.

17.8 It has also been raised in letters of representation that the applicant Caverswall Enterprises Ltd may not be able to enter into a S106 legal agreement due to outstanding proceedings regarding liquidation, involving persons within the company and the company they previously were involved in: Caverswall Holdings Ltd. Should any legal agreement not lawfully be able to be completed then planning consent would not be issued. This is not a reason in itself to refuse planning consent, though the present lack of legal agreement/undertaking to secure necessary obligations, is.

18. Site Access, Parking And Highway Safety Considerations

Highway network capacity and site access

18.1 Paragraph 111 of the NPPF states that development may be prevented or refused on highway grounds where there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The proposed development has been considered in terms of impact on the wider road network through the Transport Assessment submitted with the application. The site access and impact on the wider road network have been considered as has road capacity and highway safety. Paragraph 113 of the NPPF also seeks Travel Plans for development that generate significant amounts of movements.

18.2 The proposed development could impact on a number of road junctions. In discussion with the local highway authority, the applicants considered the following junctions and modelled the potential impact from the proposed development:

- B1115 Waldingfield Road / Church Field Road;
- B1115 Waldingfield Road / A134 Northern Road;
- A134 Northern Road / Milner Road;

- A134 Northern Road / Shawlands Avenue
- B1115 East Street / A131 Girling Street; and
- The site access

18.3 The results of the modelling were that all junctions except the proposed site access would operate over capacity with the proposed development. In response to each junction the following has been suggested by the applicants:

- B1115 Waldingfield Road / Church Field Road; A junction improvement scheme is proposed through the development of 'Chilton Woods' under planning consent B/15/01718 which would improve the junction and bring it back to within capacity.
- B1115 Waldingfield Road / A134 Northern Road; S106 contribution towards sustainable transport measures to mitigate impacts.
- A134 Northern Road / Milner Road; A mitigation scheme has been proposed to include a ghost right turn lane. Secured via S106 contribution and planning condition.
- A134 Northern Road / Shawlands Avenue; A scheme has been designed as part of the above Chilton Woods development.
- B1115 East Street / A131 Girling Street; Signal timings have been demonstrated to potentially be optimised. SCC would undertake this optimisation suggested by the applicants.

18.4 To promote sustainable transport and giving priority to pedestrian and cycle movements a contribution of £80,000 would be secured to deliver a toucan crossing at the B1115/Church Field roundabout to enable a safe route to catchment primary and secondary schools. Also improvement of the footway on the north side of Church Field Road to this roundabout could be secured via planning condition. A contribution of £50,000 is also requested to enhance demand responsive public transport services in the area.

18.5 Further improvements to provide raised bus stops kerbs and shelters could be secured via planning condition and Section 278 agreement with the Highway Authority. A fallback position is also required to secure £25,000 to deliver these improvements to bus stops if the works are not completed as part of a S278 agreement. Further to this improvements to the surrounding public rights of way are sought as detailed further below.

18.6 Two vehicular site accesses are proposed, first the existing access to the medical centre and a second further to the east along Church Field Road. The proposed junctions and spine road have been designed to an acceptable level with appropriate visibility splays which are to be secured through planning condition.

18.7 SCC as Local Highway Authority are content with the above mitigation there would not be a severe impact on the road network, either in relation to this development or cumulatively with other surrounding consented and committee development.

Travel Plan

18.8 A travel plan is required which can be secured through planning condition and S106 contribution of £409.47 per dwelling (£67,972 for 166 dwellings for implementation of the travel plan by SCC is required). This will promote sustainable transport options to new residents and provide opportunities to use methods of transport other than private car, in accordance with Policy TP16. A travel plan will also be required for the care home.

Public Rights of Way

18.9 A Public Right of Way runs along the eastern boundary of the site between Church Field Road and Chilton Hall, Restricted Byway 3 (RB3). There are informal footpaths that connect to this Public Right of Way, which then run into the areas of woodland on the site. These are proposed to be retained and extended to create walking routes around the site and create new connections from the site onto existing footpaths.

18.10 SCC Public Rights of Way team have requested that the proposed footpath to be formalised within the woodland area to the east and north of the site be dedicated as a Public Right of Way which would create a circular walk around the east, north and west of the site boundary. The legal process to establish the PRow would need to be completed prior to construction with a S106 contribution of £5,000 to SCC to cover the cost of this legal order.

18.11 It is proposed to create a new section to this footpath to the west of the site within the landscaping along Waldingfield Road, to connect the path to the health centre site which then connects onto Waldingfield Road. The proposed PRow within the site connects to RB3 at the south-east of the site. It has been suggested that RB3 and the proposed PRow should also connect to the north-east of the site, the current plans do not indicate this but it is proposed to secure this connection via condition to ensure it is delivered at the reserved matters stage.

18.12 Surface improvements are required to RB3 between the north-east point of this development site and Church Field Road, and will be secured via condition and Section 278 agreement. South of Church Field Road, RB3 continues to connect with the A134. A section of this footpath of approximately 200m requires surface improvements to promote the use of this link into Sudbury. A contribution of £25,000 is required to secure these works.

18.13 Subject to the identified improvements secured via planning condition and a S106 contribution totalling £30,000, it is considered that suitable improvements can be secured to the PRow, promoting not only walking and cycling from this site into Sudbury but also the wider benefits that active travel bring to health and wellbeing in line with policies CS14 and CS15.

Parking and refuse storage

18.14 Saved Policy TP15 of the Local Plan seeks to ensure parking provision for new development complies with the Suffolk Parking Standards. This development plan policy is given full weight as it is considered to align with paragraphs 107 and 108 of the NPPF in providing minimum parking space standards unless compelling reasons justify otherwise. The site layout plan shows parking and garage spaces can be provided for each dwelling. Parking can be secured at the reserved matters stage to meet the minimum requirements for both the residential dwellings and care home. The Highway Authority have raised no objection to the parking proposed, subject to a condition to secure parking (including electric vehicle charging points). The development complies with local plan policy TP15.

18.15 Sufficient cycle parking for two cycles per dwelling plus visitor cycle parking could be provided within garages of dwellings or through covered and secure storage units in rear gardens of flats and as required for the care home. Also refuse bins storage and presentation points would also be identified at the reserved matters stage and secured through condition.

18.16 The Highway Authority have raised no objections subject to the mitigation measures and details to be secured through the S106 (for a new toucan crossing, sustainable transport improvements, travel plan implementation and public rights of way improvements) and conditions if minded to grant. Conditions would include visibility splays, details of access, provision of footway improvements to Church Field Road and bus stop improvements, details of estate roads, parking to include electric vehicle charging points, refuse storage and construction management plan. With the proposed mitigation through S106

agreement and conditions, the development is considered capable of meeting the requirements of both paragraphs 111 and 113 of the NPPF and policies TP15 and TP16 of the local plan ensuring there is not a severe impact on the road network, promotion of sustainable transport methods including walking and cycling, provision of safe access and egress from the site, the safe and free flow of traffic and pedestrian safety, suitable capacity in the road network, and adequate parking and turning for cars and service vehicles and pedestrian and cycle links that can be secured at the reserved matters stage.

19. Affordable Housing and Market Housing Mix

Affordable dwellings

19.1 Policy CS19 required 35% affordable housing to be provided. The proposals include provision of 35% affordable housing. No affordable housing mix has been stated by the applicants, but the required mix from the Council's Strategic Housing team (on an assumption of the full quantum of housing being proposed) is as follows:

Affordable rented (44 dwellings):

- 4 x 1 bed 2-person flats @ 50 sqm NDSS minimum
- 4 x 2 bed x 4p flats @ 70sqm minimum
- 20 x 2 bed 4-person houses @ 79 sqm minimum
- 4 x 2 bed 4-person bungalows @ 70 sqm minimum
- 10 x 3 bed 5-person houses @ 93 sqm minimum
- 2 x 3 bed 6-person houses @ 102sqm minimum

Shared Ownership dwellings (14)

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

19.2 A commuted sum will be required for the remaining contribution of 0.1 dwelling, which based on a 2 bed housing need this equates to £7,593 and would need to be secured via a S106 agreement.

19.3 Development would need to be tenure blind and dispersed within the development, which can be determined at a reserved matters stage. In accordance with the NPPF 2019, 10% of the overall scheme should be made available in the form of affordable home ownership products. The proposed development is considered to be in accordance with CS19 subject to detailed submitted at reserved matters and securing the required affordable housing via Section 106 agreement.

Market Housing Mix

19.4 Under Policies CS15 and CS18 the mix, type and size of the housing development will be expected to reflect established needs in the Babergh district. No mix of housing types are given for the market housing. The market housing mix required in Babergh over the next 18 years identified by the council's Strategic Housing Team is as follows:

- One bedroom 12.2%
- Two bedrooms 36.1%
- Three bedrooms 30.2%
- Four or more bedrooms 21.5%

19.5 A condition would be recommended to be attached to any outline consent to require the market housing mix to be submitted and agreed, and to reflect the current housing market needs in line with policy CS18. As discussed earlier in this report, should planning permission be granted then controls would be imposed to ensure an acceptable market and affordable housing mix, consistent with the planning balance being undertaken. A subsequent proposal for 100% affordable housing would be a

materially different scheme and would require a further permission; this has been explained to the applicants albeit they do not accept this.

20. Lighting, Noise and Odour - Impact on Residential Amenity and Existing Employment Area

20.1 Paragraph 130 of the NPPF sets out a number of core planning principles as to underpin decision-taking, including, seeking to secure a high standard of amenity for all existing and future occupants of land and buildings.

Lighting

20.2 Supporting information has been submitted with the application to consider the impact of existing light sources on proposed end occupiers of the dwellings and care home, and the impact of proposed lighting. It is not considered that lighting from the existing healthcare centre would adversely affect future residents, with the main source of light from street lighting on the access road to the health centre. Lighting from the adjacent Chilton Industrial Estate is considered to be localised and unlikely to adversely affect future residential amenity.

20.3 Proposed lighting on the scheme would need to be carefully designed to protect the amenity of future residents but also to protect overspill to ecological sensitive edges to the site. A suitably worded condition could address this, but it is important to note that the heritage harm identified is based upon the nature of the development proposed within the setting of highly graded assets; the urbanising quality of housing development and the artificial lighting that naturally comes with it, are interrelated.

Noise

20.4 Noise from surrounding uses to the end occupiers of the proposed dwellings and care home on site has been considered, as has the impact of noise-sensitive development to existing and future employment uses in the nearby employment area and the impact of the proposed development on existing residents.

20.5 The source of noise for future residents would be both traffic noise from Waldingfield Road, and traffic and employment uses on Church Field Road. A Noise Assessment submitted with the application has identified two areas of the development where noise mitigation measures would be required. These are to the west of the development near Waldingfield Road and dwellings and the care home facing onto Church Field Road.

20.6 In these locations two forms of mitigation are proposed. Standard non-acoustic trickle ventilation windows are proposed throughout the development and if used in combination with standard double glazed units noise level criteria would be met. For a number of plots ventilation via openable windows is also suitable. An acoustic fence to the west of the site would be required also to mitigate traffic noise from Waldingfield Road/B1115. Both these mitigation measures could be secured via condition. It is noted that the care home could provide accommodation for individuals who may have health conditions that make them more vulnerable to excessive noise. There are however suitable mitigation measures in place that can be provided to ensure an acceptable standard of amenity within the care home building.

20.7 The report submitted with the planning application identifies that the proposed development should not prove prohibitive to future developments of commercial/industrial nature. Concerns however have been raised by the council's Environmental Health Officer in relation to noise, and potential future restrictions on existing employment uses due to the proposed sensitive use proposed at this application site.

20.8 Para 187 of NPPF seeks to ensure new development does not lead to restrictions on existing businesses:

“Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. 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.”

20.9 In respect of this particular question, and concerns regarding the potential for noise issues more generally due to the proximity of the industrial estate to the application site, an independent external noise consultant was commissioned. An advantage of this process was that the external consultant (Sharp Acoustics LLP) was able to undertake their own surveys of the site and background noise levels as well as reviewing the information submitted by the applicants. The consultant considered noise from the existing adjacent uses and potential noise from possible future uses in order to consider whether, if the proposed residential and care home development were to go ahead, this would impose an unreasonable restriction on adjacent uses and prospective adjacent uses. Subject to typical controls and planning conditions Sharp Acoustics concluded that *“desirable noise levels can be achieved at the proposed development without affecting the operation (or potential operation) of existing nearby commercial and industrial uses.”*

20.10 It is therefore considered unlikely that the siting of residential and care home development in this location would lead to restrictions being placed on businesses. Change of uses and planning applications for existing or proposed employment uses would need to consider the proximity of the proposed residential use, and whilst it is noted that the proposals would bring noise-sensitive uses closer to the employment area, there are existing dwellings around the health centre and on Waldingfield Road that also would be sensitive to such noises at present. Any employment use would need to consider the impact on amenity of those existing residents in any case. In the absence of evidence of a likelihood of restrictions being placed on businesses or preventing businesses from opening in the employment area, there is not considered to be sufficient reason to refuse the application on this basis.²

20.11 Noise from the future residential uses and care home uses have been considered in terms of impact on existing residents. There would be some sources of noise and lights associated with residential use and care home, but given the distance to the nearest residential properties it is not considered there would be a loss of amenity to existing residents. The proposed three storey dwellings near the existing health centre would look towards the health centre, but again there would be a sufficient separation to ensure adequate amenity for the proposed residents and no loss of privacy to potentially sensitive health care uses.

20.12 There would be disruption during the construction phase of the development, but the adverse effects would be temporary in nature and would be able to be controlled through planning condition. Specific reference is made by the Environmental Health Officer to require further details of noise and vibration management, and if piling is propose this construction method should be specifically assessed for impact on residential amenity of nearby residents.

² That is not to say, however, that there would not be a perceived conflict and a diminution of attractiveness of the adjacent employment land due to the proximity of the residential development. Of itself that might undermine the success of the established industrial estate and its ability to attract further investment over time.

20.13 The proposed care home could also lead to noise disturbance to proposed residential dwellings in this application, through vehicle movements for supporting services to the care home and potentially plant relating to kitchens. The distance to the nearest residential dwelling would be assessed at the reserved matters stage but it is considered that there is sufficient space for suitable separation to be reached.

Odour

20.14 The site is adjacent to a number of employment and industrial uses, notably 300m north of the Nestle Purina pet food manufacturing factory. Surveys were undertaken in accordance with Air Quality Management guidance to consider the potential of odours. This identifies that there is a significant potential influence on residential amenity from odours at this factory, due to the frequency and intensity of odours detected during the surveys and due to the number and locations of odour complaints. Odour abatement technology is due to be installed at the factory, and is subject to an Environmental Permit monitored and enforced by the Environment Agency (EA).

20.15 At present the current level of odour has the potential to significantly affect residential amenity at the proposed development site if left unabated. Under the current permit the EA has actively investigated this odour issue which has resulted in an odour abatement solution. The last response from the EA indicated that works have been delayed due to Covid-19 but are still underway as of May 2021.

20.16 Para 188 of the NPPF is clear that planning decisions should focus on whether a proposed development is an acceptable use of land, rather than the control of processes or emissions where these are subject to separate pollution control regimes. It goes on to identify that '*Planning decisions should assume that these regimes will operate effectively.*' In this instance there is a pollution control regime, and further to this there is an active investigation and odour abatement actions underway in discussion with the permitting authority. It should be noted that there is no certainty that the proposed odour abatement measures would be sufficient to fully mitigate potential impacts to future residents. However, the NPPF is clear that planning should not seek to duplicate other consenting regimes. It is therefore difficult to substantiate a reason for refusal on this basis in terms of adverse impact on residential amenity under para 130 of the NPPF.

Conclusion of residential amenity

20.17 Paragraph 130 of the NPPF sets out a number of core planning principles as to underpin decision-taking, including, seeking to secure a high standard of amenity for all existing and future occupants of land and buildings. This matter has been extensively considered in terms of noise and odour for future residents in particular. The amenity of existing residents could be adversely affected during the construction phase, but through use of appropriate conditions it is considered an acceptable level of amenity would be achieved for this temporary disruption. Whilst there would be some effect to neighbouring residents from noise and light from the proposed development, there is considered to be sufficient separation between this site and those neighbouring residents to not lead to an unacceptable level of amenity subject to conditions on lighting and noise.

20.18 The amenity of future residents of the site in terms of adequate amenity for outlook, privacy, daylight and sunlight would be determined at the reserved matters stage, but there is sufficient information to consider this can be suitably addressed. There are a number of noise mitigation measures proposed for future residents along the west and south-east of the site. In the presence of suitable noise mitigation that can be secured through condition it is not considered reasonable to refuse the application on these grounds. The siting of noise-sensitive development in close proximity to an employment area has also been considered in detail further, considering the 'agent of change' principle and potential future restrictions on existing and new employment uses that move into the remaining employment area.

Considering the likely course of action of any statutory noise complaints it is not considered likely that restrictions would be placed on any employment uses considering the current character of the employment area. Again, there is not sufficient evidence to suggest that this residential development would be an agent of change that places future restrictions on existing or future commercial development and does not merit a reason for refusal on this ground.

20.19 The impact of noise from any surrounding employment uses to the future residents of the proposed care home has also been considered. Suitable noise mitigation measures have been identified to ensure that internal noise levels would be acceptable and within acceptable ranges. The external amenity space however would not be possible to control to the same degree. It is also noted that residents of the care home may be vulnerable to noise due to their healthcare needs. Whilst it may not be considered ideal to locate a care home in a place where there may be audible noises, given that internal noise levels can be adequately achieved it is not considered a sufficient enough reason to refuse the application. Officers are mindful of their Public Sector Equality Duties under the Equality Act 2010 (as amended) to ensure no harm to any group with protected characteristics, but for the above reasons this duty is considered to be met in this instance.

21. Planning Obligations / CIL

21.1. As required by various policies listed in the above report and policy CS21 of the core strategy, the application, if approved, would require the completion of a S106 agreement to secure the required number of affordable dwellings, along with mix and tenure, the provision of open space and future management of, and highway mitigation measures, public rights of way contributions, travel plans, skylark mitigation strategy and priority habitat management, all as detailed above in this report.

21.2 Also CIL monies have been identified for education contributions, libraries, waste. Whilst the final bids would relate to the total floorspace brought forward at reserved matters for the residential phase, an indication of the CIL bids have been provided by SCC which are:

- Primary school expansion - £707,988
- Secondary school expansion - £689,475
- Sixth Form expansion - £142,650
- Early year new build - £307,620
- Library improvements - £48,816
- Waste improvements - £28,024

21.3 SCC Strategic Development have indicated that CIL monies would go towards expanding capacity at other primary schools within the proximity of the application site, and Ormiston Sudbury Academy and Thomas Gainsborough Academy in Sudbury.

21.4 It is considered that appropriate infrastructure can be secured to support the proposed development, in line with policies CS19, CS21, paras 110 and 111 of the NPPF. In the absence of a legal agreement or undertaking to secure those items not related to the CIL, however, this would be a reason for refusal.

21.5 A number of requests were identified to be secured via S106 in the response from Chilton Parish Council, and request for a draft legal agreement to be circulated prior to planning committee. Taking the last point first, there is no draft legal agreement, and the application is recommended for refusal. The following further requests are noted:

- appropriate contributions from the developer to the maintenance and upkeep of St Mary's Church and its adjoining churchyard;
- future maintenance and management of structural landscaping on eastern and northern boundaries, with transfer of ownership of those areas to Chilton Parish Council with a sum for maintenance in perpetuity.

22. Equalities Act 2010

22.1 As identified earlier in the report, there is an identified need for specialist accommodation to address the needs and age profile of the district of Babergh. The provision of a 60-bed care home would be of benefit in that regard.

22.2 The detailed design at the reserved matters stage will be able to address any requirements that can be addressed through the planning process to meet the duties for groups with protected characteristics as identified under the above Act.

PART FOUR – CONCLUSION

23. Planning Balance and Conclusion

23.1 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.

23.2 The circumstances of this application are not exceptional, and it is without a proven justifiable need, proposing development in the countryside where inevitably a degree of landscape harm would result. Furthermore, the application proposes the development of land safeguarded for employment purposes, where no sustained marketing campaign has been undertaken at a realistic asking price, and where the applicant has failed to demonstrate that the land is inherently unsuitable or not viable for all forms of employment related use, contrary to policy EM24.

23.3 The considerable levels of heritage harm identified are not outweighed by the public benefits of the development, thereby reinforcing the lack of clear and convincing justification; the application therefore also conflicts with policies CN06, CN14, and CS15. The application does not represent sustainable development as advocated under policy CS1.

23.4 Whether taking those issues together or independently, the application conflicts with the development plan when taken as a whole.

23.5 Assessed against the policies of the NPPF, national policy also directs that permission should be refused also noting that the heritage harms provide a clear reason for refusing the development proposed.

23.6 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.

23.7. Members are therefore invited to refuse planning permission.

RECOMMENDATION

1. That the application be REFUSED planning permission for the following reasons:-
 - i. The application proposes residential development in the countryside where contrary to policy CS2 the circumstances of the application are not exceptional and there is no proven justifiable need for the development proposed.

Furthermore, the application proposes the development of land safeguarded for employment purposes, where no sustained marketing campaign has been undertaken at a realistic asking price, and where the applicant has failed to demonstrate that the land is inherently unsuitable or not viable for all forms of employment related use, contrary to policy EM24.
 - ii. The proposed development would lead to a considerable level of harm to the significance of the designated heritage assets at Chilton Hall (comprising Grade II* Chilton Hall, Grade II Garden Wall to East of Chilton Hall, and Grade II Chilton Hall registered park and garden) and a level of harm to the significance of the Grade I Church of St Mary that would be not far short of substantial.

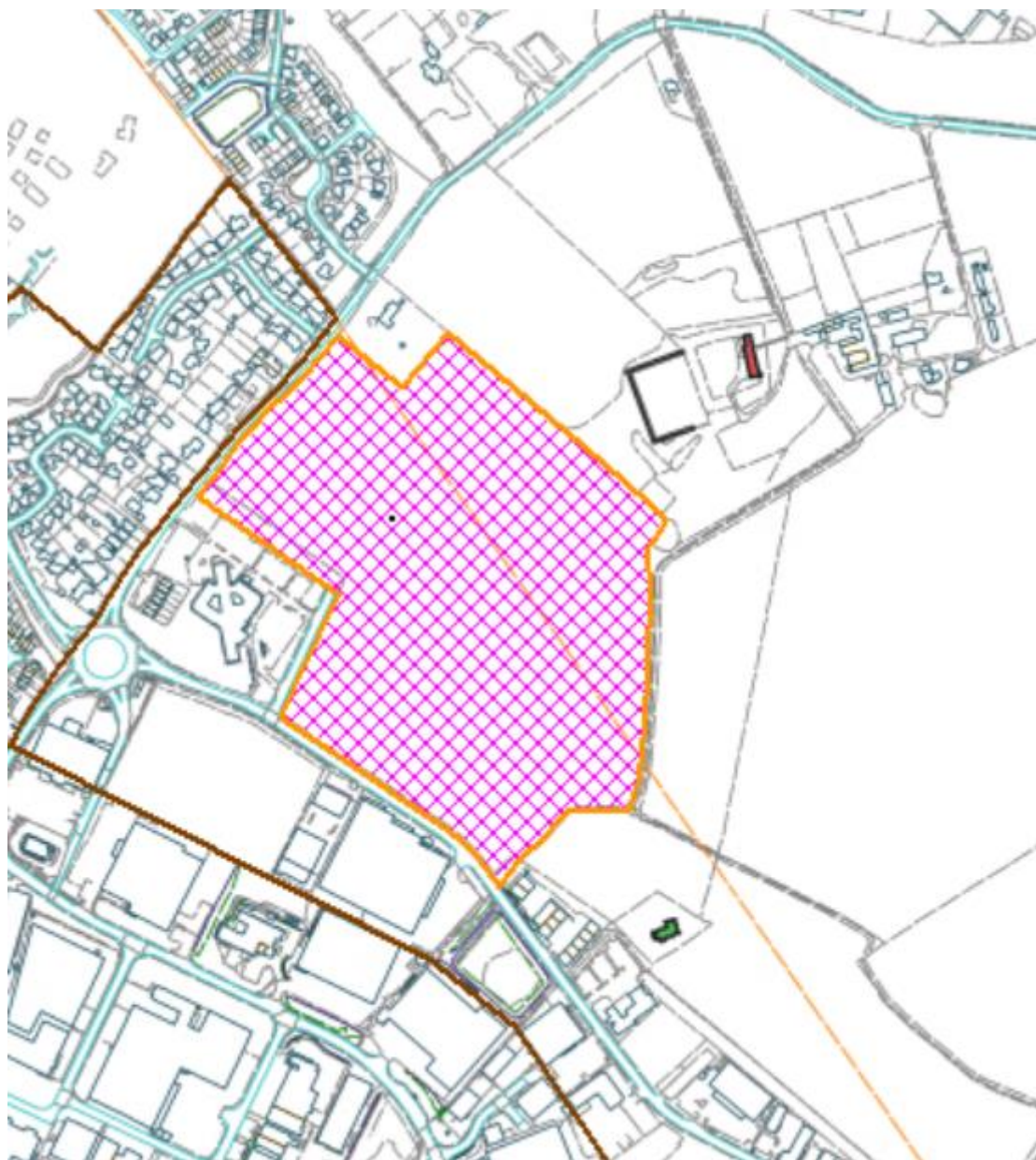
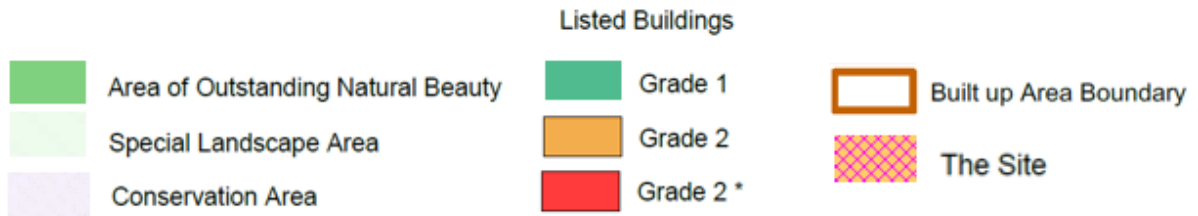
The development would not respect the features that contribute positively to the setting and significance of those assets, contrary to policies CN06, CN14, and CS15. Furthermore, the public benefits of the scheme are not considered to outweigh the less than substantial harm identified, making the proposal contrary to the heritage policies of the NPPF and independently providing a clear reason for refusal on this ground.
 - iii. In the absence of a signed s106 Agreement or similar undertaking to provide for appropriate obligations, there would be an unacceptable impact on local infrastructure and lack of affordable housing, contrary to policies CS19 and CS21.
 - iv. The application 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.
2. In the event that an appeal against the refusal of planning permission is received, delegate authority to the Chief Planning Officer to defend that appeal for the reasons set out under 1. above, being amended and/or varied as may be required.

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Application No: DC/20/01094

Parish: Chilton

Location: Land on the North Side of Church Field Road, Chilton Industrial Est



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For and on behalf of
Babergh District Council

Review of Employment Land Need and Viability

Land on the North Side of Church Field Road, Chilton Industrial Estate, Chilton, Sudbury

**Prepared by
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September 2020

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1.0 INTRODUCTION

- 1.1 The purpose of this report is to provide an independent review of planning application ref. DC/20/01094 for the erection of up to 190 residential dwellings, purpose built care home of up to 60 bedrooms, and associated infrastructure and means of access on land on the north side of Church Field Road, Chilton Industrial Estate, Chilton. The proposed development also includes 35% affordable housing provision.
- 1.2 This report provides our **independent appraisal of the evidence** submitted in respect of application ref. DC/20/01094 as it relates to **site-specific issues of employment land need, suitability and viability**. In particular, to consider whether the information submitted with the application meets the requirements of Policy EM24 of the Babergh Local Plan (2006). The purpose of this report is to assist Babergh District Council's Planning Committee in determining the application by enabling them to understand the material submitted by the applicant in support of the application, as well as the information submitted by Babergh District Council's Economic Development team in the context of national and local planning policy. This report does not provide an overview of all material planning considerations and is restricted to matters relating to employment. The evidence we have reviewed as part of our assessment of the application proposals includes the following documents:
- Employment Land Report (October 2019) prepared by Fenn Wright on behalf of the applicant;
 - Economic and Employment Study for Development at Church Field Road, Sudbury (March 2020) prepared by Menta on behalf of Babergh and Mid Suffolk Economic Development Officers;
 - Ipswich and Waveney Economic Area Land Needs Assessment (ELNA) (March 2016) – this assessment identifies a minimum land allocation figure for strategic economic growth; and
 - Ipswich Economic Area Sector Needs Assessment (September 2017).
- 1.3 A further report was also prepared by Menta on behalf of Babergh and Mid Suffolk Councils in October 2019 entitled 'Grow on Space Supply and Demand Analysis' which identifies current provision and need for business start-up, incubator and 'grow on' business floorspace within the districts. Relevant parts of this evidence are cross-referred to in Menta's March 2020 report and are further discussed in Section 5 of this report.
- 1.4 The remainder of this report is structured as follows:
- **Section 2** provides an overview of the current and emerging policy context for the application in respect of matters relating to employment.
 - **Section 3** compares the evidence presented by both Fenn Wright and Menta, identifying key areas of similarity and difference in terms of their interpretation of the situation pertaining to the application proposals. This section goes on to detail gaps or omissions in the Fenn Wright and Menta evidence in identifying whether the application site is suitable, viable and deliverable for employment use.
 - **Section 4** presents an assessment of the application supporting evidence in respect of its compliance with the requirements of Policy EM24.
 - **Section 5** details evidence of the residual need for employment land and whether there is sufficient land elsewhere in the local area that can meet these needs.
 - **Section 6** presents our conclusions following the above assessment of available evidence, including what additional information may be required to safeguard a robust evaluation of the material considerations relating to this application by the local planning authority.

2.0 NATIONAL AND LOCAL POLICY CONTEXT

2.1 This section details the current and emerging policy context for the application in respect of matters relating to employment.

2.2 The relevant policy context is set out in the National Planning Policy Framework (NPPF), the Babergh Local Plan Alteration No. 2 (2006) and the Babergh Core Strategy (February 2014). The context set by the emerging Joint Local Plan for Babergh and Mid Suffolk districts is also outlined below.

a) National Planning Policy Framework (NPPF)

2.3 In terms of determining planning applications, Paragraph 47 of the NPPF requires that *“applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.”*

2.4 Regarding the extent to which an emerging plan can be considered to hold weight when determining an application for development, Paragraph 48 states that *“Local planning authorities may give weight to relevant policies in emerging plans according to:*

a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);

b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).”

2.5 The implementation of existing policies is further discussed in Annex 1 of the NPPF. Paragraph 213 in particular states that:

“existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”

2.6 In considering how policies relating to economic development and employment should be applied, Paragraph 81 states that planning policies should:

“d) be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices (such as live-work accommodation), and to enable a rapid response to changes in economic circumstances.”

2.7 In order to ensure that land for development is used as effectively as possible, Paragraph 120 states that:

“Planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:

a) they should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped); and

b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to

meeting an unmet need for development in the area.”

- 2.8 This is further supported in National Planning Practice Guidance (NPPG) which states in Paragraph 001 (Reference ID: 66-001-20190722):

“When considering whether there is a realistic prospect of an allocated site being developed for its intended use, it may be relevant to take into account factors such as:

- *the length of time since the site was allocated in the development plan;*
- *the planning history of the site including any planning applications or pre-application enquiries;*
- *whether there is evidence that the site has been actively marketed for its intended use for a reasonable period, and at a realistic price; and*
- *whether there are any changes of circumstance that mean that take-up of the site for its intended use is now unlikely.*

Where an alternative use for the allocated site is proposed, it will also be relevant to consider the extent to which evidence suggests the alternative use would address an unmet need, as well as the implications for the wider planning strategy for the area and other development plan policies.”

b) Babergh Local Plan (2006)

- 2.9 The application site is currently allocated as a General Employment Area under Policy EM02 of the Babergh Local Plan (Alteration No.2, 2006). This is designated land on which there is ‘in principle’ support for employment uses of the types defined in classes B1, B2 and B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended). Policy EM02 is a ‘saved’ Local Plan policy that has not been reviewed.

- 2.10 Local Plan Policy EM02 states:

“On the sites identified as General Employment Areas and new employment allocations, namely:

- *Lady Lane, Hadleigh*
- *Land east of Lady Lane, Hadleigh*
- *Crowcroft Road, Nedging*
- *Farthing Road, Sproughton*
- *Ballingdon Hill Industrial Estate, Sudbury*
- *Bulmer Road, Sudbury*
- *Chilton Industrial Estate, Sudbury*
- *Church Field Road, Sudbury*
- *Woodhall, Sudbury (including its proposed extension)*
- *Brantham Industrial Estate*
- *Waldingfield Road, Chilton and Former Sugar Beet Factory, Sproughton*

planning permission will be granted for employment related development in principle. This will include the relocation of existing businesses from residential areas where these would be better located alongside other employment generating activities. Exceptions to this policy will include proposals likely to have an adverse impact on town (or village) centre vitality and viability. Proposals able to demonstrate a positive effect on town (or village) centre vitality and viability will be permitted.”

- 2.11 As the site is allocated for employment use, Local Plan Policy EM24 (‘Loss of Employment Land’) is applicable in the determination of the application. This policy allows for applications

for non-employment uses to be permitted subject to appropriate justification. Policy EM24 states:

“Planning applications to redevelop or use existing or vacant employment land, sites and premises for non-employment purposes, will only be permitted if the applicant can demonstrate that their retention for an appropriate employment use has been fully explored. This may be undertaken in one of the two following ways:

- 1. by an agreed and sustained marketing campaign, undertaken at a realistic asking price; or*
- 2. where agreed in advance, the applicant can demonstrate that the land, site or premises are inherently unsuitable or not viable for all forms of employment related use”*

2.12 Policy EM24 seeks to protect existing employment sites and premises by requiring that proposals for re-use or redevelopment of such sites for non-employment uses are accompanied by sufficient evidence to demonstrate that other forms of employment use have been fully explored, including *“a proper and sustained marketing campaign, at current market value, for either continued or alternative employment purposes”* (paragraph 4.58). Paragraph 4.59 states that this marketing campaign will have to be agreed between the determining authority and applicant before it begins.

2.13 Paragraph 4.61 of the Local Plan goes on to state that the approach listed at (2) in Policy EM24 (the ‘second limb’ of the policy) will only be considered acceptable

“when agreed in advance by the determining authority and the applicant. This approach will require the applicant to employ appropriate commercial expertise to demonstrate that the land, site or premises in question are inherently unsuitable or not viable for all conventional forms of employment related use.”

c) Safeguarding Employment Land Supplementary Planning Document (March 2008)

2.14 The Safeguarding Employment Land Supplementary Planning Document (March 2008) provides further guidance on how Policy EM24 should be applied. In particular, the SPD provides advice on the criteria against which proposals for alternative use of business, industrial and warehouse land will be considered.

2.15 Paragraph 4.8 of the SPD states in respect of the second part of Policy EM24 that *“Policy EM24 will only be considered acceptable when agreed in writing in advance by the determining authority and the applicant. This approach will require the applicant to employ appropriate commercial expertise to demonstrate that the land, site or premises in question are inherently unsuitable or not viable for all non-domestic forms of employment related use”*.

2.16 Section 5 of the SPD provides guidance on how the marketing campaign to ascertain whether a site is demanded by a business occupier should be carried out to meet the requirements of the first part of Policy EM24.

2.17 Section 6 of the SPD provides guidance for applicants on meeting the requirements of the second part of Policy EM24. Paragraphs 6.2 to 6.4 state:

“it is accepted that even if a site is suitable in land use terms, individual circumstances on the site may mean that its full retention in employment use, following either refurbishment or redevelopment, is not a viable option. If this is the case, applicants will be expected to clearly demonstrate this in a supporting statement accompanying the planning application.”

Nevertheless, although the retention of the site in employment use may not be viable at a particular moment in time, the economics of development may change over time

and its refurbishment/redevelopment for employment uses could potentially become a viable proposition in the future. In this respect, such sites are still considered to have value as an employment resource.

There will be a number of sites across the Babergh District where their sole use for business and industrial purposes is no longer appropriate. In such cases, and where this is demonstrated by the Applicant/Agent, the Council will adopt a more flexible approach and, where appropriate, will seek to secure a mix of land uses. (emphasis added)

- 2.18 In these circumstances, paragraph 6.5 states that applicants should demonstrate that they have considered providing a mixed-use development:

“Where an applicant can clearly demonstrate that the redevelopment or refurbishment of an existing employment site is unviable, and where it is considered appropriate to do so, developers will be expected, subject to other policy considerations, to explore the prospect of a (real) balanced approach to mixed-use development which incorporates an element of a higher value use to cross-subsidise the partial redevelopment of the site for employment uses. In doing so, employment opportunities can be retained on the site. Such mixed-use schemes will need to secure a reasonable proportion of business and industrial units, appropriate to each location and circumstance.”

- 2.19 Paragraph 6.7 states:

“When determining the proportion of the overall site to be developed for employment uses, the Council will assess the individual merits of each case, but in doing so will take account of the employment resource being lost and the potential level of employment that can be achieved within the mixed-use development. As a principle, due to the policy’s aims to minimise/avoid the loss of employment land, the extent of employment land to be lost should be minimised as far as possible and the land use mix will need to be justified by documentary evidence.” (emphasis added)

- 2.20 Paragraphs 6.10 to 6.12 provide guidance on what information is required to support applications on employment land for wholly residential development, stating:

“The applicant or agent should explain why mixed-use development, including a reasonable proportion of business and industrial space is not feasible on a particular site. Where this is satisfactorily demonstrated, leisure/community uses will be preferred.

Residential development proposals will need to demonstrate that the resulting residential amenity conditions are satisfactory and that there would be no unacceptable impact on the operating conditions of existing and proposed businesses.

Residential schemes should ensure that necessary community facilities are accessible or can readily be provided on the site.”

- 2.21 The SPD concludes by identifying the Council’s ‘sequential approach’ to determining applications for non-employment uses on employment land. This is stated in paragraph 7.2:

“Where existing employment sites are to be redeveloped for other uses this SPD highlights the following sequential approach towards such proposals:

- *To retain suitable and viable sites in employment use as a 1st preference in all cases;*
- *To seek mixed-use development to cross-subsidise the delivery of new*

employment uses as part the site; where this is necessary to do so.”

d) Babergh Core Strategy (February 2014)

- 2.22 Policy CS3 ('Strategy for Growth and Development') sets out the strategy for future growth in Babergh to 2031. This policy states that *“Employment and housing growth will be accommodated within Babergh’s existing settlement pattern and in new mixed and balanced communities on the edges of the towns and the Babergh Ipswich Fringe”*.
- 2.23 In respect of the local economy, Policy CS3 identifies employment sites that were either allocated in the Core Strategy or set to be allocated in subsequent documents, stating that *“existing employment sites will be regularly reviewed, and where appropriate protected, and new sites allocated in DPDs”* and *“Sufficient land will be allocated, and existing sites and premises protected from other types of development to accommodate a range of employment development to provide for approximately 9,700 new jobs in Babergh by 2031”*.
- 2.24 The Core Strategy takes forward the Chilton Woods mixed-use strategic allocation, situated to the north west of the application site, as Policy CS3. The Chilton Woods allocation is a slightly smaller version of the site that was previously allocated in Policy CP01 of the Local Plan 2006. In respect of the Chilton Industrial Estate site, the Core Strategy does not reallocate the site that was previously allocated in the Local Plan 2006. However, reference is made to the Chilton Industrial Estate as an area in which take-up of employment land has been rapid:

“Historically the supply of employment land has been low, and take-up of new sites has been fast (e.g. Crockett Road in Hadleigh, as an extension to the Lady Lane employment area, and Churchfield Road on the Chilton Industrial Estate in Sudbury). Business sites and premises change hands frequently, and firms move to larger premises within the local area to facilitate expansion. The retention of a range of sites and premises across the district for employment use is essential to Babergh’s strategy of supporting the local economy and encouraging growth and innovation, and is therefore included in Policy CS3 as a key component of an integrated growth strategy.” (Paragraph 3.4.3.7, Core Strategy 2014)

e) Emerging Joint Local Plan (Preferred Options, July 2019)

- 2.25 A second Regulation 18 stage consultation on the Babergh and Mid Suffolk Joint Local Plan Preferred Options was undertaken from July to September 2019 and consultation on the Joint Local Plan Sustainability Appraisal Scoping Report was recently held in March and April 2020.
- 2.26 According to the revised Local Development Scheme (July 2020) revisions to the Joint Local Plan are currently ongoing and it is expected to be published for Regulation 19 consultation in Autumn 2020.
- 2.27 Policy SP05 ('Employment Land') of the Joint Local Plan Preferred Options (July 2019) identifies a number of strategic employment sites that *“shall be protected and their proposed expansion supported in principle”*. These sites include the site at Chilton Industrial Estate, but the site does not extend to include the application site to the north of Church Field Road.

3.0 ASSESSMENT OF SUPPORTING EVIDENCE

- 3.1 Parts (a) to (e) of this section reviews the evidence presented by both Fenn Wright and Menta. It goes on to identify key areas of similarity and difference in terms of their interpretation of the situation pertaining to the application proposals. It is noted however that these two reports have been produced for different purposes: the Fenn Wright report has been produced by the applicant to support the planning application, and the Menta report has been produced by the council's Economic Development team to support their response to the application.
- 3.2 Part (f) outlines the differences in the assessment and conclusions drawn in the Fenn Wright and Menta reports.
- 3.3 Part (g) outlines gaps or omissions in the Fenn Wright evidence in identifying whether the application site is suitable, viable and deliverable for employment use.
- 3.4 The final Part (h) of this section outlines a suggested model report structure to assist in the provision of evidence to support an application in compliance with the requirements of Policy EM24.

a) Assessment of suitability of site for B class uses

Fenn Wright

- 3.5 Paragraphs 1.9 and 7.1 of the report identify that planning consent for two detached industrial buildings was granted on part of the site in January 2014 and was quashed following judicial review in October 2014. The report states that this followed two other attempts to obtain planning permission for employment use on the site in 2002 and 2006, both of which were also quashed following judicial review.
- 3.6 Paragraph 1.10 of the report states that the site is unsuitable for B Class Uses due to its failure to meet current occupier demands, and the site's constraints including topography and proximity to heritage assets.
- 3.7 Paragraph 1.13 of the report highlights the 2019 Strategic Housing and Economic Land Availability Assessment (SHELAA) which concludes that the site lies within an area of high heritage sensitivity and should therefore be discounted for employment use.
- 3.8 The report notes that although the 2017 SHELAA considers Land to the North of Church Field Road to be suitable, available and achievable for both housing and employment (paragraph 5.29), it goes on to state that in the 2019 SHELAA *"the Site (reference SS0933) has been discounted on the basis that the land 'lies within an area of high heritage sensitivity'"* (paragraph 5.32). This section of the report concludes in paragraph 5.34, which states that *"the technical evidence that sits behind this proposed de-allocation is that for employment purposes, the site is within an area of high heritage sensitivity"*.
- 3.9 Paragraph 7.2 of the report states that *"Topography, and proximity to heritage assets limit the scale of potential use of the Site for modern industrial and warehouse uses"*.
- 3.10 Paragraph 7.3 states that additional landscape screening that would be required by modern industrial and warehouse uses would *"reduce the net developable area of the Site further"* and *"may offer some challenges that would make configuration of an employment use challenging"*. There is no reference to whether these same limitations would apply to a B1 office development.
- 3.11 Paragraph 7.4 states that *"Proximity to residential dwellings on Waldingfield Road, the Sudbury Community Health Centre and Chilton Hall, will also limit the end use of the site for many industrial uses. Potential occupiers may have concerns surrounding noise generation within the building, restriction on travel movements in evening and weekends, restriction on*

movements within the service yard areas". The report also notes that restrictions on vehicle movements may *"further restrict the scale, type and operation of possible employment development"*.

- 3.12 Paragraph 7.5 states, *"The site specific constraints are much greater than those at other established commercial locations within the Sudbury area and also other sites identified in the SHELAA for possible employment use in the future"*. However, these sites with fewer constraints are not explicitly identified (with the exception of Chilton Woods which is noted later in the same paragraph).
- 3.13 Paragraphs 8.4 and 8.5 further reiterate the identified site specific constraints. Paragraph 8.6 concludes that *"The constraints surrounding the Site mean that it is unlikely to successfully compete as an industrial or distribution building particularly in terms of building height and scale, when compared with other sites within the region– other modern industrial buildings within the Ipswich Fringe in Babergh include a nearly completed 40m eaves food packaging facility"*.
- 3.14 Paragraph 8.8 identifies a number of alternative business park locations that are well-connected and with enterprise status offering business rate relief. These sites are considered to be preferable to the Church Field Road site. However, the report does not identify whether there are plots or units available within these alternative locations, with the exception of the vacancy at the Delphi Diesel System site. We note that sale of the Delphi site has since been completed in July 2020.
- 3.15 Paragraphs 1.7 and 1.8 of the Addendum identify the Delphi site and Philips Avent site as *"suitable"* for employment use. In respect of the Delphi site it states that *"Whilst some works may be required, these pale into insignificance when compared to the scale of infrastructural works, servicing, planning, site levelling etc. which will need to be carried out to make the subject site suitable for commercial use"*.
- 3.16 Paragraph 1.10 of the Addendum reiterates that the application site is not suitable due to its *"poor logistical location"* and that *"there are competing sites which are vastly more suitable"*. However, again the report does not clearly and explicitly state which sites they consider these more suitable sites to be.
- 3.17 Paragraph 1.13 of the Addendum reiterates a lack of suitability of the site for industrial uses due to the *"onerous restrictions"* that were placed on the previously quashed consents.
- 3.18 Paragraph 1.14 of the Addendum states that a mixed use scheme would not be suitable due to *"detrimental impact on residential amenity and consequential value"*.
- 3.19 Whilst the report identifies the limited suitability of the site for industrial uses, it does not make a judgment on whether the site would be suitable for office (B1) use. Paragraph 1.12 of the Addendum notes that the nearest uses to the Church Field Road site are a medical centre (D1) and The Cloisters (predominantly B1(a) office operators. These uses are described as being *"compatible with residential"*. The report therefore does not provide clear evidence of the unsuitability of the site for each employment use (B1, B2 and B8).

Menta

- 3.20 The report identifies that a number of planning applications have been submitted on the site, and states that none of these have either been successful or been developed.
- 3.21 The report further assesses the suitability of the site for development by setting out the context for the development site and the surrounding area.

- 3.22 The report identifies that, along with the A134, Church Field Road forms one of the main roads through the Chilton Industrial Estate. The Estate has a mixture of commercial buildings and a range of uses including industrial, retail, leisure, storage and distribution and office space.
- 3.23 In respect of the application site, the report states that *“Its position within the estate means that it is subject to significant amounts of traffic movement throughout the day, seven days a week”*. However, no evidence is provided to substantiate this statement.
- 3.24 The report also notes that *“The B115 acts as the main separation between the existing commercial and residential developments, with the majority of the residential developments being to the west of the B115 or beyond the established commercial area to the south west of the A134”*.
- 3.25 The report draws no explicit conclusions on the suitability of the site for B Class or other uses although it does state in section 6.0 that *“the established area of Chilton Industrial Estate in Sudbury has a strong and vibrant economic environment”*.

b) Assessment of viability of site for B class uses

Fenn Wright

- 3.26 Paragraph 1.10 of the report states that *“low demand for employment space coupled with low rents and capital values within Babergh make the site unviable for commercial development”*. The report states that initial costs of infrastructure and site levelling would make delivery of the site prohibitive.
- 3.27 Section 6 of the report presents a relatively detailed assessment of the scale and nature of the existing stock of employment floorspace in Sudbury, together with recent market transactions.
- 3.28 Paragraphs 6.4 and 6.5 of the report identify 11 transactions in the industrial and warehouse market in Sudbury over the last five years which are in excess of 2,000 sq ft (with a mean rent of £4.24 per sq ft) and seven office transactions over the same period, of which only two are over 2,000 sq ft (with an average rent of £11 per sq ft). This is reduced to an average rental figure of £8.50 if smaller office accommodation units are removed.
- 3.29 Paragraph 6.6 undertakes a comparison with *“larger settlements, including Ipswich”* and identifies 44 transactions on industrial and warehouse space within the same period, with an average rent of £4.70 per sq ft. It is however unknown over precisely what area these transactions were identified and it is also questioned how comparable these transactions are with the Sudbury property market as this is identified as being relatively self-contained (Ipswich Economic Area Sector Needs Assessment, 2017, paragraph 2.16).
- 3.30 In terms of office accommodation, paragraph 6.7 identifies 125 office accommodation transactions over five years, with an average rental figure of £8.50 per sq ft. Again, it is not clear over what geographical area these transactions were identified.
- 3.31 Paragraph 6.8 states that *“There has been finite speculative development of industrial and office accommodation over the past five years within Sudbury and the area immediately surrounding Sudbury. This is mainly due to viability concerns...Any potential upward pressure on rents is exacerbated by modest availability rates”*.
- 3.32 Paragraphs 7.13 to 7.26 provide further evidence of existing rental values and viability of employment floorspace within and around Sudbury.
- 3.33 Paragraph 7.16 states there is *“an obvious issue of viability”* as mean build costs for industrial and office uses are shown to be higher than average sale values, before accounting for other additional costs such as land value, taxes and developers profit. Paragraph 7.16 goes on to

state that “we are not aware of any recent office buildings being constructed in the past decade”.

- 3.34 In terms of rental values, paragraph 7.18 states that “the division between build costs and rental values is even greater” for industrial premises, and that the Ipswich Economic Area Sector Needs Assessment makes a similar statement about office accommodation, stating that “in the current market, viability remains a key barrier to new office development”.
- 3.35 Paragraph 7.20 states that in respect of the office market (B1a/b), “The rents passing are 50% below the area average, and nearly half the level required at the date of the Needs assessment – construction costs have since increased the level required”.
- 3.36 Paragraph 7.21 references the Local Plan and CIL review viability report prepared by Aspinall Verdi in June 2019, stating “The review further corroborates the issues which have been repeatedly identified in this Report surrounding viability. Section 9.14 of the Review states ‘In our employment viability testing we have considered office and industrial development. Our viability testing shows that both are currently unviable, and there is not an opportunity to seek planning contributions for these types of development’”.
- 3.37 Paragraph 8.7 concludes that “Viability issues for employment uses on the Site are likely to preclude the development of the Site on a speculative basis, particularly where limitations on height and scale mean that maximum values cannot be obtained from mezzanines”.
- 3.38 Paragraph 1.5 of the Addendum notes that Sudbury’s lack of connectivity and lower capital and rental values means that small scale industrial units are not viable in this location.

Menta

- 3.39 Section 5.0 of the report provides a qualitative assessment of the viability of the Church Field Road Site for B class uses.
- 3.40 The costs of providing infrastructure are not considered to be “a barrier to the overall viability of a project although it could present challenges in cashflow” and is therefore identified as somewhat of a barrier.
- 3.41 In terms of build costs, the report states that the evidence shows that development of commercial units in Sudbury offers a return on investment, with many businesses in Sudbury wanting to expand but having limited opportunities within existing properties. There is a buoyant market in units of 1,000 to 3,000 sq ft industrial floorspace but lack of availability means there are fewer transactions.
- 3.42 Infrastructure and large upfront costs are identified as barriers to development and that a mixed use scheme, including an element of residential development, may help fund some of the up-front enabling and infrastructure costs.
- 3.43 No detailed costed viability assessment is provided.

c) Assessment of employment land need and supply of suitable, alternative sites

Fenn Wright

- 3.44 Paragraph 1.10 of the report states that recent planning consents on sites within Babergh have resulted in a greater supply of commercial land than required.
- 3.45 Demand for office accommodation is described as ‘poor’ with a high number of vacant office sites being converted to residential use which indicates a lack of demand for office floorspace in the local area.
- 3.46 Paragraphs 1.11 and 1.12 of the report refers to evidence prepared to support the emerging Joint Local Plan which identifies a requirement of 2.9ha employment land within Babergh and 9.4ha in Mid Suffolk. Paragraph 1.12 highlights the Regulation 18 Preferred Options

Joint Local Plan (July 2019), which states that *“In quantitative terms, there is therefore considered to be more than sufficient existing identified land to meet baseline objectively assessed need over the plan period, given the modest baseline forecast in both areas”*.

- 3.47 Paragraph 4.2 of the report references ONS statistics from 2014 which identify 42,632 of Babergh District's 87,700 residents being in employment, of which 72% were in full time and 28% in part time employment.
- 3.48 Paragraph 4.5 of the report states that *“of the economically active population within Babergh, approximately 57.4% are employed within the Babergh district”*. Paragraph 4.6 states that *“approximately 68.5% of the working population resides in the District. The figures are above Ipswich's figures which see 62% of its workforce living within the district”*.
- 3.49 Paragraph 4.7 of the report states that *“relatively poor road and rail links to Sudbury have resulted in both a positive and negative impact on the commercial property market. Existing employers have been able to secure a reliable workforce, although there has been limited substantial inward investment with few new substantial employers in Sudbury and thus interest in large sites”*.
- 3.50 Paragraph 4.8 goes on to state that *“The characteristics that deter labour mobility results in a limited pool of employers which results in relatively low labour costs. In addition, the lack of inward investment is shown in relatively low occupational costs in comparison with Ipswich or Colchester”*. It is however questionable how comparable Sudbury is with Ipswich and Colchester, as Colchester does not lie within the Ipswich Economic Area (as identified in the Ipswich Economic Area Sector Needs Assessment, 2017) and Sudbury is also identified as having a *‘relatively self-contained property market’* (paragraph 2.16, Ipswich Economic Area Sector Needs Assessment, 2017).
- 3.51 In reference to regional policy, paragraph 5.7 of the report states that in the New Anglia Local Enterprise Partnership Economic Strategy (2017) *“Sudbury is not identified as a priority place for business / employment growth”*.
- 3.52 Paragraph 5.23 of the report states that *“the August 2017 Regulation 18 [Joint Local Plan] states that there is more employment land available than what the forecast need is in the District”* and that the employment land supply position remains the same in the July 2019 Joint Local Plan Preferred Options, which identifies a *“modest net additional requirement”* in Babergh of 2.9 hectares for the period up to 2036 (paragraph 9.13 of the Joint Local Plan, July 2019).
- 3.53 Paragraph 5.24 states that *“in quantitative terms, the Council consider that there is more than sufficient existing identified employment land to meet baseline objectively assessed need over the plan period, given the modest baseline forecast”*.
- 3.54 Paragraph 5.26 of the report identifies that the emerging Joint Local Plan is proposing to remove the allocation of the Land to the North of Church Field Road site for employment uses.
- 3.55 Paragraph 5.33 of the report states that *“the emerging JLP suggests that for Babergh there is a low net additional employment requirement to 2036, and there is a surplus of existing and allocated employment land to meet this need. This demonstrates that the employment allocations made in 2006 under the adopted Local Plan reflect a very different economic climate for B class uses when compared to the current economic climate”*.
- 3.56 Paragraphs 6.9 to 6.16 identify the status of a number of employment sites currently available to let in Sudbury.
- 3.57 Figures provided in paragraphs 6.11 and 6.12 indicate an availability rate of 4.6% of all industrial stock and 1.2% of all office accommodation within the Sudbury market. The

availability of office accommodation is identified as being at the lowest level for the past five years. Paragraph 6.12 goes on to state that *“Despite the low availability rate, there appears to be low upward pressure on capital and rental values”*.

- 3.58 Paragraph 6.13 states that *“Planning and permitted development has seen the amount of available office accommodation fall to the levels referred to above”*. The report identifies that 50,000 sq ft of office accommodation has been lost to residential *“reflecting the lack of demand in Sudbury and the surrounding area for offices”*.
- 3.59 However, it is unclear from the report whether this is really reflective of a lack of demand or whether it is more reflective of the higher values of residential property, particularly given the low vacancy rates of office accommodation. No clear evidence is presented to support the claims regarding a lack of demand for office accommodation in Sudbury.
- 3.60 Paragraph 6.17 of the report states that the 2017 and 2019 SHELAAAs *“identify a number and variety of new employment sites within Sudbury that are deliverable within the next five years. These sites are in addition to the 86.4 hectares of land already allocated for employment use in the adopted Local Plan, and the Core Strategy”*. It is not identified in the report which of these sites are located in Sudbury, how many of these sites have been delivered to date and what the current availability of deliverable employment land is within Sudbury.
- 3.61 Paragraphs 6.18 to 6.21 identify a number of employment developments which are either allocated or have been granted planning consent within Babergh and Mid Suffolk Districts. However, no conclusions are drawn in terms of when these developments are likely to be delivered and how they might impact the need for employment floorspace within the locality of the application site. It is also questionable how directly comparable some of these sites are with the application site, such as the British Sugar site in Sproughton, which may have different sensitivities.
- 3.62 In terms of local demands for employment space, paragraph 7.6 describes feedback from local commercial property experts, whose comments are that *“there may be some limited occupational demand for part of the site for employment uses, of small quarter acre or half acre plots, however it is unlikely that the demand would be sufficient to enable delivery of the entire site within a period which would justify the costs associated with the provision of infrastructure and construction”*.
- 3.63 Paragraphs 7.8 to 7.12 review existing evidence on the likely demand for employment uses in Babergh district. Paragraph 7.11 concludes that jobs growth changes identified in the Ipswich Economic Area Needs Assessment (September 2017) *“will only see a need for 22,130 sq m of new space over 2.9 hectares in Babergh over the next twenty years”*.
- 3.64 Paragraphs 7.22 to 7.26 provide evidence of demand for employment floorspace within and around Sudbury. Paragraph 7.22 identifies a number of vacant industrial units in close proximity to the Church Field Road site that have been on the market for a significant period of time, in some cases over two years. Evidence of existing requirements from Estate Agents Clearing House identifies 27 recorded requirements for office and industrial floorspace in Suffolk, although it is noted in paragraph 7.24 that some of these are duplicated and that many require sites in other locations or within close proximity to the A12 or A14.
- 3.65 In respect of demand for office space, paragraph 7.25 states that *“there has been limited upward pressure on rental and capital values which would be a key indicator of supply outstripping demand”*. Paragraph 7.26 states that *“This experience is further corroborated by the limited number of active office requirements on Estate Agents Clearing House”*.

- 3.66 Paragraph 8.2 concludes that *“Since Babergh has currently 86.4 hectares of land allocated for employment within the adopted Local Plan and Core Strategy, the need for only 2.9 ha of additional employment land for the period up to 2036 represents a significant over supply”*.
- 3.67 Paragraph 8.10 states that the vacant unit at the Delphi Diesel Systems site *“will likely absorb any local demand that exists in the short to medium term – with long term future growth to be absorbed by the 15 hectares as consented at Chilton Woods”*.
- 3.68 The Addendum to the Fenn Wright report presents a response to the comments of the Economic Development Officer. Paragraph 1.2 of the Addendum notes that the forecasts contained within the Ipswich and Waveney Economic Area Land Needs Assessment (ELNA) (2016) are not minimum floor area requirements. Having reviewed the ELNA however, we note that the net floorspace requirements relate to a ‘baseline’ East of England Forecasting Model (EEFM) growth scenario or a ‘policy off’ position.
- 3.69 Paragraph 7.47 of the ELNA states in respect of the identified EEFM baseline net floorspace and land requirements that *“these requirements therefore reflect the minimum quantum of floorspace and land that should be planned for across the two Economic Areas over the period to 2031. The five local authorities within the study area will need to give further consideration to the planning requirement for employment land over and above this minimum position based on a more detailed analysis of past trends and local supply side factors”*.
- 3.70 Paragraph 1.2 of the Addendum also states that that the ELNA report does not make reference to the now vacant Phillips Avent site or Delphi Diesel Systems site. It should be noted however that the sale of the Delphi site to Future Properties Industrial was completed in July 2020, and the Philips Avent site is now under offer to Malaysian company Guan Chong Berhad Group (GCB).
- 3.71 Paragraph 1.4 of the Addendum notes that a developer is now engaged on the Chilton Woods site. However, it is unclear how this relates to the applicant’s arguments on the need for employment land in Sudbury or deliverability of the Church Field Road site.
- 3.72 Paragraph 1.11 of the Addendum notes that there is limited demand for existing businesses to move premises but rather to expand within their own site. However, there is little evidence provided of the needs of local businesses in terms of their preference for expansion on site over relocation.
- 3.73 Paragraphs 2.3 to 2.9 of the Addendum raise issue with the Menta ‘Grow on Space’ report, noting that the August data collection period will not be reflective of the true commercial estate market, as fewer deals are done during the summer period, and that available incubation / start-up units and vacancy rates are under-reported, resulting in a *“skewed perception on supply and demand”*. Paragraph 2.10 of the Addendum also notes that agents consulted as part of the Menta ‘Grow on Space’ report were predominantly those who specialise in areas outside the district.

Menta

- 3.74 The report draws on previous studies, including Menta’s ‘Grow on Spaces in Babergh and Mid Suffolk’ (October 2019) report, to assess existing business needs within Babergh.
- 3.75 Section 2.1 of the report identifies a total of 4,160 businesses in Babergh in 2019, of which 89.7% are ‘micro’ businesses of fewer than 10 employees, 8.8% are ‘small’ businesses (10 to 49 employees), 1.4% are ‘medium’ sized (50 to 249 employees) and 0.2% that are ‘large’ (over 250 employees).
- 3.76 The report states that *“the overall picture is one of growth”*, although the scale of this change is not clearly identified other than stating that since the previous report was published there

has been *“a small amount of growth including manufacturing, construction, automotive and professional services. There is a small amount of decline in public administration and defence and arts, entertainment, recreation and other services, but it is minor”*.

- 3.77 The largest sectors in Babergh are construction (representing 15.2% of all businesses), professional, scientific and technical (representing 15.8% of businesses) and agriculture, forestry and fishing (representing 10.2% of businesses).
- 3.78 Figure 2.3 in the report identifies the largest employment sectors although this list excludes jobs in land-based agriculture and the self-employed, the latter of which represents 4,400 people in Babergh. The rate of self-employment in Babergh is less than the Suffolk and national averages.
- 3.79 In section 2.2, the report assesses the type and size of businesses located on the Chilton Industrial Estate. It is noted that many businesses occupy more than one building which *“reflects their desire to expand but to remain in the same area”*, and that many businesses have built mezzanines to accommodate growth.
- 3.80 The estate has businesses of varying sizes across a range of sectors. It states that *“this variety adds to the stability and attractiveness to be based on the estate”*. In terms of ‘stability’, it is unclear from the report what the turnover of properties is on the estate.
- 3.81 The report notes that *“despite traffic links that are less than favourable than other areas in Suffolk along the A14 and A12 businesses still wish to remain and expand their services within Sudbury”*.
- 3.82 The report identifies that between the previous October 2019 report and March 2020 smaller units that were available to let in October 2019 *“have mostly now been let”* and that other units have come to the market and been let during the same period. It is unclear from the report whether the large warehouse units identified to let or for sale in the October 2019 report (such as the Delphi site and Newton Road site) have been let or sold and when these transactions took place. We note from our own research that sale of the Delphi site was completed in July 2020.
- 3.83 Section 3.1 of the report presents a summary of research undertaken in October 2019, including interviews with three local agents. The key points from this research are that there is demand for 1,000 – 3,000 sq ft industrial floorspace in the local area, but lack of viability of these units has limited availability and resulted in some businesses relocating elsewhere.
- 3.84 The report also identifies demand for flexible small-scale industrial units by SMEs and non-B uses, such as leisure businesses and trade counter businesses. However, this mix of uses is hampered by planning permissions which are often only granted for B1, B2 and B8 class uses.
- 3.85 The report also identified a demand for incubator units of between 200 and 300 sq ft. However, the viability of such units can be lower due to higher build and management costs. A number of vacant larger units have been converted and let as smaller units due to demand.
- 3.86 The report notes that demand for large warehouse units in Sudbury is low, whilst demand for B1 and B2 units is high despite the lack of transport connections. The report states *“this may be linked to the housing and population numbers as people desire to reduce travel and bring a work/life balance”*.
- 3.87 The report identifies a strong freehold market due to lack of supply. Increased supply would create some churn in the market, although this requires a balance with flooding the market which would reduce values and encourage conversions to residential. It is noted that there is beginning to be more activity around speculative development.
- 3.88 Section 3.2 presents the assessment of sales and lettings in Sudbury and Babergh as a

whole over the last five years. The report states there is “*strong demand*” for office and industrial space in Sudbury. There were 42 property sales in Babergh District in the past five years although the report does not explicitly state how many of these were in Sudbury (although there is an indication in Figure 3.4).

- 3.89 The report states that “*Sales are stronger for larger units, whilst the letting market is more buoyant for smaller units*”.
- 3.90 Section 4.1 of the report draws out key points of relevance to Babergh from the demand study undertaken in the Ipswich Economic Area Sector Needs Assessment (2016). These key headlines indicate that 80% of businesses surveyed felt that their current premises were about right in terms of space requirements and that the perceived quality of buildings and sites in Babergh was greater than the wider area surveyed. However, satisfaction with location of business premises was lower than the wider area surveyed due to poorer local road networks and lack of skilled workers. 25% of respondents indicated that they had previously had difficulties finding suitable premises to locate to in the area.
- 3.91 Section 4.2 of the report summarises findings of the business questionnaire that was issued as part of the Menta ‘Grow on Spaces’ study (October 2019). This revealed that 47.5% of respondents were considering moving premises, with 42.1% considering moving in the next 12 months. Of those not considering moving, there were a number of reasons identified including that their roles were currently undertaken from home or that their businesses were virtual/online, or that it was difficult to find suitable, affordable premises of the right size.
- 3.92 Section 4.3 of the report concludes that “*we know from this and other research that businesses are keen to grow and expand in Suffolk. The lack of available premises act as a barrier. Where there is availability, for the premises to be suitable they wish to have the ability to expand, for the premises to have good facilities such as parking, access and connectivity. The cost to grow and acquire premises, along with access to finance to support growth were identified as challenges and barriers, but the agent’s made comments on strong enquiries indicating that despite this there is a strong and buoyant market*”.
- 3.93 Section 6.0 of the report concludes that the economic environment in Sudbury is “*strong and vibrant*” and that there are few empty premises and those that are empty for longer periods are typically large warehouses or sites with multiple buildings. The report identifies a strong demand for smaller, purpose built units, of which there are relatively few. The cost of construction versus returns on investment have stifled some speculative investment, but those properties that have come to the market have proved popular and successful.
- 3.94 No quantitative evidence is presented on the amount of employment floorspace or number of units for which there is currently demand in Sudbury. Although Appendix A of the report identifies the current occupancy and vacancy rates of units on the Chilton Industrial Estate, no commentary or quantitative assessment of the current vacancy and turnover rates are provided.

d) Assessment of employment opportunities proposed on site

Fenn Wright

- 3.95 Paragraph 1.16 of the report highlights that the adopted Local Plan acknowledges in Paragraph 4.20 that other types of land use outside classes B1, B2 and B8 are important for providing jobs and benefitting the wider community.
- 3.96 Paragraph 1.17 of the report states that the proposed care home will offer job opportunities that are viable and deliverable within the current economic climate and context of both Sudbury and the District. It states that this assessment of non-B class employment is compliant with paragraph 120 of the NPPF, the adopted Local Plan and ‘Safeguarding Employment Land’ SPD.

3.97 Paragraph 1.14 of the Addendum to the report states that *“The provision of a care home on the site will see the provision of around 50 full time equivalent jobs with a variety of employment opportunities available”*.

Menta

3.98 The Menta report does not make any assessment of the employment opportunities that the Church Field Road planning application proposes to deliver on site.

e) Conclusions on whether site should be retained for employment use

Fenn Wright

3.99 Paragraph 1.14 of the report concludes that *“the Site is not suitable for B Class Uses (B1, B2 or B8), and that such uses would not be viable. These conclusions can be drawn for both development of the whole of the Site for employment use, as well as development of part of the Site for employment use.”*

3.100 Paragraph 1.15 goes on to state that *“The Site is not required for employment purposes pursuant to the adopted Local Plan, and is clearly not required for employment purposes pursuant to the emerging Joint Local Plan”*.

3.101 In reference to national policy, paragraph 5.4 of the report states that *“the NPPF is seeking to encourage economic growth as part of sustainable development. In doing this, it recognises that economic circumstances can alter over time resulting in the need to regularly review employment allocations. Where there is no prospect of the site coming forward for employment use then it should be reallocated for a more deliverable use, or that alternative uses should be supported, subject to a requirement.”*

3.102 Paragraph 8.11 states that development on the site for commercial uses is unlikely for the following reasons:

- *“there are site specific constraints associated with commercial development which are incapable of mitigation;*
- *there is a lack of growth within the sector;*
- *there are competing sites which are superior in terms of location and access, such as the Ipswich Fringe;*
- *there are competing sites within the District that are un-constrained;*
- *there is an acknowledged oversupply of deliverable commercial development land in both Sudbury, at Chilton Woods, and the wider Babergh District”*.

3.103 Paragraph 8.12 concludes that *“it is reasonable to state that Site is inherently unsuitable and not viable for all forms of B class employment related use”*. Paragraph 8.14 also states that *“It is therefore considered that the loss of the Site from employment use is not required for purposes pursuant to the adopted Local Plan, and is clearly not required for purposes pursuant to the emerging Joint Local Plan”*.

3.104 Paragraph 8.19 also highlights that paragraph 4.20 of the adopted local plan acknowledges *“that other types of land use outside classes B1, B2 and B8 are also important employment providers, and the SPD (Paragraph 1.2) states that employment in other, non B Class Uses, is also significant for providing jobs and for benefitting the wider community”*.

3.105 Paragraph 8.19 goes on to state that *“The proposed development is therefore seeking to provide employment as part of a care home, which it is acknowledged will fall outside B class uses, but given the identified site constraints, and evidence demonstrating the lack of viable of B class uses on the Site, will offer job opportunities that are viable and deliverable within the current economic climate and context of both Sudbury and the District”*.

Menta

- 3.106 Section 6.0 of the report concludes that *“Whilst it is accepted that there are some viability issues with the site, there is evidence, in this location where there is the economic activity and vibrancy to support a development of commercial units, predominantly in the 1,000 – 3,300 sq ft bracket, but up to a maximum of 10,000 sq ft”*.
- 3.107 There is no explicit conclusion as to whether this site in particular should be retained for employment use.

f) Differences between the Fenn Wright and Menta reports

- 3.108 Notwithstanding the difference in purpose of the Fenn Wright and Menta reports, the key differences and similarities in terms of their individual assessments of the suitability and viability of the Church Field Road site for employment uses is summarised below. The following also summarises the key differences in the two reports’ assessments of need for employment land and whether this need could be met by other available land within the locality.

Assessment of Site Suitability for B Class Uses

- 3.109 The Fenn Wright report assesses the Church Field Road site as unsuitable for employment uses due to physical constraints within the site and the proximity of the site to other residential development, which would result in restrictions on the scale of development and vehicle movements etc. This assessment is primarily linked to suitability for industrial and warehouse uses (B2 and B8). No explicit assessment is made of whether the site is suitable for B1 office uses.
- 3.110 In terms of assessing the site’s suitability for a mixed-use scheme, the Fenn Wright report does not explicitly identify what mixture of uses has been considered in their assessment. They conclude that a mixture of industrial and residential space would be unsuitable but they do not appear to have considered the suitability of the site for a mixture of B1 office and residential uses.
- 3.111 Comparatively, the Menta report does not draw any explicit conclusions on the suitability of the Church Field Road site for B Class uses, although it does highlight the existing commercial and economic nature of the surrounding locality.

Assessment of Site Viability for B Class Uses

- 3.112 The Fenn Wright report states that the Church Field Road site would be unviable for commercial development due to a combination of low rents / sale values, restriction on size of industrial units and high infrastructure and construction costs. Whilst some costed evidence of rents and sale values are provided, the report does not provide a quantitative, site-specific viability assessment of a potential employment or mixed-use development on the Church Field Road site.
- 3.113 In comparison, the Menta report acknowledges that whilst infrastructure costs associated with delivering the site may be high, that these would not be enough to make a scheme unviable, particularly a mixed-use development containing smaller industrial units (up to 10,000 sq ft). The report’s qualitative assessment identifies a ‘buoyant’ market for industrial floorspace in Sudbury. However again, no quantitative, site-specific viability assessment is provided.

Assessment of Employment Land Need and Supply of Suitable, Alternative Sites

- 3.114 The Fenn Wright report identifies an over-supply of available commercial land than currently required according to the figure of 2.9 hectares identified in the Joint Local Plan evidence base. The report states there is a lack of demand for office and industrial floorspace in the

local area, in part due to lack of transport connections to Sudbury and is primarily evidenced by requirements listed on Estate Agents Clearing House and the lack of take-up of existing vacant units in the local area. The report identifies employment land supply coming forwards at the Chilton Woods site (15 ha) that will exceed the 2.9 ha identified as being required. The report makes reference to a number of available alternative sites (although the suitability of these sites in comparison with the Church Field Road site is not explicitly assessed).

3.115 In comparison, the Menta report identifies a demand for medium sized B2 industrial units (1,000 to 3,000 sq ft), smaller sized incubator units (200 to 300 sq ft) and B1 offices within Sudbury. Demand for larger B8 warehouse units is identified as being low. The report also identifies a lack of availability of units and a low vacancy rate amongst most existing employment units (with the exception of larger warehouses or sites with multiple buildings). No evidence of planned units and units under development or quantitative evidence of current floorspace demands in Sudbury is provided. No alternative, suitable sites are identified.

g) Gaps in evidence

3.116 The following are identified as matters that would need to be included in the Fenn Wright report (as submitted in support of a planning application submission) to enable a full response against the requirements of Policy EM24.

3.117 In terms of assessing the suitability of the Church Field Road site:

- There is a lack of sufficient consideration of the suitability of the site for each type of employment use (B1, B2 and B8), including provision of robust evidence to support these claims.
- There is a lack of detailed consideration of the suitability of the site for a mixed-use development, together with provision of clear evidence.

3.118 In terms of assessing the viability of the Church Field Road site:

- No quantitative, site-specific viability assessment has been provided to demonstrate whether the development of the Church Field Road site for employment use (including land use class B1, B2 and B8) is viable.

3.119 In terms of assessing the demand for employment land and the availability of suitable, alternative sites in the locality:

- Some of the evidence around current demands for employment floorspace (particularly in terms of office floorspace and desires of businesses to expand on-site over relocating to other sites) could be fully justified and clearly articulated. For example, it would be useful to include a summary of quantitative demands for floorspace by land-use class;
- There is a lack of clear quantitative assessment of the supply of employment land in the locality of the Church Field Road site, including with reference to the status of existing allocations, extant permissions and existing vacant/available units.
- There is no clearly articulated quantitative comparison of existing employment floorspace demands versus supply (for use classes B1, B2 and B8) in the locality of the Church Field Road site.
- The report does not explicitly identify alternative available sites, nor does it clearly assess the relative suitability of these alternative sites compared with the Church Field Road site. For example, it would be useful if other allocated sites, sites with planning permission, or those currently being developed were assessed to identify their suitability in comparison with the Church Field Road Site.

h) Model report structure

3.120 In considering the requirements of Policy EM24 and the accompanying guidance outlined in the Safeguarding Employment Land Supplementary Planning Document (March 2008), we would envisage that an appropriately evidenced report would be structured as follows:

- Introduction
- Review of national and local policy
- Methodology for evidence gathering to support requirements of Policy EM24
- Assessment of site suitability for employment use, including:
 - Detailed assessment of the suitability of the site for each employment use class (B1, B2 and B8)
 - Detailed assessment of the suitability of the site for a mixed-use development (including elements of B1, B2 and/or B8)
 - Assessment of suitable alternative sites
- Viability assessment (quantitative) for employment use, including:
 - Assessment of local employment need / demand
 - A quantitative viability assessment of developing the site for employment uses (B1, B2 and B8); and where this proves to be unviable
 - A quantitative viability assessment of developing the site for a mixture of uses (including a proportion of employment floorspace). The land use mix assessed as part of this viability assessment will need to be justified.
- Acceptability of residential use, including:
 - Assessment of suitability of site for residential use
 - Demonstration of compliance with paragraphs 6.10 to 6.12 of the SPD
- Conclusions, including an overall assessment of whether the requirements of Policy EM24 have been met in terms of:
 - How the site is inherently unsuitable for all forms of employment related use (including mixed-use development)
 - How the site is unviable for all forms of employment related use (including mixed-use development)

3.121 Whilst there is no requirement to comply with both strands of Policy EM24, it would also be useful to include (perhaps within the methodology section) some explanation as to why the applicant has chosen not to progress with the 'first limb' of Policy EM24.

4.0 ASSESSMENT OF COMPLIANCE WITH POLICY EM24

4.1 This section presents an assessment of the application's supporting evidence in respect of its compliance with the requirements of Policy EM24.

4.2 To reiterate, Policy EM24 states:

“Planning applications to redevelop or use existing or vacant employment land, sites and premises for non-employment purposes, will only be permitted if the applicant can demonstrate that their retention for an appropriate employment use has been fully explored. This may be undertaken in one of the two following ways:

1. by an agreed and sustained marketing campaign, undertaken at a realistic asking price; or

2. where agreed in advance, the applicant can demonstrate that the land, site or premises are inherently unsuitable or not viable for all forms of employment related use”

4.3 The applicant has chosen not to proceed with the 'first limb' of Policy EM24 which would have included undertaking a sustained marketing campaign.

4.4 In respect of the applicant's compliance with the 'second limb' of Policy EM24, the applicant is required to demonstrate that the site is either a) inherently unsuitable or b) unviable for all forms of employment related use.

4.5 In terms of the applicant's assessment of the suitability of the site for employment related use, the evidence presented in the Fenn Wright report identifies some reasons why the site is unsuitable for industrial / warehouse uses, however it does not fully assess the suitability of the site for all B class uses, including B1 office uses. Although some degree of assessment is made of the suitability of the site for a mixed-use scheme, the assessment does not explore the full range of mixed-uses that could potentially be delivered on the site, including for example a mixture of B1 offices and residential uses. Therefore, there is insufficient evidence to demonstrate that the site is inherently unsuitable for all forms of employment related use.

4.6 With respect to the applicant's assessment of the viability of the site for employment related use, no quantitative, site-specific viability assessment is provided that covers a range of potential employment uses, including a mixed-use development. There is therefore insufficient evidence to demonstrate that the site is not viable for all forms of employment related use.

4.7 It is therefore concluded that the applicant has not demonstrated that the retention of the site for an appropriate employment use (B1, B2 and/or B8) has been adequately explored and as such Policy EM24 has not been complied with.

5.0 EMPLOYMENT LAND ASSESSMENT

- 5.1 Section 4 identifies that Policy EM24 has not been complied with. In the Council's brief we have been asked to consider whether there is evidence of a specific and identified employment need having regard to prevailing commercial and market conditions in the locality, that could be addressed by this site and which cannot be addressed by available land elsewhere in the locality.
- 5.2 In terms of identifying existing demands for employment floorspace in the locality of the site the evidence presented by the applicant identifies requirements listed on Estate Agents Clearing House, however this evidence of demand could be more clearly articulated in a quantitative form by floorspace type / employment land use class. The employment need in the locality is currently not clearly presented in the evidence provided.
- 5.3 In terms of the evidence used to demonstrate existing employment floorspace demands in the locality, we would expect sources of evidence to include:
- Evidence of recent sales / lettings transactions data for Sudbury and surrounding areas;
 - Evidence of local business requirements for Sudbury and surrounding areas, for example through estate agent databases or survey of local businesses;
 - Evidence from the Ipswich and Waveney Economic Areas Employment Land Needs Assessment may be relevant, however the low number of respondents (7) from Babergh District means that these results are unlikely to be statistically significant and they are also not up-to-date. When making direct comparisons with other property markets, such as Ipswich, we would expect the applicant to also consider and explain the extent to which these comparisons are justified given the relatively self-contained nature of the Sudbury property market.
- 5.4 In terms of identifying the extent to which existing employment floorspace demands could be met by the application site and which could be met by available land elsewhere in the locality, the evidence currently presented by the applicant does not undertake a comprehensive quantitative and qualitative assessment of the supply of employment land in the locality of the Church Field Road site and the extent to which this land could meet existing employment floorspace demand, including in terms of the size, suitability and deliverability of identified alternative sites.
- 5.5 In terms of evidence used to demonstrate the extent of supply of suitable and deliverable alternative employment sites in the locality, we would expect this assessment to include:
- Evidence of allocated employment sites, sites with planning permission and those currently being developed in the locality of the application site in terms of their size, suitability and deliverability for employment uses.
- 5.6 Following this assessment of need and supply, the applicant should form an evidence-based conclusion on whether the residual need for employment land in the locality can be sufficiently met by these alternative sites.

6.0 CONCLUSIONS

- 6.1 This report has assessed the evidence presented by both the applicant and the Council in respect of planning application ref. DC/20/01094 for the erection of up to 190 residential dwellings, purpose built care home of up to 60 bedrooms, and associated infrastructure and means of access on land on the north side of Church Field Road, Chilton Industrial Estate, Chilton.
- 6.2 Our independent review of this evidence concludes that the applicant has not sufficiently demonstrated that the land, site or premises are inherently unsuitable or not viable for all forms of employment related use, and as such the 'second limb' of Policy EM24 has not been complied with.
- 6.3 Section 3(g) of this report identifies how the current gaps in evidence might be filled in order to demonstrate compliance with Policy EM24, and Section 3(h) outlines a suggested report structure that could be used to present this evidence.
- 6.4 In terms of considering the weight that should be given to Policy EM24 in determining an application, Paragraph 213 of the NPPF states that:
- “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”*
- 6.5 Therefore, it is necessary to consider whether Policy EM24 is consistent with policies in the NPPF. The most relevant part of the NPPF to determining this application is paragraph 120, which states that:
- “Planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:*
- a) they should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped); and*
- b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.”*
- 6.6 The evidence provided by the applicant is not currently sufficient to demonstrate whether the application site is required to meet an identified local need for employment land. In addition to this any alternative uses should be supported by evidence that identifies the proposal would contribute to an unmet need in the area.
- 6.7 In considering the degree of consistency of Policy EM24 with relevant sections of the NPPF, the requirement for the applicant to demonstrate *“that the land, site or premises are inherently unsuitable or not viable for all forms of development”* (emphasis added) may be considered to conflict with Paragraph 81 of the NPPF, which requires that planning policies should *“be flexible enough to accommodate needs not anticipated in the plan...and to enable a rapid response to changes in economic circumstances”* (emphasis added). There is also a potential inconsistency with Paragraph 120 of the NPPF which states that *“Planning policies and decisions need to reflect changes in demand for the land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability”*

(emphasis added). The focus of Paragraph 120 is on whether there is “reasonable prospect of an application coming forward for the use allocated in a plan” based on changes in demand for land, rather than whether a site is “*inherently suitable or viable*” for an allocated use.

- 6.8 In light of these potential inconsistencies, it will be important for the Council to consider what weight should be afforded to Policy EM24 when making planning decisions.

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For and on behalf of
Babergh District Council

Review of Employment Land Need and Viability Addendum Report

Land on the North Side of Church Field Road, Chilton Industrial Estate, Chilton, Sudbury

**Prepared by
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January 2021

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1.0 INTRODUCTION

- 1.1 The purpose of this report is to provide an independent appraisal of the additional evidence submitted in respect of application ref. DC/20/01094 as it relates to site-specific issues of employment land need and suitability. In particular, to consider whether the further information submitted in support of this application meets the requirements of Policy EM24 of the Babergh Local Plan (2006).
- 1.2 This report is presented as an addendum to our original Employment Land Need and Viability Report (September 2020) and focuses on reviewing the applicants' Employment & Viability Land Study (Fenn Wright, December 2020) in the context of Policy EM24.
- 1.3 This report should be read in conjunction with the Viability Appraisal Report prepared by RLB (January 2021), attached at Appendix 1 and which we summarise in Section 2(e).

2.0 ASSESSMENT OF 'EMPLOYMENT & VIABILITY LAND STUDY' (FENN WRIGHT, DECEMBER 2020)

2.1 This section provides an assessment of the Employment & Viability Land Study prepared by Fenn Wright (December 2020) in the context of Babergh Local Plan Policy EM24.

a) Policy Context

2.2 As the application site is allocated for employment use, Local Plan Policy EM24 ('Loss of Employment Land') is applicable in the determination of the application. This policy allows for applications for non-employment uses to be permitted subject to appropriate justification. Policy EM24 states:

"Planning applications to redevelop or use existing or vacant employment land, sites and premises for non-employment purposes, will only be permitted if the applicant can demonstrate that their retention for an appropriate employment use has been fully explored. This may be undertaken in one of the two following ways:

1. by an agreed and sustained marketing campaign, undertaken at a realistic asking price; or

*2. where agreed in advance, the applicant can demonstrate that the land, site or premises are **inherently unsuitable or not viable for all forms of employment related use**" (emphasis added)*

2.3 The application has chosen to pursue part (2) above in order to demonstrate compliance with this policy. Paragraph 4.61 of the Local Plan states that the approach listed at (2) in Policy EM24 (the 'second limb' of the policy) will only be considered acceptable

"when agreed in advance by the determining authority and the applicant. This approach will require the applicant to employ appropriate commercial expertise to demonstrate that the land, site or premises in question are inherently unsuitable or not viable for all conventional forms of employment related use."

2.4 The viability assessment contained within the Fenn Wright 'Employment & Viability Land Study' has been reviewed separately by RLB and the results of this review are contained in Appendix 1 and summarised in Section 2(e) below. The RLB report provides an independent view on whether it has been demonstrated that the proposed development is '*not viable for all forms of employment related use*' for the purposes of compliance with Policy EM24.

2.5 Below we have provided our independent view on whether and to what extent it has been demonstrated by the applicants that the proposed development is '*inherently unsuitable...for all forms of employment related use*' in the context of Policy EM24. In reviewing the Fenn Wright (December 2020) report we have also considered the guidance on how Policy EM24 should be applied which is outlined in the Safeguarding Employment Land Supplementary Planning Document (March 2008). For details of the SPD guidance we have considered please refer to section 2(c) of our 'Review of Employment Land Need and Viability' report (September 2020).

b) Previously identified gaps in evidence

2.6 In our previous review of the applicants' evidence (DLP report, September 2020, paragraph 3.117) we identified the following gaps in terms of assessing the suitability of the Church Field Road site in the context of Policy EM24:

- There is a lack of sufficient consideration of the suitability of the site for each type of employment use (B1, B2 and B8), including provision of robust evidence to support these claims.
- There is a lack of detailed consideration of the suitability of the site for a mixed-use

development, together with provision of clear evidence.

2.7 In terms of assessing the demand for employment land and the availability of suitable, alternative sites in the locality our previous review of the applicants' evidence (DLP report, September 2020, paragraph 3.119) we identified the following gaps in the applicants' evidence:

- Some of the evidence around current demands for employment floorspace (particularly in terms of office floorspace and desires of businesses to expand on-site over relocating to other sites) could be fully justified and clearly articulated. For example, it would be useful to include a summary of quantitative demands for floorspace by land-use class;
- There is a lack of clear quantitative assessment of the supply of employment land in the locality of the Church Field Road site, including with reference to the status of existing allocations, extant permissions and existing vacant/available units.
- There is no clearly articulated quantitative comparison of existing employment floorspace demands versus supply (for use classes B1, B2 and B8) in the locality of the Church Field Road site.
- The report does not explicitly identify alternative available sites, nor does it clearly assess the relative suitability of these alternative sites compared with the Church Field Road site. For example, it would be useful if other allocated sites, sites with planning permission, or those currently being developed were assessed to identify their suitability in comparison with the Church Field Road

2.8 In reviewing the Employment & Viability Land Study prepared by Fenn Wright (December 2020) we have considered whether the above identified gaps in evidence have now been filled.

c) Assessment of site suitability in 'Employment & Viability Land Study' (Fenn Wright, December 2020)

2.9 Paragraph 1.5 of the Fenn Wright report states:

"This report will seek to focus on the second element of the second limb of policy EM24 – namely that the site is not viable for all forms of employment related use"

2.10 The Fenn Wright report has therefore chosen to focus on demonstrating that the site is '*not viable for all forms of employment related use*' rather than seeking to demonstrate that the site is '*inherently unsuitable*' for employment related use.

2.11 The Fenn Wright report references the Council's assessment of the site's suitability for both residential and employment use in paragraphs 3.32 to 3.41. The report identifies that "*The 2017 SHELAA...considers Land to the north of Church Field Road to be suitable, available and achievable for both housing and employment*" (paragraph 3.34) and that "*the 2019 SHELAA states that the Site is considered to be suitable, available and achievable*" for residential use (paragraph 3.35). Paragraph 3.37 states that "*For employment use, the Site (reference SS0933) has been discounted on the basis that the land 'lies within an area of high heritage sensitivity'*".

2.12 Paragraphs 3.38-3.39 state that the "*2020 SHELAA draws the same conclusions as the 2019 SHELAA for residential development*" but that "*There does not however now appear to be any reference in the 2020 SHELAA assessing the use of the land for employment use, although the employment reference used in the 2017 and 2019 Assessments (SS0933) is still used to simply discount the Site from being allocation for any type of development in the emerging JLP due to 'high heritage sensitivity'*".

2.13 There are no other references to the suitability of the site for employment related use within

the Fenn Wright (December 2020) report. A detailed assessment of the site's suitability for residential use is presented in section 6 of the Fenn Wright report, but this does not make any reference to suitable for employment related uses. Notwithstanding the assessment of viability that forms the main focus of the Fenn Wright report, it is unclear from the report whether the applicants consider the site to be suitable for employment related use as no statement to this effect is made.

d) Assessment of local demand for employment floorspace in 'Employment & Viability Land Study' (Fenn Wright, December 2020)

- 2.14 In respect of assessing demand for employment use, paragraph 4.8 of the Fenn Wright (December 2020) report states that they have drawn conclusions on take up of existing stock (as an indicator of demand) and also carried out searches of existing requirements held by Estate Agents Clearing Housing (EACH) for B1, B2 and B8 uses and enquiries received by Fenn Wright themselves.
- 2.15 Paragraphs 5.12 and 5.13 of the Fenn Wright report confirm that both the Philips Avent site (Lower Road, Glemsford) and the Delphi site (Sudbury) have both recently sold. Paragraph 5.17 identifies a further eleven transactions within the industrial and warehouse market in Sudbury in the last five years which are in excess of 2,000 sq. ft. Paragraph 5.18 identifies seven office transactions over the same period, two of which are over 2,000 sq. ft.
- 2.16 Paragraph 5.21 of the Fenn Wright report identifies *"finite speculative development of industrial and office accommodation over the past five years within Sudbury and the area immediately surrounding Sudbury"* which it states is mainly due to viability concerns. Paragraph 5.22 identifies a unit completed in 2020 by Wiles Contractors for their own use, prior to which the most recently constructed large building was that occupied by AF Trenchers on Northern Road, which was constructed in 2008/09 and reportedly sold at a loss.
- 2.17 Paragraph 5.23 identifies that 96,200 sq. ft. of industrial floorspace was available to let in Sudbury (pre-Covid). This does not include the 250,000 sq. ft. at the Delphi site.
- 2.18 Paragraph 5.24 states that in terms of availability of office accommodation over the last five years, rates were low at 1.2%. The report notes that *"despite the low availability rate, there appears to be low upward pressure on capital and rental values"*. Paragraph 5.25 states that amounts of available office space have fallen due to permitted development, which it states *"further highlights an issue with demand"*. Paragraph 5.26 states that around 50,000 sq. ft. of office accommodation has been lost to residential.
- 2.19 Paragraph 5.27 states that the Chilton Woods site now benefits from outline planning consent, including over 15 hectares of employment / quasi-employment uses. Further recent speculative developments have been identified at the Cloisters and Bull Lane and Acton Place Industrial Estates. However, no details on current availability of floorspace at these sites is provided.
- 2.20 Paragraph 5.32 states that *"Some previously allocated employment sites have now been converted into residential schemes as a consequence of a lack of demand"*. However, it is unclear what evidence there is that these changes of use were due to lack of demand as opposed to increased land values and rates of return associated with residential uses.
- 2.21 Paragraphs 5.36 to 5.43 identifies a number of schemes within Suffolk that have outline or full planning consent for employment uses. However, no evidence is provided which clearly articulates, through a quantitative comparison, existing employment floorspace demands versus supply (for use classes B1, B2 and B8) in the locality of the Church Field Road site. This would be particularly important in light of the fact that, as the report states, other employment sites have been lost to residential use.

- 2.22 Paragraph 5.47 states that *“Generally the low levels of transactional volume, coupled with the limited official number of active requirements is indicative of a low level of demand in Sudbury. This is further reinforced by our discussions with Savills in relation to the sale of both the former Philips Avent site in Glemsford and the former Delphi Diesel Systems site in Sudbury. Whilst the headline is the properties were sold, the underlying value is at a level incompatible with economic development, and indeed, incomparable with superior schemes. In effect generating demand via a reduced value.”* Whilst the report identifies only one active requirement with local agents, there does not appear to be any reference within the main report to other current office and industrial requirements listed in Appendix VIII. Whilst the requirements listed in Appendix VIII are not specific to Sudbury, this does not mean employment space within Sudbury would not meet the enquirers’ requirements.
- 2.23 In paragraphs 7.6 to 7.9, the Fenn Wright (December 2020) report makes the following concluding comments in respect of demand for employment uses in Sudbury and the district as a whole:
- “7.6 There is a lack of demand, as witnessed with low levels of transactional volume, with no town specific requirements found in Sudbury. Our discussions with local agents yielded a single requirement, but that it was contingent on the sale of an existing site for residential development.*
- 7.7 There have been incredibly few office transactions, with the capital values underline by permitted development rights. This is witnessed with the loss of around 50,000 sq. ft. of office accommodation in Sudbury to residential via permitted development rights since its inception.*
- 7.8 The grant of consent on Chilton Woods, and subsequent sale of the site to Taylor Wimpey, results in an area of employment land in close proximity to the Site, which isn’t impacted by heritage asset issues. The scale of the available Employment there further erodes the prospect of securing any occupational interest for employment uses.*
- 7.9 Elsewhere within the district there have been changes from employment generating uses to residential on similar schemes, including in Great Cornard (Persimmon) and Hadleigh (also Persimmon) - the latter is a very similar site to the Site, being land adjacent to the industrial estate. It should also be noted that the Care Home will generate at least 55 full time equivalent jobs on the site. This figure has now been validated by one of the interested parties in the Care Home development. The use of this element from an employment generation perspective is vastly greater than most B8 uses – most latterly Fenn Wright have acquired on a leasehold basis a site totalling 7 acres providing 144,000 sq. ft which will provide 30 full time equivalent jobs.”*
- 2.24 Paragraph 7.8 of the Fenn Wright report references the Chilton Woods site as an area of available employment land in close proximity to the Site, *“which isn’t impacted by heritage asset issues”*. The report does not however consider how these heritage assets might impact the developability or suitability of the Sudbury site for employment uses. It only considers the impact of the heritage assets in respect of residential uses, which it states could be overcome through mitigation as part of the design.
- 2.25 Paragraph 6.39 states that *“The Heritage Assessment submitted with the planning application concludes that the site does not materially contribute to the setting or significance of the heritage assets of Chilton Hall, the listed wall surrounded by the walled garden and the Historic Park and Gardens, and St Mary’s Church”*. As this conclusion relates to the site itself rather than the proposed uses, this conclusion would likely be the same were the site to be developed for employment use.

e) Assessment of site viability for employment-related uses – Summary of findings of Viability Appraisal Report (RLB, January 2021)

- 2.26 The RLB (January 2021) report sets out a review of the values and costs utilised by Fenn Wright as a basis for their appraisals and applied RLB's own assessed inputs and prepared their own appraisals for the following two employment use scenarios:
- A viability appraisal for B2 / B8 uses across the entire site; and
 - A viability appraisal for developing the site on the basis of selling on serviced plots across the entire site.
- 2.27 The appraisals show that for a built-out B2/B8 scheme with a Benchmark Land Value included as a cost, that the site does have potential to deliver a profit return in excess of 17.5% of Gross Development Value.
- 2.28 With regard to the serviced land appraisal the report sets out appropriate costs and values which results in a residual land value above the Threshold Land Value or Benchmark Land Value.
- 2.29 In recognition of these appraisals, the RLB report considers that the subject land to the North of Church Field Road, Sudbury is capable of delivering a viable scheme for employment uses.

3.0 CONCLUSION

- 3.1 This report has provided an independent appraisal of the additional evidence presented in the in the Employment & Viability Land Study (Fenn Wright, December 2020) in respect of planning application ref. DC/20/01094 as it relates to site-specific issues of employment land need and suitability.
- 3.2 This report is presented as an addendum to our original Employment Land Need and Viability Report (September 2020) and should also be read in conjunction with the report prepared by RLB (January 2021) which provides a detailed review of the viability assessment undertaken in the Employment & Viability Land Study (Fenn Wright, December 2020).
- 3.3 In terms of demonstrating compliance with Policy EM24, the Fenn Wright (December 2020) report focuses on the second element of the second limb of Policy EM24 i.e. demonstrating that the site is not viable for all forms of employment related use rather than seeking to demonstrate that the site is inherently unsuitable for employment related use.
- 3.4 The report therefore does not directly consider the suitability of the site for each type of employment use (B1, B2 and B8), nor does it consider the suitability of the site for a mixed-use development.
- 3.5 In respect of considering demand for employment land and the availability of suitable alternative sites in the locality of the Church Field Road site (as recommended in our previous review of the applicants' evidence undertaken in September 2020) the Fenn Wright report still does not provide a clearly articulated quantitative comparison of existing employment floorspace demands versus supply (for use classes B1, B2 and B8) in the locality of the Church Field Road site. In particular, the Fenn Wright report identifies just one active requirement within the Sudbury area, although it is unclear how the other office and industrial floorspace requirements listed in Appendix VIII have been taken into consideration in drawing this conclusion regarding a lack of demand for employment floorspace in the local area.
- 3.6 Notwithstanding that the report is focused on demonstrating compliance with the second part of the second limb of Policy EM24 (i.e. demonstrating that the site is not viable for all forms of employment related use), our review indicates that in order to demonstrate compliance with the first part of the second limb of Policy EM24 (i.e. demonstrating the site is inherently unsuitable for all forms of employment related use) further evidence would be required.
- 3.7 In respect of the considering the viability of employment related uses (the first part of the second limb of Policy EM24), the report prepared by RLB (January 2021, attached at Appendix 1) concludes that the land to the North of Church Field Road, Sudbury is capable of delivering a viable scheme for employment uses. Therefore, the scheme does not demonstrate compliance with the second part of the second limb of Policy EM24 (i.e. demonstrating the site is unviable for all forms of employment related use).

**APPENDIX 1 VIABILITY APPRAISAL REPORT – LAND TO THE NORTH OF CHURCH
FIELD ROAD, SUDBURY (RLB, JANUARY 2021)**

REPORT

18 JANUARY 2021

BABERGH AND MID SUFFOLK DISTRICT COUNCILS

VIABILITY APPRAISAL REPORT
LAND TO THE NORTH OF CHURCH FIELD ROAD SUDBURY

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APPENDICES

Appendix A: RLB Detailed Appraisal Summary B2 / B8

Appendix B: RLB Detailed Appraisal Summary Serviced Land Plots

AUTHORISATION

This report has been prepared by:



John Barber

and authorised for issue by:



Stewart Binns

1.0 INTRODUCTION AND BASIS OF REPORT

This Viability Appraisal Report has been produced on the instruction of Babergh and Mid Suffolk District Council (BMSDC) to review the financial viability appraisal submitted by Fenn Wright on behalf of Caverswell Enterprises Ltd and West Suffolk NHS Foundation Trust and Highbridge plc.

The application site comprises circa 11.57 Hectares (28.7 Acres) of greenfield land off to the north of Church Field Road Sudbury located approximately 1 - mile east of Sudbury Town Centre.

The Site is allocated for employment use in the adopted Local Plan Alteration No 2 (2006) under saved Policy EM2. As such, saved Policy EM24 applies. Policy EM24 relates to the retention of allocated employment sites and sets out two criteria to demonstrate the way in which the retention of a site for employment use can be fully explored prior to the approval of a non-employment use. The Policy states that applicants can **either** undertake a sustained marketing campaign at a realistic asking price, **or** where agreed in advance, the applicant can demonstrate that a site is inherently unsuitable **or** not viable for all forms of employment related use.

The Employment and Viability Land Study prepared by Fenn Wright on behalf of the landowners is focussed on demonstrating that the site is not viable for all forms of employment use. It also sets out appraisals for alternative residential use with a care home on part of the site. This partially reflects an outline planning application under consideration ref DC/20/01094 for erection of up to 190 residential dwellings, purpose-built care home for up to 60 bedrooms and associated infrastructure including landscaping, public open space, car parking and means of access off Church Field Road.

The Fenn Wright report sets out 5 alternative development appraisals as follows :-

1. B1 use throughout
2. B2/B8 use throughout
3. 90% residential and 10% B1 mixed use
4. 90% residential and 10% B2/B8
5. 90% residential and 10% serviced land

These have a range of **profit** outcomes set out in the report from option 1 at -90% to option 5 at +12.98% of GDV and alternatively showing a range of **residual land values** with profit included as a cost (at 17.5% of GDV) from option 1 -£24,868,938 to a positive land value for option 5 of £3,591,194.

These are set against a viable development requirement of achieving a residual land value in excess of a Benchmark Land Value (BLV) representing 15x the Existing Use Value (EUV) with a profit cost of 17.5% of GDV and hence concluding that none of the options above represent a viable scheme.

We have set out in the following sections of this report a review of the values and costs utilised by Fenn Wright as a basis for their appraisals and applied our own assessed inputs and prepared our own appraisals for employment uses as follows :-

1. A viability appraisal for B2 / B8 uses across the entire site
2. A viability appraisal for developing the site on the basis of selling on serviced plots across the entire site.

This report has been prepared in accordance with latest published guidance including the recently published RICS professional statement 'Financial viability in planning: conduct and reporting' 1st Edition May 2019 and would confirm the following statements accordingly:

We confirm in carrying out this Financial Viability Appraisal (FVA) we have acted:

- With objectivity.
- Impartially.
- Without interference.
- With reference to all appropriate available sources of information.

We confirm that in preparing this report no performance-related or contingent fees have been agreed and that no conflict of interest arises in carrying out this viability appraisal and report.

We also confirm that we are not involved in the preparation of any area wide FVA's BMSDC have adopted or are preparing.

The primary objective of this assessment is to carry out an independent review of the Employment and Viability Land Study dated December 2020 prepared by Fenn Wright on behalf of the landowners and evaluate the viability issues associated with the site and whether their report satisfies the requirement in saved Policy EM24 of demonstrating that all forms of employment related use on the site are not viable.

2.0 SITE DESCRIPTION AND BACKGROUND

The site is the subject of an outline planning application under consideration ref DC/20/01094 for erection of up to 190 residential dwellings, purpose built care home for up to 60 bedrooms and associated infrastructure including landscaping, public open space, car parking and means of access off Church Field Road.

As described earlier the application site comprises circa 11.57 Hectares (28.7 Acres) acres of greenfield land to the north of Church Field Road Sudbury located approximately 1 - mile east of Sudbury Town Centre.

A site location plan and aerial plan are set out below :-





The site is bounded by Waldringfield Road to the north west, the Sudbury Community Health Centre to the west, Church Field Road to the south and agricultural land to the north and east.

To the south of the Site is the Chilton Industrial Estate where there are a variety of commercial occupiers. To the north east is Chilton Hall, a Grade II* listed building, together with its walled garden, also being listed as Grade II, and a Registered Park and Garden (Grade II listed). To the south west is the Grade I listed Church of St Mary.

The site is the subject of an outline planning application under consideration ref DC/20/01094 for erection of up to 190 residential dwellings, purpose built care home for up to 60 bedrooms and associated infrastructure including landscaping, public open space, car parking and means of access off Church Field Road.

An illustrative vision of the proposed development is given below: -



The site has an area of mature woodland along the south west, eastern, north east and north west boundaries which reduces the area for development to approx. 8.3Ha from the gross area of 11.57 Ha.

3.0 METHODOLOGY AND APPRAISAL COMMENTARY

RLB have prepared this report for the sole use of BMSDC in accordance with the instructions under which our services are performed. No other warranty, expressed or implied, is made as to the professional advice included in this report or any other services provided by us. This report may not be relied upon by any other party without the prior and express written agreement of RLB.

No part of this report constitutes a valuation and the report should not be relied on in that regard.

The appraisal methodology and approach follow the guidelines laid down in the RICS Professional Guidance - Viability in Planning published in 2012.

Following this in 2014 the emergence of the National Planning Practice Guidance (PPG) provided more detail about the application of the NPPF and in July 2018 a revised NPPF and PPG were issued. The NPPF was further updated in February 2019 and the PPG updated in May 2019. This followed the earlier decision in Parkhurst Road Ltd v Secretary of State for Communities and Local Government.

The RICS has subsequently issued updated guidance related to Financial Viability in Planning by way of a Professional Statement, Financial Viability in Planning: conduct and reporting 1st Edition May 2019. This sets out mandatory requirements and good practice guidance for RICS members of what must be included in reports and how the process must be conducted to achieve a reasonable, objective and impartial outcome and so support the Planning process.

We confirm that RLB comply with the above guidance and RICS professional conduct requirements in undertaking this Viability Appraisal Report.

3.1 APPROACH AND DEFINITION VIABILITY

There are two basic criteria that need to be satisfied for a development to be considered viable:

- The residual value of the land calculated by reference to the total value created by the development (also referred to as the Gross Development Value, GDV) when set against the total estimated costs of development i.e. construction costs, fees, finance and profit should generate a residual land value that is positive and exceeds the existing use value in the land prior to the granting of Planning for redevelopment.
- The development appraisal (i.e. considering the GDV set against the cost of development) in addition to demonstrating a positive residual value for the land described in 1 above also needs to cover a development profit for the Developer of the land (usually expressed a % of GDV).

These two basic criteria of viability are referred to in various guidance documents as follows:

RICS Professional Guidance: Financial Viability in Planning 2012

Paragraph 2.1.3 states that a proper understanding of financial viability is essential in ensuring that:

- land is willingly released for development by landowners.
- developers are capable of obtaining an appropriate market risk adjusted return for delivering the proposed development.

Recent Government advice is contained in the DCLG document 'Section 106 affordable housing requirements - review and appeal' April 2013

The DCLG guidance states:

- 'The test for viability is that the evidence indicates that the current cost of building out the entire site (at today's prices) is at a level that would enable the developer to sell all the market units on the site (in today's market) at a rate of build out evidenced by the developer, and make a competitive return to a willing developer and a willing landowner.'

Viability is also referred to in the National Planning Policy Framework

NPPF Paragraph 173 defines financial viability for planning purposes as:

- 'An objective financial viability test of the ability of a development project to meet its costs including the cost of planning obligations, while ensuring an appropriate Site Value for the landowner and a market risk adjusted return to the developer in delivering that project.'

3.2 THE VIABILITY APPRAISAL METHOD

The RICS Professional Guidance Paragraph 2.2.2 states:

- 'The residual appraisal method can be used in two basic ways; first, to assess the level of return generated from the proposed project where site cost is an input into the appraisal, and second, to establish a residual Site Value by inputting a predetermined level of return.'

In consideration of the various values, costs and allowances in this respect our detailed assessment and review of these may be summarised as follows.

3.3 APPRAISAL COMMENTARY

3.3.1 GENERAL APPROACH

We have adopted the residual appraisal method to ascertain viability in respect of a scenario where the entire site is developed out for a mix of B2 and B8 uses generating a residual profit where the site value is an input. In addition we have assessed the viability of the site being developed out in its entirety by the creation and selling of serviced plots to establish a residual site value which is then compared to the Benchmark Land Value (BLV) ascertained in accordance with latest guidance by the application of a multiplier over the Existing Use Value (EUV) of the site prior to any development.

3.3.2 DEVELOPMENT VALUE

The submitted viability by Fenn Wright relating to B1 office and light industrial uses across the entire site concludes that development is not viable for these uses. They also cite the recently published Aspinall Verdi report Plan Viability and CIL Review Study (PVCRS) and at Page 51 Para 5.5 state :-

We have studied the local plan review together with other local authority documentation. Aspinall Verdi produced Babergh and Mid Suffolk District Councils Local Plan Viability and CIL Review Study. We have consulted the Aspinall Verdi document to identify any accepted benchmark land values for sites of this type. The consultants confirm *“In the employment viability testing, we have considered office and industrial development. The viability testing shows that both are currently unviable, and there is not an opportunity to seek planning contributions for these types of development. The Districts will need to take a flexible approach in how this type of development is delivered, considering mixed-use development to enable viable development.”*

We have studied the Aspinall Verdi PVCRS report and they state at ES19 *‘Retail and office development are unviable and industrial development marginally viable.’*. Clearly this appears at odds with the statement made in the Fenn Wright report.

In reviewing the Aspinall Verdi PVCRS report concluding that retail and office development are unviable we have not looked further at a viability appraisal for B1 uses across this site.

We have therefore focussed our attention on assessing whether B2 / B8 uses across the site could deliver viable development in addition to also assessing whether a scheme producing serviced plots might also be a viable option. This partially reflects the Option 5 in the Fenn Wright report which has also included an element of serviced land plots but only including these on 10% of the site area.

In respect of development values pertaining the B2 / B8 uses Fenn Wright have set out evidence of various recent comparable local sales etc of industrial units the majority of which appear to relate to existing units being resold on at prices which in some instances are below what it would cost to build comparable new space. They conclude and have adopted at Para 5.113 Page 40 a capital value of £80 per ft² for Larger industrial / Warehouse uses.

In reviewing the evidence and comparables included in the Aspinall Verdi PVCRS report for industrial uses this concludes at Para 6.6 on Page 53 that a rent of £10 per ft² is an appropriate market rate together with a yield of 6.5%. Their evidence and analysis is set out in detail in the Property Market Report Appendix 2.

In light of the above we have adopted the Aspinall Verdi value for the B2 / B8 viability.

A summary of the overall Gross Development Value (GDV) for B2 / B8 across the site is set out below :-

B2 / B8										
DEVELOPMENT VALUE										
	<u>Units</u>		<u>NDA</u>	<u>m2</u>	<u>ft2</u>	<u>rent</u>	<u>ari</u>	<u>Yield</u>	<u>Value</u>	
	Industrial	50%	9.26	37,487	403,505	£ 10.00	£4,035,052	6.50%	£62,077,729	
	Sub Total						£4,035,052		£62,077,729	
	Rent free / fit out contribution									
	Sub Total								-£4,035,052	
	Less Purchasers costs									
	Sub Total							-6.75%	-£3,917,881	
	Totals				403,505				£54,124,796	
Gross Development Value									£54,124,796	

Note we have applied 50 % site coverage of the area available for development which is in line with the Fenn Wright report then reduced this by a further 10% to allow for the conversion from Gross External Area to Gross Internal Area. By applying a rent per ft2 generates the annual rental income which is then capitalised at 6.5%. We have also allowed a one year rent free incentive allowance.

With regard to the serviced plot sales Fenn Wright have adopted a market price of £400,000 per acre for the selling of serviced plots in the Option 5 appraisal and we have adopted this in our appraisal accordingly. We have allowed 10% of the area available for development to accommodate estate roads dividing up the serviced plots.

On this basis the Development Value derived from selling on serviced plots can be summarised as follows :-

Serviced Plots										
DEVELOPMENT VALUE										
	<u>Units</u>		<u>NDA</u>				<u>£ / Acre</u>		<u>Value</u>	
	Industrial	90%	18.5				£400,000		£7,410,240	
	Totals								£7,410,240	
Gross Development Value									£7,410,240	

3.3.3 DEVELOPMENT COSTS

3.3.3.1 Land Costs

In establishing a land value for appraisal Fenn Wright have referred to various guidance and adopted the Existing Use Value (EUV) Plus approach where a premium is allowed over and above EUV to encourage a landowner to make the land available for development. Fenn Wright have referred to Homes and Communities Agency published guidance which refers to greenfield benchmark land values as follows ' for greenfield land benchmarks and evidence from planning appeals tend to be in a range of 10 to 20 times agricultural value.' We would concur with this approach to establish a BLV for appraisal purposes with this site.

Fenn Wright have calculated a BLV by applying agricultural value to the gross site area of 11 Ha (27 Acres) at £10,000 per acre and used a multiplier of 15 times to calculate the premium which derives a BLV of £4,100,000.

Whilst land with residential potential might give rise to a premium at the top end of this range we would expect land with potential employment / industrial use might be at the lower end of the range ie a 10x multiplier. This is also the approach Aspinall Verdi have adopted in their report. In addition, the gross land area of 11 Ha includes belts of mature woodland which would not be available for development and we would take the view that this area of woodland should be deducted from the gross area to calculate an appropriate BLV.

In establishing a BLV for appraisal purposes this can be summarised as follows:

Benchmark Land Value					
	Ha	Acres	EUV / Acre		
EUV	8.3	20.58	£ 10,000	£ 205,840	
Plus	x	10		£ 2,058,400	
BLV				£ 2,264,240	

Using our adjusted BLV gives the following appraised land value cost :-

Land Costs									£ Total
Acquisition			BLV						£2,264,240
									£2,264,240
Stamp Duty							5.00%		£113,212
Agent							1.00%		£22,642
Other Legal							0.50%		£11,321
Total Land Cost									£2,411,416

3.3.3.2 Construction Costs

In appraising the B2 / B8 option we have referred to BCIS published average costs rebased to Bamberg which is in line with the approach adopted in the Fenn Wright report and we agree that this is a reasonable approach in line with viability guidance.

We have sourced appropriate costs published by BCIS which is set out below :-

Average prices

Results

➤ Rebased to Babergh (97; sample 15) [Edit](#)

£/m2 study

Description: Rate per m2 gross internal floor area for the building Cost including prelims.
Last updated: 16-Jan-2021 00:38

Maximum age of results:

Building function (Maximum age of projects)	£/m ² gross internal floor area						Sample
	Mean	Lowest	Lower quartiles	Median	Upper quartiles	Highest	
New build							
284.1 Advance warehouses/stores (10)	784	530	-	842	-	923	4

We have therefore applied a base cost of £784 / m2 GIA in the B2 / B8 appraisal.

The published BCIS costs do not include allowances for external works, and we have allowed an additional 15% to the base cost to cover these and then added a further 5% contingency in line with normal appraisal allowances for industrial schemes.

Our construction cost allowances for the B2 / B8 scheme can be summarised as follows :-

Construction Costs				Cost / m2	Cost / ft2	Total ft2	£ Total
Industrial			BCIS	£ 784	£ 73	403,505	£29,389,456
External Works			15%				£4,408,418
Contingency					£33,797,875	5%	£1,689,894
Total Construction							£35,487,769

With regard to the serviced land appraisal we have applied £120,000 per acre to cover the cost of services and infrastructure based on other industrial land schemes we have appraised. We have then added 5% to cover contingencies. This gives a servicing cost for the plot sales appraisal as follows :-

Construction Costs							£ Total
Infrastructure				18.53	Acres	£ 120,000	£2,223,072
Servicing Land							£0
Cut and Fill SUDS							£0
Contingency					£2,223,072	5%	£111,154
Total Construction							£2,334,226

3.3.3.3 Planning and Design Costs

These were included at 11% overall in the Fenn Wright submission for the B2 / B8 appraisal and we have reduced these to 10% overall which we feel reflect normal commercial fee levels for the various disciplines involved. We have also allowed some costs to cover Planning and Building Regulations fees together with an allowance for S106 Highways contribution as included by Fenn Wright of £250,000.

B2 / B8			1	2	3	4	5	6	7	8	9	10	11	12	13
Build Out	Years	Mnths	12	24	36	48	60	72	84	96	108	120	132	144	156
Lead In	1-12														
Construction	13-132														
Sales	25-144														

We have used a finance rate of 7% and arrangement fees of 0.75% as included in the Fenn Wright report which we feel reflects current lending rates. Interest costs can be summarised as follows:-

Finance																
	Finance cost															£784,188
	Finance Arrangement									0.75%						£69,807
	Debit Rate									7.00%						
	Credit Rate									0.00%						
	Total Finance															£853,995

With regard to the serviced land appraisal the assumed timescale for servicing and plot sales may be summarised as follows :-

Plot Sales			1	2	3	4	5	6	7	8	9	10	11	12
Timescales	Years	Mnths	12	24	36	48	60	72	84	96	108	120	132	144
Lead In	1-12													
Construction	13-132													
Sales	25-144													

This gives a finance cost for the plot sales appraisal as follows :-

Finance																
	Finance cost															£197,765
	Finance Arrangement									0.75%						£18,794
	Debit Rate									7.00%						
	Credit Rate									0.00%						
	Total Finance															£216,559

3.3.3.6 Profit

The submitted Fenn Wright appraisals refer to a profit return of 17.5% of GDV which is the mid point of between 15 and 20% of GDV generally regarded as a reasonable return for viability purposes. We have adopted a similar profit return for the B2 / B8 appraisal but note that if developed out on a design and build basis to bespoke occupier requirements for the smaller units and forward funded investments for the larger units there is a view that profit on this basis should be at the lower level of 15%.

With regard to the serviced plots appraisal we envisage the servicing and infrastructure costs would be incurred in phases relative to market take up of the plots and have therefore set this profit level at 15% of the costs of infrastructure representing a reasonable return for the risk having regard to the enhanced land value achieved through the plot sales.

4.0 VIABILITY AND CONCLUSION

With regard to the basis of the submitted viability report prepared by Fenn Wright the objective was to demonstrate that in order to consider release of the land for purposes other than employment use that the site is not viable for all forms of employment uses in line with the requirement set out in saved policy EM24. The Policy states that applicants can **either** undertake a sustained marketing campaign at a realistic asking price, **or** where agreed in advance, the applicant can demonstrate that a site is inherently unsuitable **or** not viable for all forms of employment related use.

The Fenn Wright report set out 5 alternative development appraisals as follows :-

1. B1 use throughout
2. B2/B8 use throughout
3. 90% residential and 10% B1 mixed use
4. 90% residential and 10% B2/B8
5. 90% residential and 10% serviced land

These have a range of profit outcomes set out in the report from option 1 at -90% to option 5 at +12.98% of GDV and alternatively showing a range of residual land values with profit included as a cost (at 17.5% of GDV) from option 1 -£24,868,938 to a positive land value for option 5 of £3,591,194.

These are set against a viable development requirement of achieving a residual land value in excess of a Benchmark Land Value (BLV) of £4,100,000 representing 15x the Existing Use Value (EUV) with a profit cost of 17.5% of GDV. Alternatively achieving a residual profit of 17.5% GDV with the BLV included as a cost. As none of the Options 1 – 5 above achieved these viability objectives the report concluded that none of the options for employment use represented a viable scheme.

In considering our approach to assessing viability for employment uses on the site and the Fenn Wright Employment and Viability Land Study we have also reviewed the recently prepared Aspinall Verdi Plan Viability and CIL Review Study October 2020. This report is cited in various places in the Fenn Wright viability and in respect of employment development states that office development in this area is not viable which also accords with the Option 1 B1 Fenn Wright appraisal. Considering this we have not prepared a viability for this option. In addition we have not prepared viability for scenarios 2 to 5 of the Fenn Wright Report and concentrated on employment viability for B2 / B8 uses and alternatively developing out the site on a serviced land basis which is the focus of the requirement in saved policy EM24 in consideration of any alternative uses to employment.

We have set out in the foregoing sections of this report a review of the values and costs utilised by Fenn Wright as a basis for their appraisals and applied our own assessed inputs and prepared our own appraisals for employment uses as follows :-

1. A viability appraisal for B2 / B8 uses across the entire site
2. A viability appraisal for developing the site on the basis of selling on serviced plots across the entire site.

In summary these show that for a built out B2 / B8 scheme with a BLV included as a cost that the site does have potential to deliver a profit return in excess of 17.5% of GDV. The development appraisal is summarised below with the full detailed appraisal summary included as Appendix A

B2 / B8		
DEVELOPMENT VALUE		
Gross Development Value		£ 54,124,796
DEVELOPMENT COST		
Land Costs		£ 2,411,416
Construction Costs		£ 35,487,769
Planning Costs		£ 90,000
Design Costs		£ 3,798,777
Marketing and Disposal		£ 1,756,625
Finance		£ 853,995
Developers Profit	17.5%	£ 9,471,839
Total Development Costs		£ 53,870,421
Residual Surplus		£ 254,376

With regard to the serviced land appraisal we have set out appropriate costs and values as set out earlier which results in a residual land value above the Threshold Land Value or Benchmark land value and this appraisal summary is summarised below with a detailed appraisal summary included in Appendix B :-

Land Sales		
DEVELOPMENT VALUE		
Gross Development Value		£ 7,410,240
DEVELOPMENT COST		
Land Costs		£ -
Construction Costs		£ 2,334,226
Planning Costs		£ 90,000
Design Costs		£ 378,382
Marketing and Disposal		£ 185,256
Finance		£ 216,559
Developers Profit	15%	£ 480,663
Total Development Costs		£ 3,685,087
Residual Surplus		£ 3,725,153

In recognition of the above appraisals we consider that the subject land to the North of Church Field Road is capable of delivering a viable scheme for employment uses.

**APPENDIX A:
RLB DETAILED APPRAISAL SUMMARY B2 / B8**

Detailed Appraisal

15 January 2021

**Church Field Road
Sudbury**

Site Area		
Acres		20.58
Hectares		8.30

Start :	1	month
Year :	2021	year
Period :	156	months

**Residual Appraisal
B2 / B8**

DEVELOPMENT VALUE

Units	NDA	m2	ft2	rent	ari	Yield	Value
Industrial	50%	9.26	37,487	403,505 £	10.00	£4,035,052	6.50%
Sub Total							£62,077,729
Rent free / fit out contribution							-£4,035,052
Sub Total							£58,042,677
Less Purchasers costs							-6.75%
Totals							£54,124,796

Gross Development Value

£54,124,796

DEVELOPMENT COST

Land Costs

		BLV	£ Total
Acquisition			£2,264,240
Stamp Duty			£113,212
Agent			£22,642
Other Legal			£11,321
Total Land Cost			£2,411,416

Construction Costs

	BCIS	Cost / m2	Cost / ft2	Total ft2	£ Total
Industrial		£ 784	£ 73	403,505	£29,389,456
External Works	15%				£4,408,418
Contingency			£33,797,875	5%	£1,689,894
Total Construction					£35,487,769

Planning Costs

		%	£ Total
Pre Planning	Planning and Building Regs		£60,000
	Planning consultant		£30,000
Total Planning Costs			£90,000

Design Costs

			%	£ Total
Construction	Architect		5.00%	£1,774,388
	Structural Engineer		1.50%	£532,317
	QS		1.00%	£354,878
	PM		1.00%	£354,878
	Civil Engineer		1.50%	£532,317
	CIL			£0
	S106			£250,000
Total Design				£3,798,777

Marketing and Disposal

		% Fixed Costs	£ Total
	Letting Agents	10.00%	£403,505
	Sales Agent	1.00%	£541,248
	Legal Fees	0.50%	£270,624
	Marketing	1.00%	£541,248
Total Marketing and Disposal			£1,756,625

Finance

			£ Total
	Finance cost		£784,188
	Finance Arrangement	0.75%	£69,807
	Debit Rate	7.00%	
	Credit Rate	0.00%	
Total Finance			£853,995

Developers Profit

		%	£ Total
	Developers Profit	17.5%	£9,471,839

Total Development Costs

£53,870,421

Residual Profit

0.47%

£254,376

**APPENDIX B:
RLB DETAILED APPRAISAL SUMMARY PLOT SALES**

Detailed Appraisal

15 January 2021

Church Field Road Sudbury	<u>Site Area</u>		
	Acres		20.58
	Hectares		8.30

Start :	1	month
Year :	2021	year
Period :	144	months

Residual Appraisal

Serviced Plots

DEVELOPMENT VALUE				
	<u>Units</u>	<u>NDA</u>	<u>£ / Acre</u>	<u>Value</u>
Industrial	90%	18.5	£400,000	£7,410,240
Totals				£7,410,240
Gross Development Value				£7,410,240
DEVELOPMENT COST				
Land Costs				
Acquisition	BLV			<u>£ Total</u>
				£0
Stamp Duty			5.00%	£0
Agent			1.00%	£0
Other Legal			0.50%	£0
Total Land Cost				£0
Construction Costs				
Infrastructure	18.53 Acres		£ 120,000	<u>£ Total</u>
				£2,223,072
Servicing Land				£0
Cut and Fill SUDS				£0
Contingency			£2,223,072 5%	£111,154
Total Construction				£2,334,226
Planning Costs				
Pre Planning	Planning and Building Regs		%	<u>£ Total</u>
	Planning consultant			£60,000
				£30,000
Total Planning Costs				£90,000
Design Costs				
Construction	Architect		2.00%	£46,685
	Structural Engineer		1.00%	£23,342
	QS		1.00%	£23,342
	PM		0.00%	£0
	Development Manager		1.50%	£35,013
	CIL			£0
	S106			£250,000
Total Design				£378,382
Marketing and Disposal				
	Sales Agent		1.00%	£74,102
	Legal Fees		0.50%	£37,051
	Marketing		1.00%	£74,102
Total Marketing and Disposal				£185,256
Finance				
	Finance cost			£197,765
	Finance Arrangement		0.75%	£18,794
	Debit Rate		7.00%	
	Credit Rate		0.00%	
Total Finance				£216,559
Developers Profit				
	Developers Profit	Costs	£ 3,204,423 15.0%	<u>£ Total</u>
				£480,663
Total Development Costs				£3,685,087
Residual Land Value				£3,725,153

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For and on behalf of
Babergh District Council

**Review of Addendum to Employment Land and Viability Report
(Fenn Wright, February 2021)**

Land on the North Side of Church Field Road, Chilton Industrial Estate, Chilton, Sudbury

**Prepared by
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June 2021

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1.0 INTRODUCTION

- 1.1 The purpose of this report is to review and provide a response to the Addendum to Employment & Land Viability Report (Fenn Wright, February 2021) which was made in response to comments from DLP Planning Limited (September 2020 and January 2021) and the Viability Appraisal prepared by Rider Levett Bucknall (January 2021). This report responds in particular to the response made by Fenn Wright to the DLP Planning Limited report (January 2021) which considered whether the further information submitted in support of application ref. DC/20/01094 met the requirements of Policy EM24 of the Babergh Local Plan (2006). A rebuttal to the comments made by Fenn Wright in relation to the RLB report has also been prepared by ADS¹ and is attached at Appendix 1.
- 1.2 This report should be read in conjunction with our original Employment Land Need and Viability Report (September 2020) which focused on reviewing the applicants' Employment & Viability Land Study (Fenn Wright, December 2020) in the context of Policy EM24, and our Review of Employment Land Need and Viability Addendum Report (January 2021), which provided a response to the Employment & Viability Land Study (Fenn Wright, December 2020).

¹ The consultant at ADS is the same who did the work for RLB and has since changed companies.

2.0 ASSESSMENT OF 'ADDENDUM TO EMPLOYMENT & LAND VIABILITY REPORT' (FENN WRIGHT, FEBRUARY 2021)

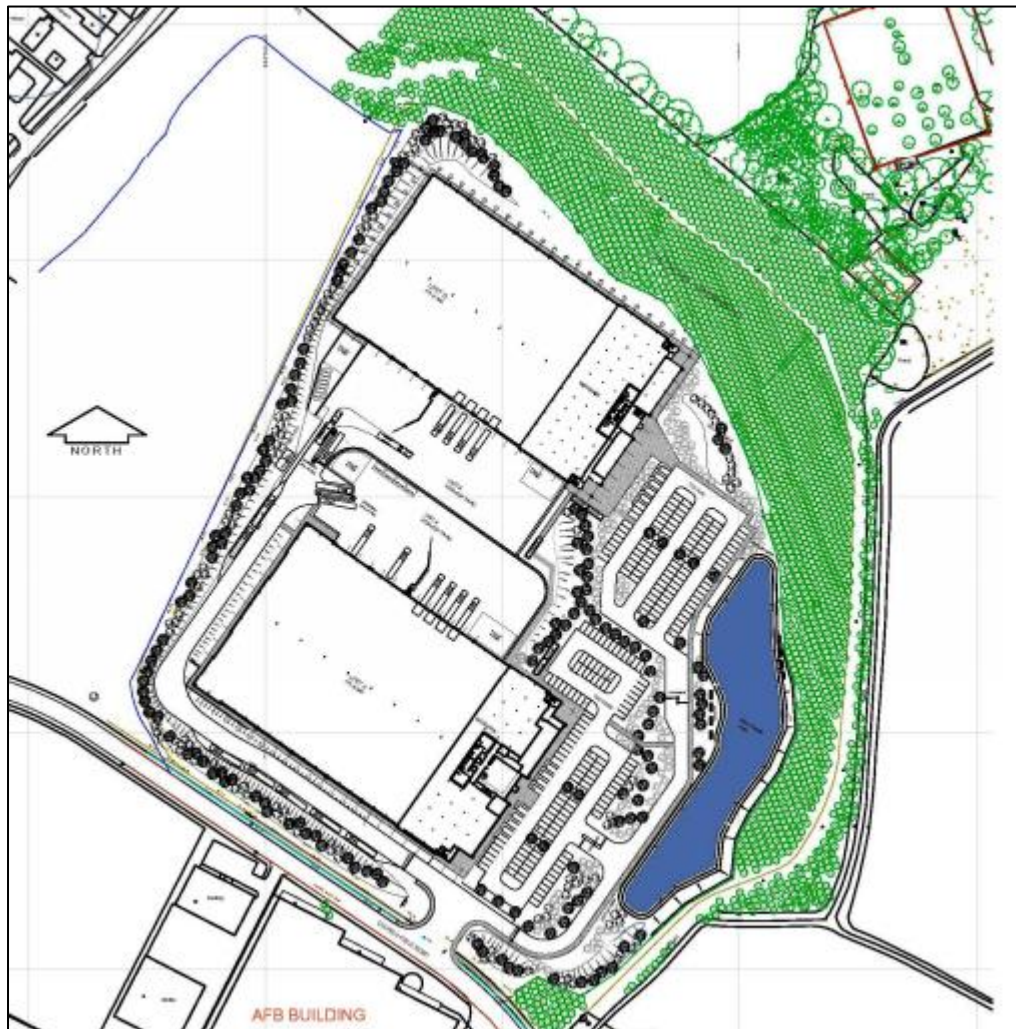
- 2.1 This section provides an assessment of the 'Addendum to Employment & Land Viability Report' prepared by Fenn Wright (February 2021) in the context of Babergh Local Plan Policy EM24.
- 2.2 The sub-sections below consider how Fenn Wright has responded to each of the issues highlighted in our Review of Employment Land Need and Viability Addendum Report (January 2021). These issues are summarised in the Executive Summary of the Fenn Wright (February 2021) report.

a) Consideration of Site Suitability for Employment Use (B1, B2 and B8)

- 2.3 Paragraph 3.2 of the Fenn Wright report states that *"owing to the topographic, ecological constraints and proximity of an heritage asset we have significant concerns over the practicality of development of the site for any employment uses"*. They have chosen not to address the suitability of the site for B1 uses as the RLB report (January 2021) identified that delivery of B1 uses on the site is not viable. We agree with this point.
- 2.4 Paragraph 3.4 of the Fenn Wright report identifies a number of planning permissions for employment use on the Church Field Road site that have been subject to judicial review. It is noted however that the reasons these permissions were overturned was on points of law rather than issues pertaining to the suitability of the site for employment-related uses.
- 2.5 The site has been found to be suitable in planning terms for employment use, as evidenced by the following permissions:
- B/01/01747/OUT – Outline consent granted in May 2002 respectively for community hospital (north west part of site) and Classes B1, B2 and B8 (on remainder of site). Whilst the subsequent reserved matters application (ref. B/05/00589) was overturned following judicial review, this was on grounds that EIA procedures were not followed correctly and was not due to unsuitability of the site for employment uses.
 - B/09/00932 – Permission granted in January 2014 for erection of 2 no. detached industrial buildings (Use Class B1, B2 & B8), centrally located service yard area, surface car parking, landscaping and associated works.
- 2.6 In respect of the issue of screening of the heritage asset to the north east of the site, permission ref. B/09/00932 included the retention of the existing tree shelter belt. The buildings that were proposed within the site (A and B) were between 13.6m and 13.8m in height to the ridge and both included a mezzanine level. This provided a gross internal floorspace of 25,934 sqm. Whilst some additional landscaping was proposed along the northern and eastern site boundary, together with a landscaped bund, this permission was found to be acceptable in planning terms and approved, thus demonstrating the suitability of the site for employment uses. Although this permission was subsequently overturned at judicial review, the permission was not overturned on matters relating to the non-suitability of the site for employment uses.
- 2.7 Paragraph 3.7 of the Fenn Wright report states that *"while the shape of the Site is currently quite regular, factoring in the required additional landscape screening may offer some challenges that would make configuration of an employment use challenging and cost prohibitive. It is our experience most commercial users will require regular shape buildings and plots for reasons such as goods loading, servicing, racking and automation"*. Example layouts for schemes with 'regular

shaped' layouts are provided in Appendix VIII of the Fenn Wright report. Permission ref. B/09/00932 that was approved managed to achieve 'regular shaped' buildings and plots on the sites without significant amounts of 'dead space', as shown in Figure 1 below. The shape of the site therefore would not appear to render the site unsuitable for employment use.

Figure 1. Proposed site layout, application ref. B/09/00932, Design and Access Statement (p.27, July 2009)



- 2.8 Paragraph 3.8 of the Fenn Wright report states that “Close proximity to residential dwellings on Waldingfield Road, the Sudbury Community Health Centre and Chilton Hall, will also likely limit the end use of the site for many B2 and B8 industrial uses”. Whilst restrictions relating to noise, vehicle movements and lighting may be placed on future B2 and B8 users of the site, these mitigation measures have proven to make sites such as this acceptable in planning terms and therefore are not considered sufficient to make the site unsuitable for employment uses. Other non-B class uses, such as A1 retail and D2 leisure would also likely have similar restrictions imposed.
- 2.9 Paragraph 3.9 of the Fenn Wright report states that a mixed use development comprising both employment and residential uses would need to incorporate a landscape buffer between the two uses to preserve the amenity of new residents. Again, this is a typical design consideration that would need to be incorporated in order to make the development acceptable in planning terms, but is not sufficient to

render the site unsuitable for these uses.

- 2.10 Paragraph 3.10 of the Fenn Wright report states “*Heritage considerations have played a part in the failed planning history of the site and the emerging local plan evidence base suggests that this, together with lack of need, is the reason for de-allocating the site from employment use*”. Further, at paragraphs 3.12 and 3.12, Fenn Wright state that site-specific constraints on this site are “*much greater than other established commercial locations within the Sudbury area*”, including the Chilton Woods site.
- 2.11 It should be noted that the emerging plan has only recently been submitted for examination and has not yet been adopted and therefore the site is currently allocated for employment use in the adopted Local Plan. The weight to be afforded emerging Local Plans is clearly set out in the NPPF at paragraph 48, and the level of weight to be attributed to emerging plans is for the decision taker. A recent appeal dealing with this issue in Babergh (Land East of Bramford Road, Sproughton, Ref. 3256969) dealt with a similar issue. Here the Inspector afforded the emerging plan limited weight, as have other inspectors in similar circumstances.
- 2.12 The proposed Joint Local Plan Policy SP05 – Employment Land, once adopted is set to supersede Policy EM02. Whilst Chilton Industrial Estate, Sudbury is listed in the emerging policy, the land subject to this application is no longer identified. The site is not included in the emerging Local Plan as a proposed housing allocation.
- 2.13 The SHELAA (October 2020) confirms that the reason for discounting site SS0933 from employment or housing allocation is that “*Site lies within an area of high heritage sensitivity*”. However, a sensitively designed scheme may still be considered acceptable in planning terms. Further discussion of heritage issues is presented in section 2(e) below.
- 2.14 Fenn Wright state that it is these site-specific issues that have prevented the site coming forward for employment development since its allocation and that the LPA has accepted the site is not suitable for employment uses as it is deallocated within the emerging local plan. However, as set out above, legal challenges appear to have prevented previous permissions from being implemented.

b) Demand for Employment Floor Space

- 2.15 In considering evidence of demand for employment floorspace by land use type, in paragraph 3.15, Fenn Wright state in respect of the Economic Land Needs Assessment (ELNA) (Lichfields, March 2016) that “*The report identified that Babergh has a high percentage of relatively small organisations 95% employing less than 20 people. The needs of businesses of that size are likely therefore to be for relatively small footprint buildings, with good levels of onsite parking, good proximity to amenities e.g. coffee shops / supermarkets for lunch breaks, nearby Gyms and so on*”. There is however no evidence that smaller organisations could not occupy larger footprint buildings, or that good levels of onsite parking could not be provided at the Church Field Road site. The proximity to amenities and public transport would also be a consideration in any proposed residential development at the site. It should also be noted that the ELNA report also identifies high proportions of businesses employing 20 people or fewer across the whole of the Ipswich Economic Area, including 94% in Ipswich and 96% in Mid Suffolk. In 2015, Babergh District had 180 businesses employing more than 20 people, including 20 businesses employing between 100 and 249 people.
- 2.16 Table 7.10 of the ELNA identifies a total employment land requirement of 13.9 hectares (Class B uses) in Babergh District during the period 2011 to 2031.

Paragraph 3.19 of the Fenn Wright report breaks this down to an annual floorspace requirement of 0.35 hectares per annum in Sudbury. This approach is incorrect, employment land needs should be met across the Functional Economic Market Area (FEMA) geography. Evidence can be prepared within an Employment Need Assessment to identify certain quantum at lower geographies, such as at a District level. It is not appropriate or robust to assume that any specific proportion of need should be disaggregated down to Sudbury. Needs have been identified at a District level and as such, supply to meet this need is located across the District.

- 2.17 The Fenn Wright report does not identify whether this disaggregated amount has been met in Sudbury (3.5 hectares between 2011 and 2021). It is not clear from the Fenn Wright report what net total amount of B-Class floorspace has been delivered in Babergh District since 2011 and what 'need' remains outstanding.
- 2.18 At paragraph 3.48, Fenn Wright highlight the Persimmon scheme at Hadleigh, in which the site was partly allocated for employment use under Policy EM03 but which has subsequently been granted permission for 170 dwellings and outline consent for 10,000 sq ft of class A1, A2 and A3 floorspace (ref. DC/17/03902, granted June 2020). However, upon reviewing the decision notice for this application it would appear that the 10,000 sq ft also includes B1 uses. Therefore part of this site is still likely to be in employment use, albeit not a significant proportion.
- 2.19 At paragraph 3.51 of the Fenn Wright report it is noted that a residential use on an allocated employment site (EM07) in Great Cornard (south Sudbury) was granted under permission ref. B/11/01433 in January 2013. However, it should be noted that this decision was based on an employment report prepared by the applicant which referred to a 2009 Employment Land Review which concluded that at that time land supply exceeded demand in Babergh District with the likelihood of there being enough land to meet future demand. The latest evidence on employment land requirements set out in the ELNA shows that there is now a need for additional employment land in Babergh District in the period 2011 to 2031.
- 2.20 Paragraph 3.52 of the Fenn Wright report also identifies a current application at the existing Babergh council office on Corks Lane for the conversion to residential use, permission for this development has since been granted on 9th March 2021 (ref. DC/18/04966). The Fenn Wright report states that this application was backed up by a viability appraisal "*which appears to adopt much more generous assumptions than those suggested by RLB in their report of January 2021*".
- 2.21 Having reviewed the Cork Lane / Bridge Street viability report note it is for the conversion to residential use of the existing buildings (ie the viability relates to the residential values and costs) and concludes that the scheme shows a deficit of £2.7 million. We are unclear how this viability appraisal relates to RLB's report for Church Field Road, which is based solely on industrial use, and in what respect the assumptions in the Cork Lane / Bridge Street viability are relevant and might be regarded as more generous .

c) Supply of Employment Land in Locality of the Church Field Road Site

- 2.22 Paragraphs 3.25 to 3.28 of the Fenn Wright report identify four sites with a total current available industrial floorspace of 294,038 sq ft. Paragraph 3.30 of the Fenn Wright report states "*Therefore it is clear to see that there is sufficient availability to meet the industrial needs within the short to medium term*". The ELNA identifies a net floorspace requirement of 7,940 sqm (84,465 sq ft) industrial floorspace in Babergh District during the period 2011-2031. This would appear to suggest that sufficient industrial floorspace is available.

- 2.23 In respect of available office floorspace, paragraphs 3.34 to 3.38 of the Fenn Wright report identify five locations in Sudbury with available office accommodation totalling 6,905 sq ft. The requirement for net additional office floorspace in Babergh District over the period 2011 to 2031 is 62,420 sqm (671,883 sq ft).
- 2.24 It is unclear from the Fenn Wright report how the existing supply relates to previous employment floorspace developments (i.e. what has been delivered over the Plan period to-date), and what existing allocations and extant permissions are expected to deliver. This would have provided a clearer and more comprehensive picture of supply vs requirement.
- 2.25 Paragraph 3.40 of the Fenn Wright report states that there is a *“lack of demand for employment uses and this is highlighted within the transactional evidence...but also substantiated with the above analysis of available stock. We have identified that there are no clear current requirements for B1, B2 and B8 uses within the Sudbury area. Whilst plainly there would be some occupational demand, this occurs on an adhoc basis and it is likely that transactional volume and demand simply correlate with previous levels of stock turnover rather than anything substantially more. There is a fairly consistent level of take up annually, and relatively good levels of availability which are around 5 times the sq. ft. average annual take up which suggests a fairly balanced market for supply and demand, with no evidence to suggest increases in supply will be met by increasing demand”*.
- 2.26 There is no specific requirement for office or industrial accommodation in Sudbury identified by Estate Agents Clearing House (EACH) in Appendix VIII of the Employment Land & Viability Study (Fenn Wright, December 2020) report. This is reiterated in Appendix 1 and paragraph 3.41 of the February 2021 report, with additional reasons provided as to why Sudbury would not be a suitable location for each of these listings. The site may still be suitable for one or two of these listings, for example No.35, which requires a minimum eaves height of 10-12 metres, as there is no clear evidence to suggest this would not be deliverable on the site subject to appropriate mitigation and design considerations.
- 2.27 In paragraph 3.42, Fenn Wright note that members and officers of Babergh District Council enquired about acquiring the site in 2015 but that discussions were subsequently not progressed *“presumably as the local authority did not consider the site suitable for developing for employment generating uses”*. No clear evidence has been provided to confirm this was the reason these discussions were not carried forwards.
- 2.28 Paragraph 3.43 of the report states that *“The general comments from other agents appear to be that there would be some very finite occupational demand for part of the site for employment uses, of small quarter acre or half acre plots, which would obviously be significantly more expensive to deliver than a typical scheme of minimum single acre plots due to additional servicing and estate roads etc”*. It is not clear that the viability of these indicative uses, for which Fenn Wright identify there is demand, has been fully assessed.

d) Identification of Alternative Available Sites

- 2.29 The Fenn Wright report does not assess the suitability of any other alternative sites apart from the Chilton Woods site.

e) Impact upon Heritage Assets

- 2.30 Paragraphs 3.55 to 3.61 of the Fenn Wright report considers the potential impact of developing the site for employment use upon the heritage assets to the north (Chilton

- Hall and Gardens) and south (St Mary's Church). Paragraph 3.56 states that *"The above heritage constraints will limit the ability to develop the subject site in a commercial way. Height of units is a material requirement for occupiers – see the Ladoria site constructed by Ipswich Borough Assets within the Babergh district where the building has a ridge height of 40.475 metres. It is self-evident that a building of this scale and size would be unsuitable for a site in close proximity to such important heritage assets"*. Whilst it is possible buildings of this height would not be suitable in such close proximity to the heritage assets, it is possible that buildings of lower height could be developed (see paragraph 2.6 above).
- 2.31 Paragraph 3.57 states that *"Topographic changes mean that the land gently rises to the west as you reach Waldingfield Road and realistically any modern warehouse building with an eaves of more than 8 or so meters is likely to have an over bearing effect on the landscape. An inability to develop tall buildings is likely to have a material adverse impact on the marketability of the assets when all of new industrial / warehouse deals lately have been on units in Babergh / Mid Suffolk are of in excess of 16 metres as referred to within our evidence schedule forming part of our previous report"*. It is possible for the topography of a site to be altered to enable taller buildings to be built whilst being screened from surrounding viewpoints, as was proposed as part of the scheme previously consented on the site (ref. B/09/00932, see paragraph 2.6 above).
- 2.32 Paragraph 3.58 of the Fenn Wright report relates to ecology and states that an area of land will need to remain undeveloped *"to provide an area for reptile mitigation, an area for great crested newt mitigation and an area for the re-location of priority habitat grassland. These considerations will further limit the amount of land and shape of plot that can be brought forward for employment use, particularly as many industrial uses can present an issue to preservation of such features – additional requirements likely will exist beyond typical industrial obligations to ensure the protection"*. Whilst it is likely that ecological constraints exist on the site and would need to be taken into consideration in the design and planning of any proposed scheme for employment use, it is not clear that such constraints would render the site unsuitable for employment use.
- 2.33 Paragraph 3.60 of the Fenn Wright report states *"Plainly it is the case that with limited demand and varied choices for occupiers, any tenant or owner-occupier will take preference in a site which does not limit their ability to use the property without any limitation on the design of the buildings and how the use is to be operated"*. In response to this point, the design of the buildings and how the use is to be operated are common issues on most employment sites that are dealt with and negotiated through the planning application process.
- 2.34 Paragraph 3.61 of the Fenn Wright report is as follows: *"DLP state within paragraph 2.25 of the report dated January 2021 that the Paragraph 6.39 states that "The Heritage Assessment submitted with the planning application concludes that the site does not materially contribute to the setting or significance of the heritage assets of Chilton Hall, the listed wall surrounded by the walled garden and the Historic Park and Gardens, and St Mary's Church". As this conclusion relates to the site itself rather than the proposed uses, this conclusion would likely be the same were the site to be developed for employment use." I do not believe this to be correct, the statement is made in the context of the planning application - Given the comments made above and the Heritage Officer comments, I do not believe this statement made by DLP to be current or accurate"*.
- 2.35 Whilst we agree that the Heritage Impact Assessment itself was prepared in the

context of the current planning application, the assessment of the site in the context of the setting of the heritage assets is based on the current site rather than the proposed development. Paragraph 5.3 of the recently updated Heritage Impact Assessment (March 2021) reaffirms this, stating *“The proposed application site is made up of land parcels that, on the evidence of the tithe map, were already in general arable and pastoral uses by c.1840 and had already ceased to have a connection with the former Park. There are no particular connections between the proposed application site and any of the heritage assets that would give rise to historically or architecturally significant connections. In short, the proposed application site does not materially contribute to the setting or significance of the heritage assets”*.

- 2.36 It is however acknowledged that the impact of any proposed development of the site upon these heritage assets would need to be assessed on its own merits. It is also noted that Historic England have maintained their objection to the currently proposed development on grounds that the application would harm the significance of the heritage assets, due to the erosion of their rural setting.

f) Commentary on the Fenn Wright Addendum to the Employment Land and Viability Report (ADS, April 2021)

- 2.37 John Barber of ADS (formerly employed by RLB) has provided comments on the section of the Fenn Wright Addendum to the Employment Land and Viability Report that relates to the viability report prepared by RLB (January 2021).
- 2.38 John Barber states that the difference of opinion on the rents and yield appropriate to the market for the B2 / B8 appraisal is a matter of opinion and not one of fact. The RLB report has used the rents and yield from the Aspinall Verdi Plan Viability and CIL Review Study (AVPVCRS), which forms the basis for the Babergh and Mid Suffolk adopted CIL policy, and has not sought to review or provide their own evidence of values.
- 2.39 In response to Fenn Wright’s criticism of build costs used, John Barber responds that the approach to costs is consistent with the approach to values, which they feel is appropriate where there is no specific plan, restriction or requirement to adopt a particular range of sizes of units. It is however noted that the latest BCIS average (mean) published costs for advanced warehouses rebased to Babergh over the last 10 years is now given as £758 per sqm which compares to the £784 per sqm used in the RLB appraisal which would improve the viability.
- 2.40 In response to Fenn Wright’s querying of the approach to determining benchmark land value (BLV), John Barber responds that the RLB approach is in line with published guidance by applying a 10 to 20 times multiplier to the *agricultural* value as the site is regarded as greenfield. John Barber also confirms the approach used in the RLB report to calculate residual land value.
- 2.41 John Barber also responds to Fenn Wright’s approach to appraising serviced land, stating that by applying 15% to the cost of the infrastructure where the landowner is creating serviced plots is a reasonable return to the landowner in incurring that cost and risk. The developer will look to make a profit on the acquisition of any plot and the subsequent development that is delivered but this is completely separate from the position of the landowner who will get their returns from the price paid for the plots and uplift on the base value.

3.0 CONCLUSION

- 3.1 This report has provided an independent appraisal of the additional evidence presented in Addendum to Employment & Land Viability Report (Fenn Wright, February 2021) in respect of planning application ref. DC/20/01094 as it relates to site-specific issues of employment land need and suitability.
- 3.2 This report follows on from our Review of Employment Land Need and Viability Addendum Report (January 2021), which provided a response to the Employment & Viability Land Study (Fenn Wright, December 2020).
- 3.3 In terms of demonstrating compliance with the first part of the second limb of Policy EM24, the Fenn Wright Addendum Report (February 2021) the Fenn Wright (February 2021) report has provided further evidence which considers the suitability of the Church Field Road site for employment use. The Fenn Wright report states that the site is unsuitable for employment uses due to its proximity to a number of heritage assets and the fact that previous permissions for employment use at the site have been overturned following judicial review, however these permissions were overturned on points of law rather than because the development was unacceptable in planning terms. Other points raised relating to the suitability of the site, such as its irregular shape and proximity to residential uses, we believe are not sufficient to render the site unsuitable for all forms of employment use. Many of these constraints could be overcome through appropriate design considerations.
- 3.4 The evidence also responds to points raised in our earlier reports (September 2020 and January 2021) regarding a need to consider demand for employment land and the availability of suitable alternative sites.
- 3.5 In respect of considering demand for employment land, the Fenn Wright report has sought to disaggregate the employment land requirement set out in the ELNA to produce a figure Sudbury (3.5 hectares). However, this approach is incorrect as employment land needs in the ELNA are set out at a District level, and as such, there is no evidence to support this disaggregated figure for Sudbury. It is also unclear from the Fenn Wright report what net total amount of B-Class floorspace has been delivered in Babergh District since 2011 and what 'need' remains outstanding.
- 3.6 In terms of considering the supply of employment land in the locality of the Church Field Road site, the Fenn Wright report identifies a number of office and industrial sites with floorspace currently available. However, it is still unclear from the report how this existing supply relates to previous employment floorspace developments (i.e. what has been delivered over the Plan period to-date) and what existing allocations and extant permissions are expected to deliver, including how much floorspace has been lost.
- 3.7 In respect of considering the availability of suitable alternative sites, the Fenn Wright report focuses on demonstrating the suitability of the Chilton Woods development site as an alternative employment site. The Fenn Wright report does not assess the suitability of any other alternative sites.
- 3.8 The Fenn Wright report does not sufficiently demonstrate that the site is 'inherently unsuitable' for all forms of employment related use, and therefore the scheme does not demonstrate compliance with the first part of the second limb of Policy EM24.
- 3.9 In respect of the considering the viability of employment related uses (the second part of the second limb of Policy EM24), the report prepared by ADS (attached at Appendix 1) responds to the criticisms of the viability report prepared by RLB (January 2021) as set out in the Fenn Wright report. This response upholds the findings of the viability

report prepared by RLB (January 2021) and concludes that the land to the north of Church Field Road, Sudbury is capable of delivering a viable scheme for employment uses. Therefore, the scheme does not demonstrate compliance with the second part of the second limb of Policy EM24 (i.e. demonstrating the site is unviable for all forms of employment related use).

APPENDIX 1 COMMENTARY ON THE FENN WRIGHT ADDENDUM TO THE EMPLOYMENT LAND AND VIABILITY REPORT (ADS, APRIL 2021)

INTRODUCTION

The following comments relate to the Fenn Wright (FW) Addendum to Employment & Land Viability Report February 2021 issued in response to the DLP (DLP) Review of Employment Land Need and Viability Addendum Report dated January 2021 incorporating the Rider Levett Bucknall (RLB) viability report.

Please note that at the time of producing the RLB report John Barber was employed by them as Senior Development Consultant and has since left and set up his own Company, ADS Appraisal & Development Services Ltd. As John Barber had produced the original RLB report with no other input from anyone else at RLB, DLP felt it appropriate that he would be best placed to offer a response to the Fenn Wright Addendum Report in respect of the FW comments relating specifically to viability.

SUMMARY

We do not agree with the summary of the FW report where this suggests that the RLB report is factually incorrect or that there are errors in the methodology and approach and would pick up on various points in the FW report accordingly and respond below in detail with reference to the FW Addendum as follows.

B2 / B8 VALUES

At 1.15 FW have stated that the RLB report is based on incorrect information and is factually incorrect, whilst we appreciate there is a difference of opinion on the rents and yield appropriate to the market for the B2 / B8 appraisal this is a matter of opinion and not one of fact. The RLB report has used the rents and yield from the Aspinall Verdi Plan Viability and CIL Review Study (AVPVCRS) which forms the basis for the Babergh and Mid Suffolk adopted CIL policy and not sought to review or provide their own evidence of values. As such, we feel the independent opinion of values derived by Aspinall Verdi should carry some weight where there is clearly no undue influence to be overly optimistic or pessimistic and reflects approaching the viability on the basis of a generalised view as there is no specific detailed scheme for developing out the site for employment uses.

We note FW have referred to the AVPVCRS report in other areas of their report.

At 4.23 FW have stated they don't have any significant issues with the 6.5% initial yield adopted in the AVPVCRS report and consequently in the RLB report, but then at 4.24 go on to say that *'There is simply no evidence of this type of approach in Babergh within the actual market which in turn should dictate the approach adopted to value'* hence there appears to be a contradiction in these two statements.

BUILD COSTS

At 4.29 to 4.31 FW have queried the build cost adopted by RLB from the published BCIS average prices rebased to Babergh and have at Appendix VII of their report included an extract from BCIS dated February 2021 rebased to Babergh and showing average prices over the last 10 years for a range of industrial types of buildings. Whilst the range of industrial building types is quite varied in Appendix VII of their report we take the view that categories other than Advance Warehouses i.e. Factories (likely to be

bespoke buildings to occupier / owner specification), Purpose Built Factories and Purpose Built Warehouses are not appropriate as this would not tie in with the approach to values. With regard to unit sizes and average costs / m2 clearly small units might have a higher cost per m2 with large units having a lower cost per m2 to the one adopted by RLB. Similarly RLB have adopted the rents and yield in the AVPVCRS which might also be regarded as an average value where smaller units might have higher rents, with large units having lower rents. On this basis we believe the approach to costs is consistent with the approach to values and therefore feel is appropriate where there is no specific plan, restriction or requirement to adopt a particular range of sizes of units.

We note the latest BCIS average (mean) published costs for advanced warehouses rebased to Babergh over the last 10 years is now given as £758 per m2 which compares to the £784 per m2 used in the RLB appraisal which would improve the viability.

BENCHMARK LAND VALUE

At 4.36 and 4.37 FW have queried the approach that RLB have adopted to arrive at an appropriate benchmark land value (BLV), however we believe the RLB approach is in line with published guidance.

The Homes and Communities Agency Published Guidance (HCAPG) suggests greenfield benchmark land values can be established as follows *“Benchmarks and evidence from planning appeals tend to be in a range of 10% to 30% above EUV in urban areas. For greenfield land, benchmarks tend to be in a range of 10 to 20 times agricultural value’.”*

FW appear to have taken the view that in establishing a BLV that the site should be regarded as allocated employment land and therefore in accordance with the HCAPG established an EUV (proposed as £15,000 per acre) but then instead of applying the 10% to 30% uplift to the EUV as set out in the guidance have actually applied the multiplier (i.e. 10 to 20 times) to the EUV. RLB have, in our view, correctly applied the 10 to 20 times multiplier to the agricultural value in accordance with the guidance where the site is regarded as greenfield which we believe is the correct interpretation of the guidance.

At 4.38 FW have suggested that a land value should be included as a cost in the appraisal to produce a residual land value (RLV). This is not the usual approach in calculating a residual site value where the site value is an output not an input and to then compare it with the BLV in assessing viability. Generally, the test of viability is as follows:-

- where the RLV is below the BLV then that would not be regarded as a viable development
- where the RLV is equivalent to or higher than the BLV the development would be regarded as viable.

This is a standard approach to viability in planning appraisal where profit is included as a cost and where the residual output is the site value which can then be compared to the BLV.

FW have also referred to interest costs and profit being applied to the land value and attributable to the landowner and we believe this is confusing the position of the landowner with that of the Developer. The Developer in acquiring the land from the landowner at the BLV (or residual value) will incur interest on

the cost and require a profit return on that element but these are not costs borne by the landowner in selling on the land. The landowner's return is covered by the Premium, multiplier over and above agricultural value or by the % uplift on the EUV - this is clearly set out in guidance and a standard approach to viability in planning.

SERVICED LAND APPRAISAL

At 4.41 FW appear again to be confusing the position of the landowner and Developer in respect of profit applied to the costs of infrastructure which will be borne by the landowner and will not relate in any sense to the ultimate GDV. We believe applying 15% to the cost of the infrastructure where the landowner is creating serviced plots is a reasonable return to the landowner in incurring that cost and risk. The Developer will look to make a profit on the acquisition of any plot and the subsequent development that is delivered but this is completely separate from the position of the landowner who will get their returns from the price paid for the plots and uplift on the base value.

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Application for outline planning permission (detailed matters reserved except access) for the erection of up to 166 residential dwellings, a purpose built care home for up to 60 bedrooms, and associated infrastructure including landscaping, public open-space, car parking and means of access (planning application ref. DC/20/01094)

Land on the North Side of Church Field Road, Chilton, Suffolk

Critical review of assessment of the impact of the proposal on heritage assets

Roy M Lewis BA (Hons), MA (Arch Cons), MRTPI, IHBC

on behalf of

Babergh District Council as Local Planning Authority

October 2022

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1.0 Introduction

Scope and purpose of the review

- 1.1 The review has been prompted by the wide variation on conclusions in the assessments of heritage impact made by the applicant, the Council's heritage adviser, Historic England, and third parties with regard to planning application ref. DC/20/01094, which proposes a residential and care home development on land on the north side of Church Field Road, Chilton, Suffolk.
- 1.2 My review is restricted to the single issue of assessment of the impact of the proposal on the setting of heritage assets. I do not consider non-heritage impacts or attempt to assess the proposed development in relation to planning policies. The aim of the review is to assess the veracity of the various assessments that have been made and to suggest which conclusions are the most reliable.

Credentials

- 1.3 I have been a member of the Royal Town Planning Institute (RTPI) since 1980 and the Institute of Historic Building Conservation (IHBC) since its formation in 1997. From 2009-2019, I was a director and employee of Grover Lewis Associates Limited, a specialist town planning and built heritage consultancy. For the majority of the forty-two years I have practiced as a chartered town planner, I have specialised in planning matters relating to the historic environment.
- 1.4 I am currently the Policy Secretary of the IHBC. From 2002-6, I represented the IHBC on the Urban Design Alliance (UDAL). UDAL was a network of seven built environment professional institutes and two campaigning organisations that was formed in 1997 to promote the value of good urban design.
- 1.5 Since 2004, I have been the Historic England (formerly English Heritage) nominated representative on the Roman Catholic Historic Churches Committee for the Nottingham Diocese, which covers the East Midlands. In this capacity, I provide planning and heritage advice on the suitability of proposals that affect listed churches.

- 1.6 Between 2002 and 2008, I was the programme leader for the IHBC recognised undergraduate programme of BA (Hons) Architectural Conservation at the University of Derby. From 2006-9, I was the external examiner for the MSc in Historic Conservation run by Oxford Brookes University in collaboration with the University of Oxford.
- 1.7 My professional experience has included employment as a planning officer and conservation officer in a variety of local authorities, and a consultant in private sector architectural and planning practices. Consequently, I have extensive experience of dealing with development proposals, and in particular proposals that affect the historic environment. My experience has made me conversant with the application of national policies and guidance relating to planning and the historic environment, and in particular the issue of impact on setting.
- 1.8 Over the course of my career, I have provided evidence in numerous planning appeals, acting on behalf of developers, local authorities, and local action groups. In particular, I gave evidence relating to the impact of development proposals on the setting of heritage assets in the Barnwell Manor and Bramshill planning appeals. In both cases, my evidence was considered in both the High Court and Court of Appeal as a result of judicial review and was not found wanting. Barnwell Manor has become a leading legal precedent in relation to 'setting'.

Personal involvement

- 1.9 I have not had any previous involvement in the proposed development of the land at Church Field Road, Chilton or any other development proposals in Babergh District.
- 1.10 I was approached by Steven Stroud (Strategic Projects and Delivery Manager, Babergh and Mid Suffolk District Councils) on 4 October 2022 with a request to carry out the review of heritage assessments.
- 1.11 I carried out a site inspection on 17 October 2022. This included inspection from Chilton Hall and its grounds.

2.0 The proposal

The application

- 2.1 The planning application proposes the erection of up to 166 residential dwellings, a purpose built care home for up to 60 bedrooms, and associated infrastructure including landscaping, public open-space, car parking and means of access. The application is made in outline with all matters reserved except proposed access to Church Field Road.
- 2.2 The application originally proposed up to 190 residential dwellings. The description has been revised, as have the Development Parameter Plan, Building Heights Plan and Massing Layout submitted with the application for determination. My review considers the assessments of impact of the amended proposal.
- 2.3 The 11.6 hectare application site is an approximately square-shaped block of land, that excludes a recently developed health centre and a three pairs of semi-detached house that occupy the south-western corner of the approximate square. The western site boundary abuts Waldingfield Road (B1115). The southern side abuts Church Field Road, which is an industrial estate road of recent origin. The northern side abuts the grounds of Chilton Hall. The eastern side is separated from open fields by a public footpath and at the southern end, borders a single plot-width of modern industrial units that line the north side of Church Field Road. Tree belts run along the northern and eastern margins of the application site. The main part of the site is open land covered with scrub, which is denser to the west. The level of the land rises from east to west.

Heritage assets potentially affected

- 3.1 There is general agreement that the potentially affected heritage assets are:

Church of St Mary, Chilton (grade I listed building)

A fifteenth century flint church with a substantial red brick west tower, dating from the sixteenth-century. First listed in 1961. On the north side, attached to the chancel, is the early sixteenth-century, red-brick Crane Chapel, which contains table tombs and a wall monument to members of the Crane family. The church was restored in stages by George Grimwood from 1860-75.

The list description states that the church stands about 500 m south of Chilton Hall in isolation, completely surrounded by agricultural land.

However, industrial development has since encroached to the immediate south of the churchyard. The church is located approximately 150 metres to the south-east of the application site.

Chilton Hall (grade II* listed building)

A two-storey, red brick house surrounded by a deep moat, that is described as newly built in the will of Robert Crane IV, died 1591. The house was built with a suite of high-ceilinged chambers on the upper floor, which originally had large windows in the east and south walls (now blocked) (see 'The Buildings of England: Suffolk-West', Pevsner, 2015, p187). At the south-east corner is an embattled, polygonal staircase tower that rises above eaves level. According to Sandon (Suffolk Houses: A Study of Domestic Architecture, 1977, p212), the roof of the tower provided an embattled observation parapet. The house was an important stronghold with massive walls that replaced an earlier medieval house. The standing building is a remaining wing of a larger house, the major part of which burnt down in about 1800. In the late eighteenth century, the west side of the standing building was given a Georgian façade, with double-hung sash windows and a Georgian-style entrance door. The main approach to the house is from the south by a bridge over the moat.

Garden Wall to East of Chilton Hall (grade II listed building)

A tall red-brick wall about nine feet high with a quasi-castellated capping set into the top of the brickwork. The three sided structure, with walls to the north, south and west, encloses a garden to the west of Chilton Hall, beyond the moat (not the east as described in the listing). There is a pair of Tudor arched recesses on the south side, a single recess on the north side, and a Tudor gateway on the west side. The garden wall is believed to have been built by Sir Robert Crane V (died 1643).

Chilton Hall (grade II registered park and garden)

The registered garden covers an area of approximately six hectares around the moated Chilton Hall, which stands in the southern part of the registered area. The gardens and pleasure grounds cover approximately two hectares and lie predominantly to the south and west of the hall, and include the grade II listed walled garden. A woodland garden to the south of the moat bridge was developed in the 1930s, together with a rose garden in the southern tip of the site. Two large pools between the rose garden and the south wall of the kitchen garden appear on a 1597 Survey and are therefore at least sixteenth-century in origin and were probably medieval fishponds. In the sixteenth century, a large deer park extended to the south east of the present site. By 1839, when the Tithe map was drawn up, the deer park had been turned over to arable.

3.0 Key considerations relating to ‘setting’

The setting of a heritage asset

- 3.2 The impact of development proposals on the settings of heritage assets is a well-established material planning consideration. The National Planning Policy Framework (NPPF) (2021) defines the setting of a heritage asset 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” (Glossary, p71)

- 3.3 The NPPF policies relating to conserving and enhancing the historic environment require consideration of impacts on settings as well as direct impacts on the assets themselves. These policies include:

- In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, **including any contribution made by their setting** (194)
- 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**) ... (195)
- 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 (200)
- Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, **and within the setting of heritage assets**, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably. (206)

(my emphasis)

- 3.4 Furthermore, section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 makes it a statutory duty for the decision-maker in considering whether to grant planning permission for development which affects a listed building **or its setting**, to *“have special regard to the desirability of preserving the building **or its setting** or any features of special architectural or historic interest which it possesses”* (my emphasis).

“Preserving” in this context means doing no harm (see *South Lakeland District Council v Secretary of State for the Environment* [1992] 2 AC 141).

- 3.5 Consequently, it is essential to understand the nature of the setting of any heritage asset affected by a development proposal and the contribution it makes to its significance, in order to correctly apply the statutory duty and policies in decision-making.

The significance of a heritage asset

- 3.6 The NPPF heritage policies are predicated on the concept of significance, which is defined (for heritage policy) 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** ...”*
(Glossary, pp71-72, my emphasis)

- 3.7 It is relevant to note that as setting is defined as the surroundings of a heritage asset, setting is not in itself a heritage asset. Nor is it a heritage designation. However, it is made clear from the definitions of both setting and significance that setting can contribute in a positive or negative way to the significance of a heritage asset.

‘Substantial harm’ and ‘less than substantial harm’

- 3.8 The NPPF heritage policies seek to avoid harm to heritage significance. Furthermore, in relation to designated heritage assets, the NPPF heritage policies distinguish ‘substantial harm’ from ‘less than substantial harm’. Consequently, a decision-maker initially has to determine whether or not a proposal would cause any harm to a designated heritage asset. If so, the decision-maker must then determine whether the harm constitutes ‘substantial harm’ or ‘less than substantial harm,’ in order to engage the appropriate policy.
- 3.9 The NPPF does not provide a definition of the terms ‘substantial harm’ and ‘less than substantial harm’. Guidance is provided in the Government’s online national Planning Practice Guidance (PPG) states:

“Where potential harm to designated heritage assets 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 National Planning Policy Framework (paragraphs 194-196) apply.

Within each category of harm (which category applies should be explicitly identified), the extent of the harm may vary and should be clearly articulated.

Whether a proposal causes substantial harm will be a judgment for the decision-maker, having regard to the circumstances of the case and the policy in the National Planning Policy Framework. 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.”

(Paragraph: 018 Reference ID: 18a-018-20190723)

- 3.10 The issue of ‘substantial harm’ as a result of development in the setting of a heritage asset has been considered in a number of court cases. In Bedford Borough Council v Secretary of State [2012] EWHC 4344 Admin it was said that for harm to be substantial *“the impact on significance was required to be serious such that very much if not all of the significance is drained away or that the asset’s significance is vitiated altogether or very much reduced”*. This appears to be a higher threshold than the advice in the Government’s PPG (set out above) that ‘substantial’ harm to the significance of a heritage asset can arise where the adverse impact of a development *“seriously affects a key element of (the asset’s) special architectural or historic interest”*. It is however, common ground to both the Bedford judgment and the PPG that

substantial harm is a high test. It should also be noted that the judge in the Bedford case regarded 'substantial' and 'serious' as interchangeable adjectives in this context.

- 3.11 The issue of 'substantial harm' was considered more recently in the case of The London Historic Parks and Gardens Trust v The Minister of State for Housing and Westminster City Council [2022] EWHC 829 (Admin), otherwise referred to as the Holocaust Memorial case. The judgment interprets the PPG terminology as being consistent with the Bedford judgment. It states that the concept of substantial harm would apply if *"the impact of the proposed development was sufficiently serious in its effect that the significance of the designated heritage asset, including the ability to appreciate that asset in its setting, was (if not vitiated altogether) at least very much reduced"* (52). The judgment considered the reference in the Bedford case to significance being *"very much ... drained away"* was no more than an alternative, metaphorical means of expressing the concept of substantial harm.
- 3.12 Accordingly, the judgment concluded that the Bedford case does not import a test of *"draining away"* to the test of substantial harm and that *"a word like 'substantial' in the NPPF means what it says and any attempt to impose a gloss on the meaning of the term has no justification in the context of the NPPF. The policy framework and guidance provide a steer that relevant factors include the degree of impact, the significance of the heritage asset under scrutiny and its setting. It is not appropriate to treat comments made by a Judge assessing the reasoning of an individual decision maker, when applying the test of 'substantial harm' to the circumstances before him/her, as creating a gloss or additional meaning to the test"* (53).
- 3.13 Consequently, it is clear that 'substantial harm' is a high level of serious harm that at the least, very much reduces the significance of the designated heritage asset, including the ability to appreciate that asset in its setting.

Guidance relating to the setting of a heritage asset

- 3.14 The Government's online national Planning Practice Guidance (PPG) states that:
- "All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not. The setting of a heritage asset and the asset's curtilage may not have the same extent."*

The extent and importance of setting is often expressed by reference to the visual relationship between the asset and the proposed development and associated visual/physical considerations. Although views of or from an asset will play an important part in the assessment of impacts on setting, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust, smell and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each.

The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights of way or an ability to otherwise access or experience that setting. The contribution may vary over time.

When assessing any application which may affect the setting of a heritage asset, local planning authorities may need to consider the implications of cumulative change. They may also need to consider the fact that developments which materially detract from the asset's significance may also damage its economic viability now, or in the future, thereby threatening its ongoing conservation".

(Paragraph: 013 Reference ID: 18a-013-20190723)

3.15 The Historic England (HE) publication *Historic Environment Good Practice Advice in Planning Note 3 (GPA3): The Setting of Heritage Assets* (Second Edition, December 2017) provides detailed guidance on the nature of settings and the assessment of development proposals that impact on settings.

3.16 Advice in GPA3 of particular relevance to the Chilton case includes:

“Change over time: Settings of heritage assets change over time. Understanding this history of change will help determine how development within a setting is likely to affect the contribution made by setting to the significance of a heritage asset

Settings of heritage assets which closely resemble the setting at the time the asset was constructed or formed are likely to contribute particularly strongly to significance (para 9).

Cumulative change: Where the significance of a heritage asset has been compromised in the past by unsympathetic development affecting its setting, to accord with NPPF policies consideration still needs to be given to whether additional change will further detract

from, or can enhance, the significance of the asset. Negative change could include severing the last link between an asset and its original setting ... (para 9)

Designed settings: The setting of a historic park or garden, for instance, may include land beyond its boundary which adds to its significance but which need not be confined to land visible from the site, nor necessarily the same as the site's visual boundary. It can include ... land which is not part of the site but which is adjacent and associated with it because it makes an important contribution to the historic character of the site in some other way than by being visible from it, and land which is a detached part of the site and makes an important contribution to its historic character either by being visible from it or in some other way, perhaps by historical association" (para 9).

3.17 GPA3 sets out a five step assessment process for proposals that may affect the setting of a heritage asset, namely:

- *"Step 1: Identify which heritage assets and their settings are affected;*
- *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;*
- *Step 3: Assess the effect of the proposed development, whether beneficial or harmful, on that significance or on the ability to appreciate it*
- *Step 4: Explore ways to maximise enhancement and avoid or minimise harm;*
- *Step 5: Make and document the decision and monitor outcomes" (para 19).*

3.18 In Step 2, GPA3 advice that is particularly relevant to the Chilton case includes the recommendation that the assessment should identify the physical surroundings of the asset, including its relationship with other heritage assets and in this regard should consider a wide number of potential attributes including "openness" and "history and degree of change over time". Additionally in Step 2, GPA3 recommends identification of the way the heritage asset is appreciated and the asset's associations and patterns of use. With regard to these issues, GPA3 advises that, amongst other things, the "surrounding landscape or townscape character", "tranquillity (and) remoteness", and "land use" should be considered (para 26 and related checklist).

- 3.19 In Step 3, GPA3 recommends that the assessment should address the attributes of the proposed development in terms of its location and siting; form and appearance; wider effects; and permanence.(para 33). Considerations with regard to location and siting of the development include *“proximity to the asset”* and the *“degree to which location will physically or visually isolate asset”* and are relevant to the Chilton case. With regard to the wider effects of the development, *“change to general character (e.g. urbanising or industrialising)”* and *“change to land use”* are relevant. With regard to permanence, *“reversibility”* is relevant (checklist, p13).
- 3.20 In Step 4, GPA3 recommends that *“... options for reducing the harm arising from development may include the repositioning of a development or its elements, changes to its design, the creation of effective long-term visual or acoustic screening, or management measures secured by planning conditions or legal agreements”*. However, it is noted that *“for some developments affecting setting, the design of a development may not be capable of sufficient adjustment to avoid or significantly reduce the harm, for example where impacts are caused by fundamental issues such as the proximity, location, scale, prominence or noisiness of a development”* (p14).
- 3.21 The GPA 3 guidance was central to the Court of Appeal judgment in Catesby Estates Ltd and SSSLG v Steer [2018] EWCA Civ 1697. The appellant’s case hinged on the single issue of whether an appeal Inspector was correct in confining his consideration of setting to visual or physical impacts. Whilst the court’s decision supported the Inspector, it was held that the decision-maker has to keep in mind that *“the ‘surroundings’ may change over time, and also that the way in which a heritage asset can be ‘experienced’ is not limited only to the sense of sight”* (29).

4.0 Review of the assessments of heritage impact

Assessment by HCUK Group (on behalf of the applicant)

- 4.1 The applicant's assessment of the revised application by HCUK Group dated February 2021 replaces an assessment of the original application by Heritage Collective dated February 2020. The assessment is clearly based on an awareness of the relevant statutory duty, planning policies and guidance.
- 4.2 The HCUK assessment makes a general statement that *"the proposed application site does not make a particular contribution, or a specific contribution, to the setting of any of the heritage assets described"* (3.11).
- 4.3 In carrying out GPA3 Step 2 with regard to the Church of St Mary, the HCUK assessment identifies the churchyard as the primary positive element of its setting (3.7). The analysis notes that modern commercial development has *"much altered"* the setting of the Church (3.7) and states that some allowance must be made for the effect of buildings that have impinged into the view to the rear (south) (3.12). However, this is not translated into the 'statement of significance' (3.14) or identified specifically as a negative aspect in relation to significance.
- 4.4 Having identified the church tower as a local landmark (3.3), the analysis of the wider setting does not identify the full range of views of the tower (and in some cases the body of the church) from the wider surroundings. From the wider area, the HCUK assessment refers only to the view of the church from the north over pasture and the view of a small part of the church tower from the east side of the proposed site (3.7). The analysis does not identify other views of the Church from the higher level western parts of the application site; the limited but important views from parts of Chilton Hall and its grounds; or the debased views of the church from Church Field Road.
- 4.5 The analysis of the setting of Chilton Hall states that it is best experienced from within its moated enclosure and the footpath that runs to the eastern side of the Hall (3.8). There are in fact numerous views of the Hall from positions beyond the moated enclosure and the footpath. Whilst I agree that the moat and walled garden contribute greatly to significance, as early examples of a designed landscape (3.12), step 2 of the HCUK assessment does not recognise the contribution the character of the wider surroundings makes to the significance of the Hall. Nor does the analysis assess the historic evolution of the Hall and its wider surroundings in any detail, notwithstanding the detailed information contained in the associated

archaeological desk-based assessment submitted on behalf of the applicant. The assessment states that longer views of the Hall are restricted by the filtering effect of trees and plantations (3.8). Whilst this is correct in longer distance views from the south, the Hall can be seen from the footpath that runs through the tree belt that borders the northern part of the application site, due to the thin, spindly nature of the trees. The assessment makes no reference to the suite of high-ceilinged chambers on the upper floor of the Hall or the polygonal corner tower, from which there would almost certainly have been views from the Hall over its associated rural surroundings and towards the Church of St Mary.

- 4.6 The analysis of the setting of the walled garden at Chilton Hall states that it can only be experienced from within the grounds of the Hall. As with the Hall, the garden wall can be seen from the footpath through the tree belt that borders the northern part of the application site, due to the thin, spindly nature of the trees.
- 4.7 The analysis of the setting of the Chilton Hall registered park and garden suggests that there is little of significance beyond the moated enclosure and walled garden and views from a public footpath that passes near the Hall (3.10) other than the Church (3.12). As stated above, the assessment does not include a comprehensive assessment of the historic evolution of the Hall and its surroundings. The Survey Plan of the Manor of Chilton, 1597 contained in Michael Collins' assessment identifies the fields to the north of Chilton Hall and the application site to the south-west, as part of the estate. Whilst these fields may currently have the appearance of modern agricultural land (3.10), and scrub in the case of the application site, they nevertheless have historic interest as a central part of the historic manor of Chilton.
- 4.8 The HCUK assessment notes the spatial and visual inter-relationships of the Hall, the walled garden, and the moated enclosure and that they contribute to the significance of each other (3.13) but does not identify the spatial and visual inter-relationships between the Hall and the Church and the surrounding rural area. A contextual relationship is noted between the Hall and the Church but this is considered "*somewhat abstract*" on the grounds of minimal intervisibility (3.7, 3.8). The setting guidance and interpretation of the concept of setting by the courts set out above make it clear that such attributes of setting are not restricted to visual considerations. Describing them as "*abstract*" does not remove them from the deliberation.
- 4.9 A notable omission in the HCUK assessment is lack of analysis of the character of the surroundings of both the Hall and the Church, past and present, as recommended in GPA3 Step 2. It is clear from cartographic and

photographic evidence (see the historic maps in the archaeological desk-based assessment by Archaeology Collective and the historic plans and aerial photograph (Fig. 3) in Michael Collins' assessment) that until the later twentieth century, the wider setting beyond the immediate grounds of Chilton Hall and the Church of St Mary, was an open, rural and remote setting. The Church was particularly remote, being only accessible by tracks and footpaths. The HCUK assessment notes that the application site was in the same ownership as Chilton Hall at the time of the tithe map of 1839 (3.11) but makes no acknowledgement of its contribution to the open, rural character of the wider surroundings and thus to the significance of the Hall. The open, rural and remote aspect of the setting of the Church of St Mary has been seriously compromised in recent years by the industrial development to its immediate south, which should have been taken into account. The open, rural and remote characteristic of the surroundings is addressed in the HCUK assessment only in comments relating to the Babergh and Mid Suffolk Heritage and Settlement Sensitivity Assessment Report (4.16).

- 4.10 In addressing GPA Step 3, the HCUK assessment of the impact of the proposed development does not find any harm to or erosion of significance to any of the heritage assets considered as a result of the urbanisation of a substantial part of their surroundings. This reflects the fact that the assessment does not identify any contribution to significance by the open, rural character of the wider surroundings in GPA Step 2.
- 4.11 In association with this aspect of the assessment, there is no consideration of the cumulative impact of the proposed development, together with the adverse impact of the existing industrial development along and to the south of Church Field Drive; the health centre and dwellings to the immediate south-west of the application site; and the extensive amount of residential development in existence and planned on the west side of Waldingfield Road. Existing urban development to the south and west has urbanised approximately 50% of the wider rural setting of the Church of St Mary. The proposed development would cause considerably more urban encroachment of its open, rural setting to the west, leaving extensive open land only to the north and north-east of the Church. In my view, the HCUK conclusion that the proposed development would result in no harm as views of the church across open farmland would remain from the north, cannot be justified. It ignores the fact that a significant amount of open land with rural character would be lost to urban development to the west of the Church, leaving it in predominantly urban surroundings. The cumulative impact of the proposed development on the wider setting of Chilton Hall and its grounds would similarly leave the Hall with an extensive open rural setting only on its eastern side.

- 4.12 The suggestion that the change within the setting of the Hall and its registered garden *“would be largely abstract”* (4.9, 4.12) is misleading, as the development would result in a real and permanent harmful impact on the character of their surroundings. The statement in the HCUK assessment states that a 200m gap between the proposed housing and the Hall, together with intervening trees, *“would retain an isolated and rural feel”* (4.16) is wholly unconvincing. The slender belt of open land that is included in the revised proposal would function as a suburban amenity area and would not have rural character. Views to and from the Hall and its grounds would be possible through the intervening tree belt within the application site, due to the thin spindly nature of the trees. It should also be noted that the better quality trees between Chilton Hall and the proposed housing are within the grounds of the Hall and constitute part of its registered garden and that the closest proposed dwelling would be located approximately 50 metres from the southern boundary of the registered garden.
- 4.13 In addressing GPA Step 3, the HCUK assessment of the impact of the proposed development on significance of the Church of St Mary states that *“the proposed buildings would be in scale to their surroundings and would not be very prominent because the land drops”* (4.4). This is unlikely as the highest proposed buildings are located on the higher part of the site. The small field to the immediate west of the Church is at lower level than the church but the level of the application site rises to the west. It is highly likely that parts of the development (such as rooftops) would be visible from the churchyard.
- 4.14 It is also likely that parts of the development would be visible from the footpaths on the open land to the east, in juxtaposition with the registered park and garden. People walking the public footpaths that link the Church of St Mary and Chilton Hall and its grounds would be highly likely to be aware of the existence of the proposed development, hence it would have an impact on their experience of the heritage assets. In the hours of darkness, the development would be noticeable by lighting and activity such as vehicle movements. These considerations are not recognised by HCUK.
- 4.15 The assessment further states that the view of the church tower from the proposed site will remain (4.5), which is not correct in relation to views from the higher western part of the site which are not identified in Step 2 of the HCUK analysis and which would be obscured, except for a single narrow view, as identified in the proposed landscape strategy. The fact that the view onto the Church tower that is retained in a view-cone in the revised plans is not identified in the heritage assessment, highlights the inadequacy of the assessment in relation to views.

- 4.16 The HCUK conclusion that there would be no erosion of significance of Chilton Hall, its walled garden or its registered garden, or the Church of St Mary relies very heavily on screening by trees and vegetation. This would require substantial upgrading of the existing unmanaged, poor quality tree belts within the application site, which would not provide an effective or long-term screen. Whilst this could be achieved by strict planning conditions and enforceable legal agreement, it would not overcome the non-visual impact of the proposal on the open, rural and remote character of the wider setting, the cumulative impact on that characteristic, or the adverse impact on views of the Church from the application site that are not identified in the assessment.
- 4.17 In the light of the above, I do not consider that the HCUK conclusions that that the application site does not make a particular or specific contribution to any of the heritage assets under consideration (3.11) or that the proposed development would cause no harm to or erosion of the significance of any of the heritage assets under consideration (4.4-4.13) are tenable.

Assessment by Babergh District Council's Heritage and Design Officer

- 4.18 The Heritage and Design Officer's (H&DO) assessment of the revised application dated 4 May 2021 replaced his assessment of the original application dated 8 April 2020.
- 4.19 In relation to the issue of intervisibility, the H&DO assessment rightly draws attention to the GPA3 advice that setting includes considerations such as the understanding of the historic relationship between places and the PPG guidance that buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each.
- 4.20 The H&DO states:

"The landscape surrounding the complex, which includes the proposed development site, certainly contributes to the medieval and early post-medieval agrarian development of the complex ... I consider that, because of the interrelated cultural, spiritual and probably tenurial nature of the complex the development site, the agricultural land and the formal garden land (to both east and west of the hall) play an important role in the setting of the hall and the church."

This identifies an aspect of historical importance of the longstanding agrarian character of the wider surroundings, an aspect of significance not given material weight in the HCUK assessment.

- 4.21 The H&DO alludes to cumulative impact by stating *“to remove the site from the equation because some of the ‘historic’ character and visual quality of the land adjacent to it has been diminished might suggest that further redevelopment in the settings of listed buildings could be undertaken if a piecemeal reduction in the apparently historic landscape has already occurred”*. However, the H&DO does not attempt to weigh the degree of adverse impact on the setting of heritage assets that would be caused by the proposed development together with existing urban development. Without reference to any methodical assessment or giving any explanation, the H&DO states that *“the level of impact of the indicative layout might be quite limited, with a consequence that it would result in a low to medium level of less than substantial harm”*. The H&DO refers to pre-application consideration that has not been made available.
- 4.22 The H&DO then goes on to recommend that a smaller scale development nearer Church Field Road would be more suitable. Assessment of such a proposal is not my concern. However, if the conclusion of low to medium less than substantial harm results wholly from the loss of agrarian character (which I would equate with rural character), it is not clear why the H&DO considers a reduction in the scale of the proposed development to the south-west and *“could ensure the significance of the assets is preserved”*, as that would require the development to cause no harm (see South Lakeland definition of preservation). He goes on to state *“move the dwellings back towards the south western corner and the level of harm will naturally reduce”*. He does not state that harm will be avoided, just reduced, which is inconsistent with his claim that significance could be preserved. Furthermore, a development to the south-west would not seem to take account of the potential adverse impact that a development in this area would be likely to have on the setting of the Church of St Mary, especially given the existing views of the church from the higher ground in the western part of the application site and the potential proximity of dwellings to the Church. Whilst it is not an aim of this report to assess alternative schemes, this aspect of the H&DO’s comments questions the veracity of his judgement of harm through impact on setting.
- 4.23 The H&DO also comments on the conclusions of Michael Collins assessment, stating that *“substantial harm is very rare and is usually related to a catastrophic loss of significance, such as the demolition of a listed building, rather than the diminution of those aspects of a setting which contribute to significance”*. This is not consistent with the advice in the PPG that substantial harm can relate to a key element of significance or the judgment in the Holocaust Memorial case that substantial harm is a high level of serious harm that at the least, very much reduces the significance of the designated heritage asset, including the ability to appreciate that asset in its

setting. A catastrophic loss of significance suggests a higher test. This indicates a misunderstanding by the H&DO of the assessment of the level of harm that an impact on a setting can make.

- 4.24 In conclusion, whilst I agree that the proposal would result in harm to significance through loss of agrarian character and historic interest as open landscape, I do not consider the H&DO provides an adequate justification for his conclusion that the proposal *“will result in a low to medium level of less than substantial harm to the settings and therefore the significance of all the assets described”*. His comments indicate an inaccurate understanding of the level of harm that can result from an adverse impact on the setting of a designated heritage asset.

Assessment by Historic England

- 4.25 The Historic England (HE) assessment of the revised application dated 31 March 2021 replaced an assessment of the original application dated 9 April 2020. Cross reference is made to the earlier letter, which contains greater analysis of the Church, The Hall and its grounds. In particular, the earlier letter drew attention to the contribution to the significance of Chilton Hall and the Church of St Mary made by the wider rural landscape setting of these assets. The encroachment of the industrial estate to the south of the church is noted, with an implication that the encroachment increases the value of the surviving open landscape to the north of the churchyard.
- 4.26 The HE assessment states that *“the landscape between the hall and church allows views between the two”*. My site inspection concluded that there are limited views of the church from the Hall, which appears to have been designed to provide views from large upper storey windows (now blocked) and the polygonal tower, but no views of the Hall from the Church (other than from the top of the church tower, which is generally inaccessible and in my view of no consequence). I do however agree that the existing footpaths connect the Hall and the Church and offer access around the perimeter of the application site, enabling the Hall and the Church to be experienced in a rural setting.
- 4.27 The HE assessment of impact acknowledges the removal of some built development from the Chilton Hall boundary in the revised proposal but nevertheless considers that the proposed development would fundamentally change the character of the site from open rural land to that of a large, built development. It goes on to state that *“the loss of the field would mean the hall and its landscape were no longer encircled by a rural landscape as it has been throughout its existence”*. This is not entirely accurate as recent

housing development on the western side of Waldingfield Road extends as far as the grounds of Chilton Hall. Nevertheless, I think it is reasonable for HE to draw the conclusion that the proposed development would significantly erode the surviving rural setting of Chilton Hall.

- 4.28 The HE assessment of the impact on the Church of St Mary notes the key views of the Church from the application site and concludes that the loss of part of the rural landscape that survives to the north of the churchyard would undermine the link between the church and the hall. This is a reasonable conclusion that is not undermined by the fact that development is not proposed directly between the Hall and the Church.
- 4.29 The HE assessment makes reference to GPA3 and the comments made (with the exception of the 'buffer' reference) align with the guidance. The HE assessment concludes that the proposal would result in harm to the significance of the heritage assets in question due to the erosion of their rural setting which, although it would be less than substantial, would be of harm of a considerable level.
- 4.30 On the basis of the analysis, I consider it reasonable for HE to conclude that the proposal would result in less than substantial harm to the heritage assets in question. I will consider the matter of the degree of harm within the category of 'less than substantial harm' in my conclusions.

Assessment by Michael Collins (on behalf of Lady Hart of Chilton)

- 4.31 The assessment of the revised application by Michael Collins (MC) dated April 2021 replaced his assessment of the original application dated May 2020. The assessment has been produced on behalf of Lady Hart of Chilton, the occupant of Chilton Hall.
- 4.32 MC's assessment of significance states that the open rural landscape between the Hall and the Church has been maintained since the sixteenth century, noting that the application site largely equates to a field identified as The Hyde on a survey of the Hall manor dated 1597 (Fig. 4). The assessment notes the urban encroachment to the south and notes that an industrial estate has been brought to the edge of the churchyard and within a single field of the grounds of the Hall (006). MC considers that the remaining single fields to the south-west and south-east of the Hall preserve the open rural landscape setting between the Hall and Church, as it existed in the sixteenth century, making it fundamental to the appreciation of that significance (006, 007).

- 4.33 MC's assessment notes the proposed area of open space adjacent to the Chilton Hall boundary in the revised application, stating *"this will be a suburban area of landscaping and, quite apart from being set against considerable built development, it will look very different from the current open, rural setting"* (002). I would agree that the proposed swathe of land adjacent to the eastern site boundary would not have rural character.
- 4.34 MC identifies the loss of the open rural landscape to the south-west of the Hall as the principal adverse impact (008, 009). He notes the need to have regard to cumulative change and the erosion of the sense of remoteness and tranquillity (012) and draws the conclusion that as the proposal would erode an open rural landscape setting that has existed since the sixteenth century it would result in substantial harm to the significance of Chilton Hall and the Church of St Mary.
- 4.35 MC's assessment makes no specific reference to GPA3 but his process is generally consistent with the recommended assessment steps and the detailed guidance. In my view, his assessment of the contribution of the wider rural setting to the significance of Chilton Hall and the Church of St Mary is well made. I agree that the loss of the open, rural setting caused by the proposed development would be an adverse impact that would harm to significance.
- 4.36 However, I do not consider that MC has made a convincing case that the adverse impact justifies a conclusion of 'substantial harm', in NPPF terms. As discussed above, if the open rural (agrarian) remote character of the wider surroundings of the Hall, its grounds and the Church are considered to be a key element of the significance of the assets, the proposal would have to result in a high level of serious harm that at the least, very much reduces the significance of the experience of the assets. In gauging this, the fact that open, rural land would continue to exist to the north-east of the Church and to the east of the Hall has to be taken into account. This has to be balanced against the cumulative adverse impact on the setting caused by the industrial development to the south, the health centre to the immediate south-west of the application site and the extensive amount of residential development that is consolidating the urbanisation of the wider area to the west of Waldingfield Road.
- 4.37 MC's conclusions are relied upon in letters submitted to the Council by Town Legal LLP making representations with regard to the planning application on behalf of Lady Hart of Chilton.

Historic Buildings and Places (formerly Ancient Monuments Society)

- 4.38 The Ancient Monuments Society (AMS) commented on the original application by email dated 1 April 2021. The comments on the re-consultation on the revised proposals were made in the new name of Historic Buildings and Places (HB&P) by email of 15 June 2022.
- 4.39 The HB&P comments on the revised proposal cross-referred to the original AMS comments that objected to the proposal due to the significant impacts the proposed development would have on Chilton Hall, its listed garden wall, and registered park and garden, as well as the Church of St Mary, stating that the additional information does not address the heritage and conservation issues previously raised.
- 4.40 The original AMS comments stated that the development would fill in a large area of open land which has formed an important rural setting for these highly graded assets. The comments drew attention to the significant urban expansion that has already extended to Church Field Road and stated that the cumulative impact of this additional development, together with the approved 1,150 new homes at Chilton Woods will dramatically erode and alter the remaining rural setting of the Hall, gardens and the church and cause a considerable degree of harm to the significance of these structures and their historic rural setting.
- 4.41 The AMS went on to disagree with the statement in the application that a vegetative buffer will fully mitigate these impacts or preserve the rural character around the Hall.
- 4.42 The AMS/HB&P responses do not explain the analysis that led to these conclusions but nonetheless align with the views of all others, with the exception of the applicant's assessment, that the proposal will result in harm to significance as a result of loss of rural setting. Furthermore, the AMS/HB&P rightly draw attention to the need to consider cumulative impact.

The Gardens Trust letter dated 9 June 2022

- 4.43 The Gardens Trust (GT) responded to the revised proposal on 30 April 2021, cross-referencing comments made on the original response dated 13 May 2020. The GT made further comments on the revised proposal, dated 9 June 2022.

- 4.44 The GT concurs with the Historic England assessment of impact, and points out that the proposal would permanently erode the landscape surroundings, substantially damaging the setting of the suite of heritage assets affected.
- 4.45 The GT makes reference to GPA3, pointing out the need to consider the implications of cumulative change and that *“the setting of a historic park or garden ... may include land beyond its boundary which adds to its significance but which need not be confined to land visible from the site, nor necessarily the same as the site’s visual boundary. It can include: land which is not part of the park or garden but which is associated with it by being adjacent and visible from it”*, which the GT considers entirely relevant to this case.
- 4.46 The GT concludes that permitting the development would *“seriously damage the setting of all the assets. The group of assets taken together will no longer be set in a rural landscape for the first time in their entire existence, and the experience of and significance of the RPG in particular, will be significantly adversely affected by the development in the immediately adjoining field”*.
- 4.47 Other than the references to *“serious damage to the setting”* and that the group of assets *“will be significantly adversely affected”*, the GT response does not make clear the category or level of harm to the significance of the assets that it considers the development would cause.
- 4.48 However, the GT response further reinforces the view that the proposal will have an adverse impact on the rural character of the setting of the group of assets. It also draws attention to the permanence and irreversibility of the impact.
- 4.49 The original GT response dated 13 May 2020 stated that the assets in question *“constitute an important cohesive group which interrelate with one another in a shared landscape. They should therefore be considered as a single entity as far as significance is concerned”*. Whilst the historic connections almost certainly amplify the significance of each and they may well have overlapping settings, I consider that each asset has its own individual significance.

Suffolk Preservation Society

- 4.50 The Suffolk Preservation Society (SPS) commented on the revised proposal by letter dated 29 March 2022, having commented on the original application by letter dated 11 May 2020.

- 4.51 The SPS consider that the revised proposals “*went some way to preserving the historic relationship between Chilton Hall and St Mary’s Church*” but “*the remaining developed area to the north of the proposed green corridor is disjointed from the rest of the site and will impact Chilton Hall and its designated Park and Garden*”. The SPS state that Chilton Hall “*largely retains a sense of its original rural setting to the north of Sudbury (and) development close to Chilton Hall with associated increased lighting and traffic movements will have a significant impact on this setting*”.
- 4.52 It is clear that the SPS considers that the retention of a sense of Chilton Hall’s original rural setting is an important consideration and that the proposal would have an adverse impact on that characteristic of the setting.
- 4.53 The SPS response to the revised proposals does not make any substantive comments regarding the impact of the proposal on the setting of the Church of St Mary. In contrast, the SPS comments on the original scheme made it clear that they related to Chilton Hall and its registered park and garden together with the Church of St Mary.
- 4.54 The SPS does not suggest which category of harm to significance (in NPPF terms) would result from the impact of the proposed development on the setting of Chilton Hall and does not attempt to quantify the degree of harm. However, the SPS response to the original proposal stated that it would result in ‘less than substantial harm’, in NPPF terms. It is reasonable to assume that the harm caused by the smaller revised proposal would fall into the same category.
- 4.55 SPS’s recommendation that a further revised scheme with greater separation between the development area and Chilton Hall might be acceptable indicates that SPS considers that partial development of the site (subject to appropriate design) would not be harmful to the significance of the Hall. No explanation is given as to why partial development of the site would not be harmful.
- 4.56 With regard to cumulative change, the SPS response notes that “*the health centre to the south west corner of the site and industrial development on Church Field Road have urbanised this area to a degree, it is arguably more important to retain remaining rural agricultural land to ensure the significance of these heritage assets is preserved*”.
- 4.57 Whilst the SPS’s conclusion that Chilton Hall’s original rural setting would be adversely impacted by the proposal is consistent with all other assessments other than the applicant’s assessment, the failure to explain why partial

development of the site would not be harmful and the lack of any reference to the potential impact of partial development on the Church questions the accuracy of the SPS assessment.

Place Services

- 4.58 The letters from PLACE Services dated 22 October 2021 and 23 May 2022 simply draw attention to the comments of the District Council's H&DO and make no additional representations relating to the potential impact of the proposed development on the setting of heritage assets.

5.0 Conclusions

- 5.1 For the reasons set out in Section 4.0, I consider that the applicant's assessment of impact by HCUK that the proposed development would cause no harm to or erosion of the significance of any of the heritage assets under consideration is not credible. In my view, the HCUK assessment should have acknowledged that the open, rural character of the application site makes a contribution to the significance of the heritage assets in question and that the location in a rural setting is a longstanding historic characteristic. Similarly, I consider that the assessment should have acknowledged the negative impact of existing recent development in the surroundings and the cumulative impact of the proposal together with existing and planned development in the surroundings. Additionally, the HCUK assessment should have identified views of the Church of St Mary from the application site that would be affected by the proposal. If these matters had been taken into account, it would have inevitably led to a conclusion that the development would result in a degree of harm to the significance of the heritage assets in question and the way the assets are appreciated in their setting.
- 5.2 At the other extreme, whilst I agree with much of the analysis in the assessment provided by Michael Collins, I am not convinced by his conclusion that the proposed development would result in substantial harm in NPPF terms. MC considers that this would result from the loss of the longstanding open, rural and remote character of the wider surroundings of the heritage assets in question. I would agree that this characteristic is a key element of the heritage assets and the way the assets are appreciated in their setting and that the impact of the proposed development would be relatively high. However, in the light of the High Court judgment in the Holocaust Memorial case (which was determined after MC made his assessments) I would conclude that the impact, even when considered together with the impact of other existing and approved development, would not *"very much reduce the significance of the experience of the assets"* as that rural characteristic would survive in the landscape to the east of the Hall and to the north-east of the Church. Therefore, whilst the cumulative impact of development of the application site might be relatively high, I do not consider the impact would reach the threshold for substantial harm.
- 5.3 Consequently, I am of the opinion that the degree of harm to the significance of the heritage assets in question that would result from development of the application site would constitute less than substantial harm in NPPF (2021) terms and should therefore be considered under the policy set out in NPPF paragraph 202, that:

“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”

- 5.4 Less than substantial harm covers a broad spectrum. In order to assist the decision-maker in weighing harm against public benefits, it is necessary to give an indication of the degree of harm within that spectrum. In that respect, I note that the HCUK assessment includes a ‘Scale of Harm’ at Appendix 1. This subdivides less than substantial harm into three categories of low, medium and high. This subdivision would appear to be of the authors own making as it does not reflect published policy or guidance. Furthermore, the definitions of the sub-categories in the scale of harm include reference to harm that would *“vitate or drain away the significance of the designated heritage asset”*. As the Holocaust Memorial case held that the Bedford case does not import a test of *“draining away”* to the test of substantial harm, I do not think the Appendix 1 table is relevant. Furthermore, the issue of sub-categories of harm was considered by the High Court in the case of James Hall & Co Ltd v City of Bradford Metropolitan Council and others [2019] EWHC 2899:

In my judgment the three categories of harm recognised in the NPPF are clear. There is substantial harm, less than substantial harm and no harm. There are no other grades or categories of harm, and it is inevitable that each of the categories of substantial harm, and less than substantial harm will cover a broad range of harm. It will be a matter of planning judgement as to the point at which a particular degree of harm moves from substantial to less than substantial, but it is equally the case that there will be a number of types of harm that will fall into less than substantial, including harm which might otherwise be described as very much less than substantial. There is no intermediate bracket at the bottom end of the less than substantial category of harm for something which is limited, or even negligible, but nevertheless has a harmful impact.” (34)

- 5.5 Consequently, the degree of harm within the category of less than substantial harm is a matter of judgement, which to some extent explains the differences in the conclusions of the parties that have made assessments. However, I have identified shortcomings in the assessments made by some.
- 5.6 In this regard, the assessment made by the Council’s H&DO draws its conclusion on the degree of harm without an adequate explanation and does not weigh the cumulative adverse impact on the setting of heritage assets that would be caused by the proposed development together with existing

and planned urban development in the surroundings. The H&DO gives no specific regard to impact on views of the Church of St Mary from the application site. He acknowledges that the agrarian character of the application site plays an important role in the setting of the hall and the church but does not explain why his suggestion of a smaller development could cause no harm whatsoever. Consequently, I do not consider his conclusion that the proposal would result in a low to medium level of less than substantial harm is soundly based.

- 5.7 The assessment by Historic England reflects considerations recommended in the organisation's GPA3. HCUK takes issue with HE's reference to the site constituting a buffer between Sudbury and Chilton Hall. I agree that this is a non-heritage consideration (a buffer being a planning concept rather than a heritage consideration). There is also an inaccurate statement by HE that the Hall can be seen from the Church, which is not correct. Nevertheless, the HE letter states clearly that the proposal would erode the rural setting of the assets, which contributes to the aesthetic and spiritual values of the church and enables the link between the hall and church to be experienced and therefore makes a strong contribution to the significance of these assets. In my view, this conclusion is not diminished by a lack of a view from the Church to the Hall or the limited views from the Hall to the Church. HE also notes that key views of the Church from the application site would be affected. Consequently, I consider that the HE conclusion that the proposal would result in a considerable level of less than substantial harm to the highly graded Church of St Mary and Chilton Hall is justified and reasonable.
- 5.8 The HE conclusion is supported by the response from Historic Buildings and Places, which considers that the proposed development will dramatically erode and alter the remaining rural setting of the Hall, gardens and the church and cause a considerable degree of harm to the significance of these structures and their historic rural setting.
- 5.9 The response from the Gardens Trust further reinforces the view that the proposal will have an adverse impact on the rural character of the setting of the group of assets. It draws attention to the permanence and irreversibility of the impact but it does not provide a clear view of the level of harm, referring only that it would "*seriously damage the setting*" of the assets, which would be "*significantly adversely affected by the development*". This nevertheless, suggests a relatively high degree of harm to the significance of the heritage assets in question.
- 5.10 The Suffolk Preservation Society similarly considers that the retention of a sense of Chilton Hall's original rural setting is an important consideration and

that the proposal would have an adverse impact on that characteristic of the setting. However, SPS goes on to suggest a partial development of the site without an explanation as to why a smaller development would not have an adverse impact on the rural setting, which makes the conclusion unreliable. Furthermore, the absence of a conclusion on the degree of harm to the significance of Chilton Hall or the Church of St Mary, makes the SPS response unhelpful.

- 5.11 The response from Place Services supports the assessment made by the District Council's H&DO. However, I have concluded that the latter assessment should not be relied on.
- 5.12 In relation to the degree of less than substantial harm, I consider the conclusions of HE and HB&P that the proposal would result in a considerable amount of less than substantial harm to be the most reliable. These assessments do not differentiate the assets. As Chilton Hall, its listed walled garden and its registered park and garden are heavily inter-related, I consider it reasonable to conclude that the impact on all three assets would be the same. However, the Church of St Mary is located a considerable distance from the Hall and its setting has suffered a much greater adverse impact as a result of the industrial development that has taken place in recent decades to the immediate south. In my view, the cumulative impact of the proposed development together with the existing industrial development would be greater than the impact on Chilton Hall and its grounds. The adverse impact on the Church would be reinforced by the loss of views towards the grade I listed building across its open setting from the higher level western parts of the application site. Consequently, I consider that the level of harm to the significance of the Church of St Mary would be greater than that assessed for Chilton Hall and its grounds. In my view the level of harm to the significance of the Church would be not far short of substantial.
- 5.13 In summary, I consider that the proposed development would cause a considerable amount of less than substantial harm to the significance of the grade II* listed Chilton Hall, its grade II listed garden wall, and its grade II registered park and garden, and a level of less than substantial harm to the significance of the grade I listed Church of St Mary not far short of substantial.
- 5.14 It should be noted that all harm, whether substantial or less than substantial should be afforded considerable importance and weight in the planning decision (see *Barnwell Manor* [2014] EWCA Civ 137 (26) and (28-29) and *Jones v. Mordue and others* [2015] EWCA Civ 1243 at (28)).

sharps acoustics

Church Field Road, Sudbury

Review of noise issues in relation to proposed residential development

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1.0 Introduction

- 1.1 Sharps Acoustics LLP (SAL) has been commissioned by Babergh District Council (BDC) to carry out a review of noise issues relating to an application for a Residential and Care Home Development at Land North of Church Field Road, Sudbury.
- 1.2 The planning application for this proposed development was accompanied by a noise assessment report and, following comments and queries by the Council's Environmental and Planning Departments, additional submissions were made by the application in relation to noise. SAL have reviewed the noise assessment and subsequent submissions, the emails between the applicant and the Council which relate to noise.
- 1.3 SAL have also carried out survey work in the vicinity of the site and have considered noise from the existing uses and potential noise from possible uses in order to consider whether, if the proposed residential and care home development were to go ahead, this would impose an unreasonable restriction on adjacent uses and prospective adjacent uses.
- 1.4 This report describes relevant policy and guidance relating to this matter; details of survey work and noise modelling carried out by SAL; and presents our findings and conclusions.

2.0 Assessment Methodology and Criteria

National Planning Policy Framework (NPPF) (2021)

- 2.1 Government planning policy in relation to noise is contained in the National Planning Policy Framework (NPPF). The relevant paragraph from this (paragraph 185) states:

"Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;*
- b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason ..."*

- 2.2 The requirement to avoid significant impacts and to mitigate and reduce to a minimum other adverse effects was originally recommended in the Noise Policy Statement for England (NPSE), which is discussed below.
- 2.3 Paragraph 187 of the NPPF provides policy requirements in relation to the agent of change principle; the situation which occurs when a new noise sensitive development is proposed adjacent to existing businesses which produce noise. It states:

"Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. 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."

Noise Policy Statement for England (NPSE)

2.4 The 2010 DEFRA publication 'Noise Policy Statement for England' (NPSE) sets out policy advice applicable to the assessment and management of noise, including environmental noise. The NPSE states three policy aims, which are:

- *"avoid significant adverse impacts on health and quality of life;*
- *mitigate and minimise adverse impacts on health and quality of life; and*
- *where possible, contribute to the improvement of health and quality of life."*

2.5 All three of these aims are to be considered in the context of Government policy on sustainable development.

2.6 The first two aims require that no significant adverse impact should occur and, where noise falls between the lowest observable adverse effect level (LOAEL) and the significant observed adverse effect level (SOAEL), then according to the NPSE:

"... all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life whilst also taking into consideration the guiding principles of sustainable development. This does not mean that such effects cannot occur."

2.7 The NPSE notes that, *"It is not possible to have a single objective noise-based measure that defines SOAEL that is applicable to all sources of noise in all situations. Consequently, the SOAEL is likely to be different for different noise sources, for different receptors and at different times"*.

2.8 The NPSE describes the Government's "guiding principles of sustainable development", listing the following as underpinning their sustainable development strategy:

- ensuring a strong, healthy and just society;
- using sound science responsibly;
- living within environmental limits;
- achieving a sustainable economy; and
- promoting good governance.

- 2.9 Thus, noise should not be considered in isolation; the economic and social benefit of a proposed development should be considered alongside the potential adverse effects from noise.

Planning Practice Guidance on Noise (PPG: Noise)

- 2.10 The Government first published their Planning Practice Guidance on noise (PPG) in March 2014, with the most recent version issued in July 2019. The PPG provides guidance on the interpretation and implementation of planning policy, as contained in the NPPF and the NPSE.
- 2.11 The use of the lowest observed adverse effect level (LOAEL) and significant observed adverse effect level (SOAEL) for the assessment of noise impacts is reinforced in the PPG, which seeks to define human perception at these effect levels.
- 2.12 The PPG describes the LOAEL as the level at which *"noise can be heard and causes small changes in behaviour, attitude or other physiological response"* and it is *"present and intrusive"*. Below this level, the PPG describes the NOAEL, or No Observed Adverse Effect Level, which it notes *"can be heard but does not cause any change in behaviour, attitude or other physiological response"* as the noise is *"present but not intrusive"*. The NOAEL is not included in the NPSE and is introduced in the PPG. Below the NOAEL, the PPG describes the NOEL, or No Observed Effect Level, where noise is *"not present"* and has *"no effect"*.
- 2.13 The PPG describes the LOAEL as the:
- "... boundary above which the noise starts to cause small changes in behaviour and attitude, for example, having to turn up the volume on the television or needing to speak more loudly to be heard. The noise therefore starts to have an adverse effect and consideration needs to be given to mitigating and minimising those effects (taking account of the economic and social benefits being derived from the activity causing the noise)."*
- 2.14 Significant observable adverse effects, i.e. those occurring at or above the SOAEL, are described as *"present and disruptive"* and the PPG states that above the SOAEL:
- "... the noise causes a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present. If the exposure is predicted to be above this level the planning process should be used to avoid this effect occurring, for example through the choice of sites at the plan-making stage, or by use of appropriate mitigation such as by altering the design and layout. While such decisions must be made taking account of the economic and social benefit of the activity causing or affected by the noise, it is undesirable for such exposure to be caused."*
- 2.15 The PPG also provides guidance on the agent of change under the heading, "How can the risk of conflict between new development and existing businesses or facilities be addressed?", suggesting that where there is potential conflict between a proposed new development adjacent to existing businesses, that:
- "... the applicant (or 'agent of change') will need to clearly identify the effects of existing businesses that may cause a nuisance (including noise, but also dust, odours, vibration and other sources of pollution) and the likelihood that they could have a significant adverse effect on new residents/users. In doing so, the agent of change will need to take into account not only the current*

activities that may cause a nuisance, but also those activities that businesses or other facilities are permitted to carry out, even if they are not occurring at the time of the application being made."

2.16 The guidance also states that:

"The agent of change will also need to define clearly the mitigation being proposed to address any potential significant adverse effects that are identified."

Derivation of suitable assessment methodology and criteria

2.17 It is possible to apply objective standards to the assessment of noise and the design of new dwellings. Such guideline values are given in the World Health Organisation (WHO) document "Guidelines for Community Noise", 1999, and within British Standard (BS) 8233:2014 'Guidance on sound insulation and noise reduction for buildings' (BS 8233) which is principally intended to assist in the design of new dwellings.

2.18 Guideline values in BS8233 are described as "desirable" and, as such can be considered to represent a robust level below which there would be no adverse effect (so, more stringent than LOAEL). Similarly, the guideline values recommended by the WHO Guidelines are internal levels which would avoid any health effects such as annoyance or sleep disturbance. Accordingly, they too would result in levels below the LOAEL.

2.19 Table 2.1 below contains a summary of the recommended internal noise guideline levels necessary to achieve levels below (i.e. within) the LOAEL criterion.

Table 2.1: Internal design guidelines for noise from WHO / BS8233

Activity	Location	Period	
		Day (0700 to 2300 hours)	Night (2300 to 0700 hours)
Resting	Living Room	35dB LAeq,16hr	-
Dining	Dining Room	40dB LAeq,16hr	
Sleeping	Bedroom	35dB LAeq,16hr	30dB LAeq,8hr

2.20 BS 8233:2014 considers outdoor areas and external amenity areas (gardens and patios), suggesting that, *"it is desirable that the external noise level does not exceed 50 dB LAeq,T, with an upper guideline value of 55 dB LAeq,T which would be acceptable in noisier environments."* However, the standard recognises that where design standards cannot be achieved for these traditional amenity spaces then the 'lowest practical levels' should be achieved.

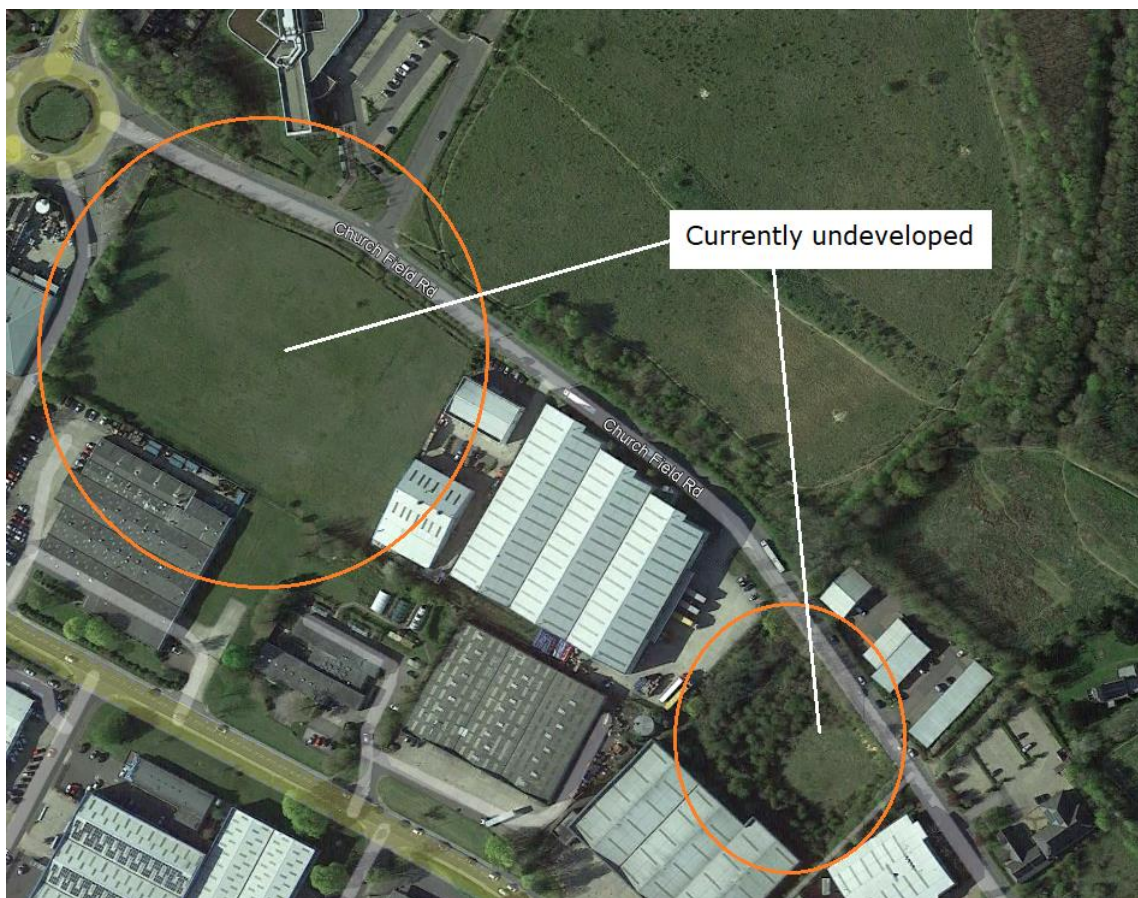
2.21 In addition to the guidance in BS8233, there is also guidance which assists with the assessment of the effects of existing industrial and commercial noise on proposed new residential developments in British Standard (BS) 4142: 2014+A1: 2019 'Methods for rating and assessing industrial and commercial sound' (BS4142).

- 2.22 There is a degree of ambiguity, overlap, and scope for interpretation, within BS8233 and BS4142. Professional judgment is required in applying the inter-twining provisions of these two documents in a way which accords with national planning policy and practice as well as technical guidance.
- 2.23 SAL opinion on how the guidance in these two standards should be interpreted when considering proposed new residential developments adjacent to existing commercial or industrial noise sources can be summarised, as follows:
- BS8233 is the primary source of guidance and assessment criteria for noise effects on proposed new residential developments. BS4142 provides a method for considering the penalties which may be applied to account for sounds with a specific, intrusive character to allow these to be assessed against the guidance in BS8233, which is intended only for sounds without a specific character.
 - Noise levels within proposed habitable rooms of dwellings arising from activities at a nearby commercial or industrial site can be reduced to an acceptable level by the introduction windows and alternative means of ventilation (to enable windows to remain closed) with appropriate acoustic specifications.
 - Higher noise levels in external amenity areas (such as residential gardens) from commercial or industrial sites (even those above the upper recommended guideline value from BS8233) should not necessarily result in a refusal of planning permission. If the development is otherwise desirable, provided it has been designed to achieve the lowest practicable levels in external amenity spaces, it may be allowed. In such circumstances, where there are residual high levels in external amenity areas, provision of alternative quiet areas nearby would be likely to partially offset this.
- 2.24 It follows, therefore, that where new residential development is proposed adjacent to an industrial or commercial site, the following steps should be taken:
- Measurement / prediction of the industrial noise at the proposed site and application of a penalty in accordance with the approach in BS4142.
 - Where the industrial or commercial noise is extant, recognising that this forms a component of the acoustic environment. The assessment would then need to:
 - use other guidance and criteria (from BS8233) in addition to or as an alternative to guidance in BS4142, with the levels rated (by adding penalties as recommended in BS4142) to enable a comparison with levels in Table 2.1 above to provide design targets for desirable internal levels; and
 - compare predicted rated levels with guidance on external levels in paragraph 2.20 above, bearing in mind that, if the development is desirable and in a high noise area, it should not be prohibited, even if levels are above those provided as guideline levels.

3.0 Review of existing and permitted uses

- 3.1 Details of permitted uses for commercial and industrial sites near to the site were provided by BDC and SAL carried out a review of these to consider what noise levels currently exist and what noise levels might exist if the sites were to operate more intensively, as permitted. SAL also considered possible uses on land which is allocated for commercial / industrial use but which has not yet been developed.
- 3.2 Data from this review was used to produce two sets of noise contours; the first which shows existing noise in the area from road traffic and commercial and industrial uses and the second which shows potential noise, if the adjacent sites were to be developed / used at capacity (as a realistic worst case).
- 3.3 A map identifying adjacent site uses and a table which summarises these are provided as Figure A1 and Table A1 in Appendix A.
- 3.4 Noise survey work was also undertaken to assist with this process in August 2022. Details of the survey and results are provided in Appendix B.
- 3.5 Noise levels based on this review (both measured levels and operating conditions permitted and as existing) were input into proprietary noise modelling software SoundPlan, which implements the common European methods of noise prediction to enable noise propagation around the site during the busiest periods of day and night to be predicted, taking account of local topography and presence of buildings in the area. In this instance, the noise predictions have been undertaken in accordance with the noise prediction framework set out in ISO9613-2 'Acoustics – Attenuation of sound during propagation outdoors – Part 2 General method of calculation'. The noise model predicts noise propagation in the area and has been used to predict noise levels incident on proposed residential facades during both day and night time periods for:
- Existing patterns of operation, and
 - Potential operations, if operating at capacity.
- 3.6 For modelling purposes, the proposed residential layout shown in the developer's plan 3898-0310-P09 has been used.
- 3.7 In order to produce the noise contours shown as potential levels, it has been assumed that the two sites shown in Figure 3.1 as "currently undeveloped" below might be brought into use as realistic worst case planning use class B8, 24/7 operations. It has been assumed that, in order to facilitate this, it would not be unreasonable and nor would it be likely to result in adverse effects at nearby existing receptors if screening of up to 4m were to be placed around the service yards, where required to control noise to existing noise sensitive uses.

Figure 3.1: Sites in the vicinity which are currently undeveloped



- 3.8 It is noted that the larger of these sites has recently been granted planning permission for use as a solar farm, so if this development comes forward, the assumed use described in 3.7 above would no longer exist there.
- 3.9 These levels were added to predicted road traffic noise levels (based on survey work carried out by SAL and that carried out by the developer's consultant) and noise contours were produced for day and night for each of these scenarios. The resultant noise contours are shown in Appendix C.

4.0 Discussion of findings and conclusions

- 4.1 The developer's consultant predicted day and night time noise levels incident on the facades of the closest proposed residential receptors from existing sources as 51dB, $L_{Aeq,T}$ and 41dB, $L_{Aeq,T}$, respectively. SAL predicts 55dB, $L_{Aeq,1h}$ and 45dB, $L_{Aeq,15\text{ mins}}$ day and night time levels in the busiest day and night time periods. These levels are a similar, but a little higher than predicted by the developer's consultant.
- 4.2 It is SAL opinion that, whilst the developer's predicted level may represent accurately the conditions which they found at the time of their survey, it would be better if they adopted the more robust approach

of considering the worst case 1 hour and 15 minute periods at day and night, following the guidance in BS4142 on the assessment of industrial noise.

- 4.3 When the worst case potential noise levels are considered, SAL predict that day and night time levels at the most affected facades in the busiest day and night time periods would be 56dB, $L_{Aeq,T}$ and 50dB, $L_{Aeq,T}$, respectively.
- 4.4 In SAL opinion, a 3dB penalty should be added to the predicted industrial noise levels to account for its character, particularly at night, when it would be more dominant. This would result in worst case rating noise levels at noise sensitive facades of:

Day: 59dB, $L_{Ar,1h}$

Night: 53dB, $L_{Ar,15mins}$

- 4.5 Based on these levels, noise could be controlled in external amenity areas by provision of timber screens such as garden fences of a suitable design and height. The 2.5m high screens discussed in the developer's submissions would be likely to achieve this.
- 4.6 Internal noise levels would need to be reduced by 24dB in living rooms and 23dB in bedrooms at night. Suitable glazing and alternative means of ventilation (to allow windows to remain closed to control noise whilst still achieving adequate ventilation and cooling) would be required. Suitable systems would be readily available "off the shelf".

Conclusions

- 4.7 The original noise assessment report submitted by the developer considered the existing noise but did not fully take account of the potential noise from adjacent activities. Since the agent of change needs to clearly define the noise mitigation which is required for activities that businesses or other facilities are permitted to carry out, even if they are not occurring at the time of the application being made, further work was needed to consider this. When all potential noise sources are considered, SAL have found that desirable noise levels can be achieved at the proposed development without affecting the operation (or potential operation) of existing nearby commercial and industrial uses.
- 4.8 In respect of future potential commercial occupiers, it would not be unreasonable to require some noise mitigation to be included within the design of any proposed noisy use at these locations, to reduce noise levels to existing noise sensitive receptors. The provision of a 4m high screen around a potential "worst case" use (a 24/7 warehouse), as assumed in the SAL model is neither unreasonable nor unusual, in our opinion and experience.
- 4.9 It is recommended that the developer uses the predicted rating levels in paragraph 4.4 above to finalise the noise mitigation design to external and internal areas and to submit a note which clearly defines the resultant noise mitigation scheme. This would ensure that, whatever might potentially happen on adjacent commercial and industrial sites, noise would be adequately controlled within their development.

Appendix A: Description of commercial / industrial uses near to the site

Figure A1: Aerial view of site and surroundings with adjacent uses identified



Table A1: Descriptions of adjacent uses and relevant planning controls

Site Occupier	1.Current Use 2.Permitted Use	Stated Opening/Contact Hours (as advertised on Website etc)	Opening hours Permitted by Planning Consent	Relevant Planning Conditions
Sudbury Community Health Centre (NHS Suffolk & North Essex)	1 Primary Health Care, GP, Pharmacy, Children's Services and Out of Hours Service 2 D1	Core Hours 08:00 to 20:00 Out of Hours 20:00 to 08:00	As stated	Plant 36dB (day) 31dB (night) at existing noise sensitive premises
Homebase	1 DIY and Gardening Retail store 2 Non-Food Retail No other use A2, A1, B1, B2, B8	09:00 to 19:00 hours Except Sunday/BH 10:00 to 16:00 Hours	08:00 to 20:00 hours Except Sunday/BH any 6 consecutive hours 08:00 to 20:00	
McDonalds	1 Restaurant		07:00 to 00:00 Hours	None
JCS Hi Torque	1 Factory and Offices 2 Light Engineering	08:00 to 17:00 Weekday except Friday 13:00 Hours Closed Sat & Sunday	No conditions for hours or noise	Pre 1974 decision documents in storage
Sudbury Community Hub (Leading Lives)	1 Social Care & Support 2.Not known	09:00 to 16:00 hours Closed Sat & Sunday		Pre 1974 decision documents in storage
White House	1.Storage and Distribution	08:30 17:30 Hours Closed Sat & Sunday		Pre 1974 decision documents in storage
Lait Storage	Storage and Distribution	None advertised		

Site Occupier	1.Current Use 2.Permitted Use	Stated Opening/Contact Hours (as advertised on Website etc)	Opening hours Permitted by Planning Consent	Relevant Planning Conditions
Da Ro Manufacturing	1 Manufacturing, design, and assembly 2 Unrestricted Employment Use	08:00 to 17:00 Hours Weekdays except Friday 14:00 Hours. Closed Sat & Sunday	None known	No conditions for hours or noise
Century Logistics	1 Storage and Distribution 2 Unrestricted Employment Use	06:00 to 21:00 Weekday Close Sat & Sunday	None known	No conditions for hours or noise
The Cloisters Various wholesale and commercial business	1 Industrial 2 Units for B1, B2 and B8 Use		No conditions for hours or noise	Units cannot be amalgamated

Appendix B: Survey details and results

Survey Details

Survey work was carried out in August 2022. A Fusion 01dB fully integrating sound level meter (Type 1) was used and a calibration check was carried out before and after the survey, with no drift apparent.

The survey locations were as shown in Figure A1 below. All measurements were free field measurements at a height of 1.5m above ground level. The ambient noise was dominated by road traffic. Meteorological conditions were generally suitable for the measurement of environmental noise with negligible wind and no rain.

For information purposes it can be noted:

- Measurements of sound level were all made with the A-weighting, which is a filter applied to the sound level meter to simulate the frequency response of the human ear, which is more sensitive to high frequency sound than low.
- L_{Aeq} is the equivalent continuous noise level which is a method of averaging the varying noise level over the time period into a single figure value. The L_{Aeq} has the same sound energy as the fluctuating level over that period. The L_{Aeq} is also known as the "ambient level" and in BS4142 the L_{Aeq} in the absence of the proposed development sound is known as the "residual level".
- L_{Amax} is the highest level within the measurement period.
- L_{A90} is the noise level exceeded for 90% of the time and is referred to as the background noise level.

Measurements were made in three locations around the site to determine existing ambient and background levels. These three locations are shown in Figure B1 below.

Figure B1: Survey locations 1 to 3



Survey results for each location are shown in Tables B1, B2 and B3 below.

Table B1: Measured levels at location 1

Date	Period	L _{Aeq,T_r} dB	L _{AFmax_r} dB	L _{A90_r} dB
23 rd Aug	07:52	41	51	38
	09:36	41	49	38
	10:36	42	52	38
	11:31	40	45	38
	14:00	41	53	39
	15:17	44	62	39
	16:40	42	53	39
	17:49	42	52	40
25 th Aug	22:00	34	46	30
26 th Aug	01:59	31	44	24
	03:00	27	37	22

Table B2: Measured levels at location 2

Date	Period	L _{Aeq,T_r} dB	L _{AFmax_r} dB	L _{A90_r} dB
23 rd Aug	07:27	54	63	47
	00:00	57	71	49
	09:45	55	68	48
	10:08	55	67	48
	11:05	56	67	49
	14:27	54	64	47
	15:47	55	64	49
	17:23	54	70	47
	18:16	55	64	48
25 th Aug	22:30	47	64	33
26 th Aug	02:30	45	67	23
	03:27	46	66	24

Table B3: Measured levels at location 3

Date	Period	L _{Aeq,T_r} dB	L _{AFmax_r} dB	L _{A90_r} dB	L _{A10_r} dB
23 rd Aug	14:50	61	77	45	65
	16:06	62	78	46	66

Measurements adjacent to commercial and industrial uses were made in the locations shown in Figure B2 below.

Figure B2: Survey locations adjacent to commercial / industrial locations



Survey results for and observations made at each location adjacent to an industrial / commercial site are set out in Table B4 below.

Table B4: Noise levels and observations at commercial / industrial uses nearby

Site Occupier	Measurements and observations
Sudbury Community Health Centre (NHS Suffolk & North Essex)	Noise not discernible from external plant around site boundary except for just discernible in landscaped areas (private property) 10m in from Church Field Road pavement 9/8/22, daytime. Revisited 25/8/2022 2100 hours no discernible plant noise.
Homebase	No noise from yard or external plant apparent around site boundary. Two small wall mounted AC units on southern façade in access road for Homebase and Mc Donald's customers dominated by road traffic noise.
MacDonalds	Noise apparent from ventilation and AC plant but not measurable during daytime due to road traffic from North Road, shared car park and restaurant drive through. 48dB, $L_{Aeq,T}$ measured at car park exit (approximately 25m from plant)

Site Occupier	Measurements and observations
JCS Hi Torque	<p>JCS manufacture Jubilee clips and other fasteners (very light engineering) Some external ventilation ducts evident and just discernible in Church Field Road when background is low but not measurable.</p> <p>Yard and loading activities located on boundary with Homebase and McDonalds restaurant so dominated by road traffic noise.</p> <p>One loading bay apparent plus staff car parking app 40 cars.</p> <p>Whilst in B&Q car park was able to discern 'Suttons' Tanker pump noise and measured 59dB, $L_{Aeq,T}$ (at approximately 40m from tanker).</p>
Sudbury Community Hub (Leading Lives)	No external plant or equipment apparent. Premises is occupied by "Leading Lives" providing social care support for people with learning difficulties, Autism, and complex needs.
White House	<p>No external plant or equipment apparent.</p> <p>3 Loading bays, loading activity not measurable due to road traffic noise in North Road fronting premises.</p>
Lait Storage	<p>No external plant or noise discernible.</p> <p>4 Loading bays but no activity observed as on 9, 23 and 25 Aug 2022.</p>
Da Ro Manufacturing	<p>Two factory buildings with integrated office reception at front.</p> <p>Unable to view/locate any external plant or equipment. No significant industrial noise but was able to discern noise on 22/8/2022 at 0643 hours from cutting and grinding: 41.5dB, $L_{Aeq,T}$ at boundary with Church Field Road.</p>
Century Logistics	<p>From research company employs warehouse staff in two shifts covering 0600 to 2200 hours.</p> <p>On arrival at site 9/8/22 at 0545 hours gates were open, and HGV parked along Church Field Road waiting. Four Loading docks to reverse onto, no forklift trucks outside in the yard</p> <p>Loading started after 0600 hours</p> <p>HGV entering and manoeuvring: 57dB, $L_{Aeq,T}$ at 35m</p> <p>HGV Loading: 55dB, $L_{Aeq,T}$ at 35m</p> <p>HGV engine left running and being loaded: 58dB, $L_{Aeq,T}$ at 35m</p>
The Cloisters Various wholesale and commercial business	Units are small and comprise commercial, wholesale and service businesses. No external plant or equipment (except for small air source heat pumps) and no noise apparent during site day time visit on 9/8/2022.

Appendix C: Noise contours

Figure C1: Predicted day time noise levels – existing

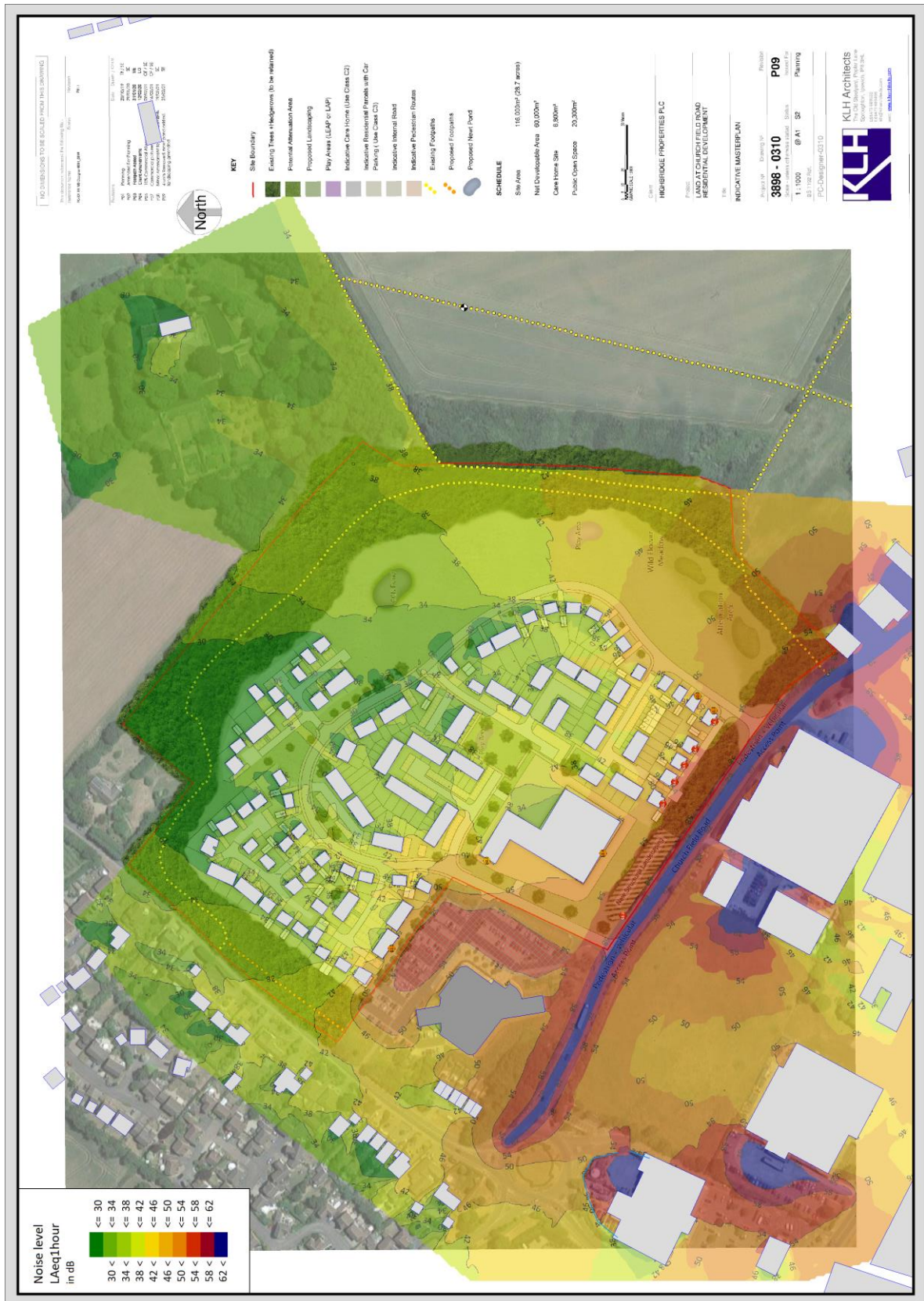


Figure C2: Predicted night time noise levels – existing



Figure C3: Predicted day time noise levels – potential

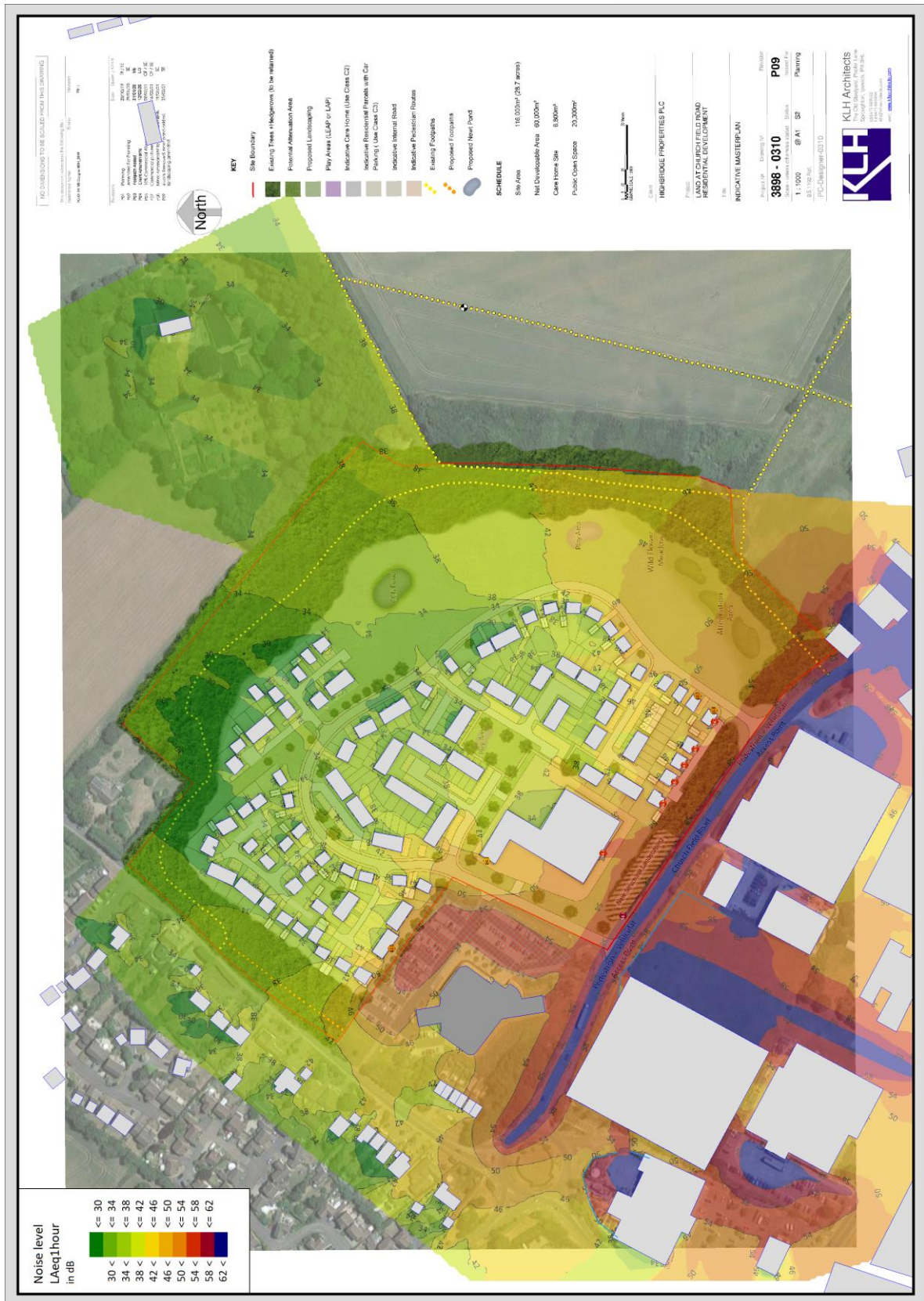
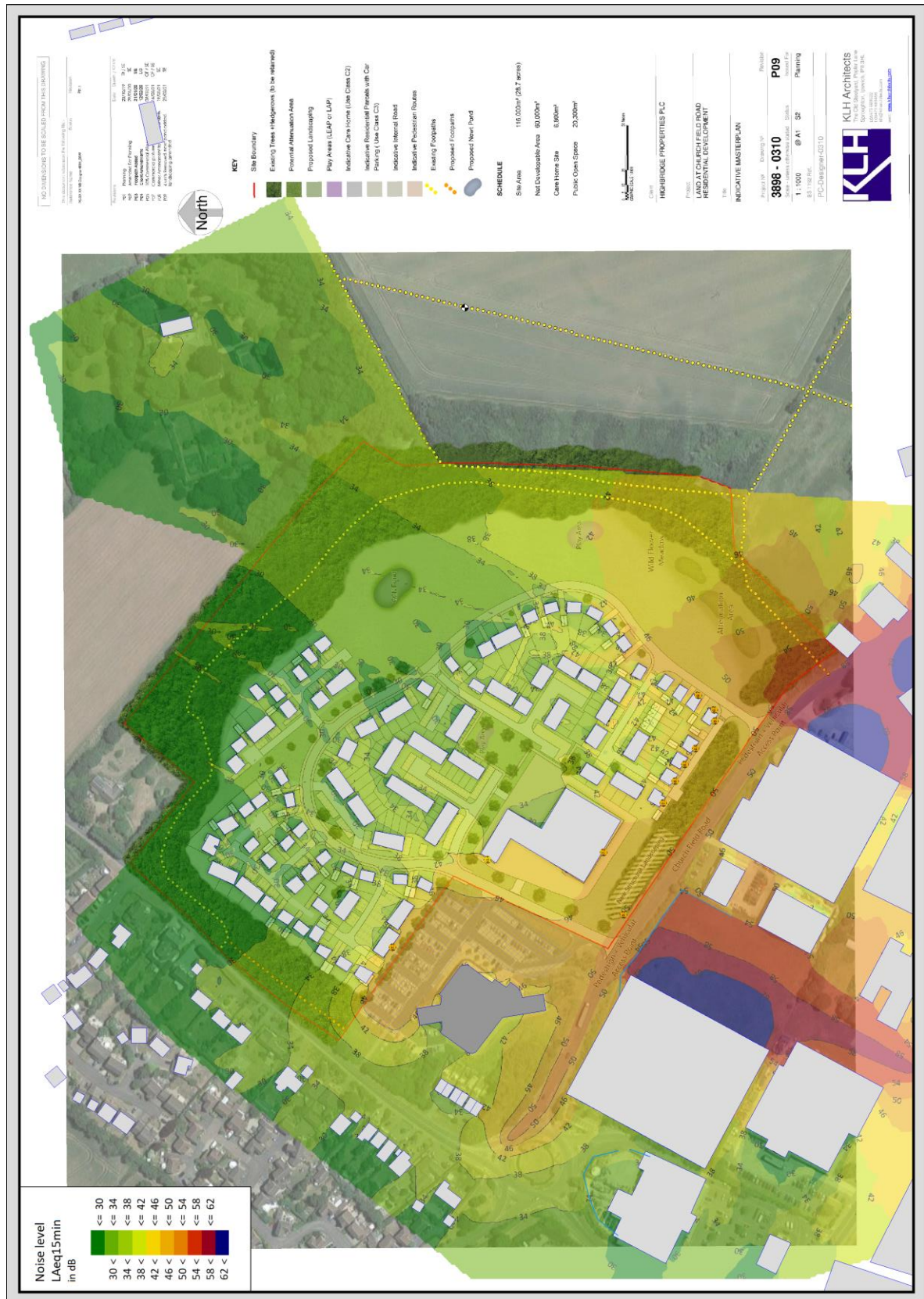


Figure C4: Predicted night time noise levels – potential



Agenda Item 6b

Committee Report

Item No: 6B

Reference: DC/21/02405

Case Officer: Daniel Cameron

Ward: North Cosford.

Ward Member/s:

RECOMMENDATION – GRANT RESERVED MATTERS APPROVAL SUBJECT TO CONDITIONS

Description of Development

Application for approval of reserved matters following outline application B/15/01433 Town and Country Planning Order 2015 - Appearance, Scale, Layout and (Discharge of Condition 20 - Landscaping details) for the erection of 48No dwellings (including 17 affordable dwellings).

Location

Land East of Artiss Close And, Rotheram Road, Bildeston, Suffolk

Expiry Date: 28/01/2022

Application Type: RES - Reserved Matters

Development Type: Major Small Scale - Dwellings

Applicant: c/o The Agent

Agent: Mr Joe D'Urso

Parish: Bildeston

Site Area: 3.1 hectares

Density of Development: 15.4 dwellings per hectare

Details of Previous Committee / Resolutions and any member site visit: None

Has a Committee Call In request been received from a Council Member: No

Has the application been subject to Pre-Application Advice: Yes, (DC/21/01778)

PART ONE – REASON FOR REFERENCE TO COMMITTEE

The application is referred to committee for the following reason:

Babergh District Council's scheme of delegation requires that applications which represent residential development for 15 or more dwellings be determined by Planning Committee.

PART TWO – POLICIES AND CONSULTATION SUMMARY

Summary of Policies

CLASSIFICATION: Official

NPPF - National Planning Policy Framework
NPPG-National Planning Policy Guidance

Babergh Core Strategy

CS01 - Applying the presumption in Favour of Sustainable Development in Babergh
CS02 - Settlement Pattern Policy
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

Babergh Local Plan

CR07 - Landscaping Schemes
CR08 - Hedgerows
CN01 - Design Standards
TP15 - Parking Standards - New Development

Neighbourhood Plan Status

This application site is not within a Neighbourhood Plan Area.

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

Parish Council

Initial Bildeston Parish Council Comments Received 16th June 2021

Bildeston Parish Council OBJECTS to the above application on the following grounds:

Housing Design

The proposed design of housing on the site is uniformly bland and uninteresting. There is nothing which echoes the architecture of the existing village or the materials traditional to the area. The houses give the impression of being larger or smaller versions of the same external design and so the overall impression is totally monotonous and characterless. Hence it exemplifies the worst in cost driven, mass-built housing which has no regard for local context.

Additionally, there is inadequate external storage for modern family living. None of the properties have garages. While garages are now seldom used for storing cars, they provide valuable storage for other things. The sheds proposed for each property are unlikely to be an adequate substitute, especially for larger family properties and therefore there is likely to be a proliferation of additional outbuildings after properties are built. It would be much preferable if adequate provision was made in the first place.

Surface Water Drainage

In our representations at previous stages of the planning process, we expressed serious concerns about surface water (and foul) drainage of the site and the potential to cause or aggravate flooding in the existing village. The representation for Suffolk County Council, as Lead Local Flood Authority, appears to show that these concerns were well founded and remain problematic to developing the site.

In particular, the risk of flooding to the existing village was addressed at outline stage through restricting outflow by limiting the size of the outfall pipe. Excess water was to be accommodated in an attenuation pond. The latest comments from SCC suggest that this strategy is fundamentally flawed. SCC indicates that the attenuation pond is expected to overtop during heavy rain and hence houses at the bottom of the site should not be built as proposed due to risk of flooding. The consequences are more serious and far reaching though. If there is uncontrolled discharge of water from the site through overtopping, then the flow of water into the brook is also uncontrolled. This then has serious downstream implications, including to properties which back onto the brook in Newberry Road, which have previously experienced flooding.

Pedestrian and Cycle Links to Village Centre

There remains no proposed direct pedestrian/cycle link to the village centre. This will encourage greater car use for short journeys and is totally counter to sustainability goals. Notwithstanding the outline permission granted; we would urge that a solution is now found to address this major shortcoming.

With this in mind, it is doubly disappointing to note that the developer is attempting to reduce the width of a new footway alongside Ipswich Road required by the outline permission, and has omitted one section altogether. We are pleased that SCC is robustly resisting this in its representation, and we would hope that Babergh will be equally robust. We trust that Babergh will give proper consideration to these issues, all of which have serious long term consequences for our community.

Further Bildeston Parish Council Comments Received 14th July 2021

We note the variations in materials and roof profiles now being proposed. While this relieves the uniformity in the previous proposals to an extent, the basic designs remain variations on a single theme and bear no relation to the indicative proposals in the outline application, where properties were more individual in character.

Our concerns about external storage remain.

We note that discussions are ongoing with Suffolk County Council (SCC) as lead local flood authority. Given the concerns about the risk of surface water discharge from the development causing flooding within the wider village, we would appreciate being kept informed as to whether SCC is eventually satisfied that the surface water discharge from the site can be fully controlled in all rainfall scenarios, removing the risk of overtopping of the attenuation basin.

We are also pleased to note that the layout now shows the full extent of the footway to be constructed alongside Ipswich Road and the confirmation that this will be 1.8 metres wide. This is, however, no substitute for a direct pedestrian (and possibly cycle) link from the development to the village centre. While we appreciate that outline permission was granted without such a link, we are disappointed that our offer in 2017 to help facilitate such a link was not taken up.

National Consultee

Anglian Water Comments Received 7th May 2021

Assets Affected

There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water would ask that the following text be included within your Notice should permission be granted.

Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within

either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

Foul Water

N/A

Surface Water

We have reviewed the applicant's submitted surface water drainage information (Flood Risk Assessment/Drainage Strategy) and have found that the proposed method of surface water discharge does not relate to an Anglian Water owned asset. As such, it is outside of our jurisdiction and we are unable to provide comments on the suitability of the surface water discharge. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented. A connection to the public surface water sewer may only be permitted once the requirements of the surface water hierarchy as detailed in Building Regulations Part H have been satisfied. This will include evidence of the percolation test logs and investigations in to discharging the flows to a watercourse proven to be unfeasible.

East Suffolk Drainage Board Comments Received 14th May 2021

No comments.

Environment Agency Comments Received 13th May 2021

No comments.

Historic England Comments Received 4th May 2021

Thank you for your letter of 23 April 2021 regarding the above application for planning permission. On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.

Norwich Airport Comments Received 2nd May 2021

Development will not present a significant collision risk to aircraft operating in the vicinity of Norwich Airport and does not lie within the bird circle shown on the aerodrome safeguarding map.

County Council Responses

Development Contributions Comments Received 26th April 2021

The outline planning permission under reference B/15/01433 has a Section 106 Agreement which SCC is a party to. The planning obligations secured under this reference must be retained.

Fire and Rescue Team Comments Received 14th May 2021

Condition 4 of the outline planning permission secures additional hydrants for firefighting purposes.

Initial Floods and Water Team Comments Received 28th April 2021

The applicant needs to clearly demonstrate that the proposed use of a pumped surface water system, which is contrary to national and local policy/guidance but agreed during the outline planning application

will be adopted by Anglian Water. This is to ensure that the costs to property owners for managed and maintenance of the surface water system are affordable. Ideally, the LLFA would still prefer to see a gravity outfall to the watercourse.

The applicant is also proposing to utilise a hybrid surface water drainage system, but they have not submitted any justification as to why a full above ground SuDS system cannot be utilised for collection, conveyance, storage and discharge.

There is also concern that the proposed location of the attenuation basin would put some of the new development at flood risk during flood events that exceed the design capacity of the basin. This is contrary to national and local policy/guidance.

Further Floods and Water Team Comments Received 8th November 2021

A further holding objection is necessary because it appears to be unclear between the surface water drainage system design drawings and the landscaping plan whether the attenuation basin has a permanent volume of water within the base. If the basin is to retain water for a pond feature this needs to be shown within the design drawings and the calculations. If the basin does not have a permanent waterbody, then the landscaping management plan need to be amended to show that pond maintenance isn't required.

N.B – This issue is not resolved at the present time; however, Members should note that as the issue between the applicant and the Floods and Water team is minor and relates to landscaping, not flood risk. As such a condition is considered an appropriate way in which to get the required information in this instance and has been applied to the recommendation at the end of this report.

Initial Highway Authority Comments Received 26th May 2021

The submitted layout details are not acceptable in highway terms for the following reasons:

1. The proposed access roads are designed at 6m width; this is excessive and may be reduced. The applicant should refer to the Suffolk Design Guide, SDG, for basic design principles here, 'minor access roads' being appropriate.
2. The turning head adjacent to Plot 42 is an excessive size and may be reduced to recommended dimensions within the SDG. As illustrated in the SDG there will need to be adoptable margins around the turning head where there are no footways.
3. The access road does not need to be widened outside Plot 1; it should be a constant width throughout, and the paved area reduced in size.
4. Similarly opposite Plot 8.
5. The main access road is excessively straight which is not conducive to low traffic speeds.
6. The main access visibility splays onto Ipswich Road should be shown. The splay to the west (into the village) at 4.5m x 90m should have the new footway positioned along the rear edge of the visibility splay.
7. The junction radius opposite Plot 1 and also opposite Plot 8 is excessive and should be reduced to 6m. This will reduce the size of paved areas.
8. Junction visibility splays need to be provided from the junction alongside the side of Plots 32/33 and 48.
9. Associated with this the car parking spaces alongside Plots 32/33 and 48 will likely obstruct visibility from this junction. In addition, parking spaces across the junction radius are not acceptable.
10. The general car parking strategy is not considered acceptable; it results in long lengths of dropped kerbing which is undesirable for pedestrians and wheelchair users to use. No garages appear to be associated with the 4 and 5 bedroom dwellings resulting in 3 parking spaces being provided across the complete frontages (Plots 6-8, 15-16, 17-20). The use of parallel parking spaces results in undesirable vehicle manoeuvring on/across the footway and make car parking unnecessarily

complicated and may result in footway obstructions (there is insufficient depth available throughout the frontages for 3 spaces parked perpendicular side by side)

11. It would be beneficial to label car parking allocations in order that visitor car parking space distribution can be assessed.
12. The parking area adjacent to Plots 34/35 appears tight for manoeuvring space.
13. There appears to be a large 'tarmac' area behind Plot 48, is this required?
14. The section of footway around the attenuation pond could probably be removed and replaced with a grass verge.
15. The proposed footpath link from the north east corner of the site would be better surfaced and more useable with a bound material rather than simply loose gravel.
16. There is a section of 'off site' footway missing on Rotheram Road; linking the Paddocks Way access and existing footway with Ipswich Road.
17. For information the Section 278 and Section 38 detailed drawings have not been considered or assessed. These will be considered once formal agreement applications are submitted, post approval of reserved matters. *However, it should be noted by the applicant and others that the new footway link along Ipswich Road, B1078, will not be accepted at a reduced width of 1.5m as now proposed. The new footway link should be 2m wide as discussed comprehensively during previous planning application consultations.*

Further Highway Authority Comments Received 19th November 2021

Whilst the following comments do not form an objection (the proposal would be acceptable as a private development), the Highway Authority would not adopt the roads and footways within the development as proposed.

If the applicant intends this to be a private development, please advise and an amended response with recommended planning conditions will be provided.

1. The road width now appears to scale at less than 5 metres - please clarify the intended road width.
2. There are excessive lengths of dropped kerb throughout the development - the designer could consider shared surface roads to address some of this issue.
3. There are still excessive lengths of straight road despite the proposed speed restraints.

N.B – Members should be aware that matters relating to access and internal road organisation were approved at outline stage. As such, the only condition Officer's view as being reasonable to impose at this stage is one which requires the delivery of internal roads, footways and parking to each dwelling prior to its occupation. This is conditioned at the end of this report.

Travel Planning Officer Comments Received 26th April 2021

No comments.

Internal Consultee Responses

Environmental Health – Air Quality Comments Received 10th May 2021

No comments.

Environmental Health – Sustainability Comments Received 13th May 2021

No objections.

Environmental Health – Sustainability Comments Received 10th May 2021

It is requested that a condition to secure a scheme for water, energy and resource efficiency during construction and occupation of the development be submitted and agreed prior to development commencing.

N.B – Members should be aware that while such a condition would normally be applied by Officers as a matter of course now, at the time of approval of the outline permission, no such conditions was applied. It is considered that such a condition cannot be applied at this point given that the reserved matters relate solely to appearance, layout, landscaping and scale and this condition does not affect any of these considerations.

Public Realm Comments Received 10th May 2021

It is considered that the submitted details are sufficient and in line with the details secured under the outline planning permission.

Initial Place Services – Ecology Comments Received 3rd June 2021

Further ecological information is required prior to determination of the application.

Further Place Services – Ecology Comments Received 15th September 2022

A biodiversity net gain will not currently be delivered from the proposals. We still recommend that an off-site solution should be secured. Further information is required with regards to this aspect of the development. No issue is found with regards to landscaping on the site or with regards to the use of lighting within the scheme.

N.B – Members should be aware that outline permission has already been granted for this site with the required ecology conditions attached. Said conditions will need to be discharged as part of the normal process in order for the development to come forward. It is not considered that this represents an issue that would prevent the grant of reserved matters approval in this instance.

Place Services - Heritage Comments Received 7th May 2021

The application site lies within close proximity of Bildeston Conservation Area and a high number of listed buildings located within. The principle of development and layout has been agreed through outline application B/15/01433 and this application is to determine the appearance and scale.

In response to the refused outline application B/14/01435 (prior to permission being granted to B/15/01433) it was stated: *The Heritage Team considers that the proposal would not cause harm to any designated heritage asset because, although the development site lies within the settings of both the Parish Church and the conservation area, the specific contribution that the site makes to the significance of both of these assets is very limited, and the likely effect of the development on their significance will consequently be very slight.*

No heritage statement has been submitted for the reserved matters application. However, since the outline application (B/15/01433) was granted, local policy and national guidance has been updated. For example, Historic England's *Good Practice in Planning Advice Note 3: The Setting of Heritage Assets* (2nd Ed. 2017) and the Draft Joint Local Plan. Additionally, as the heritage officer had identified there is potential for slight impacts to significance of the Parish Church and Conservation Area, efforts should have been made to ensure that the proposal appropriately responds to the historic environment and any potential for impact has been mitigated through the design, scale, massing and materials.

Whilst limiting the development to 1-2 storeys is welcomed, the placement of the bungalows could be have been more considered to ensure that any potential for visual impact is reduced, for example at the north western edge. Variations in the roof forms could have also mitigated any visual impact whilst positively responding to the character and appearance of the Conservation Area. A study of the Conservation Area would have informed this understanding.

The materials should be reflective of those found within the Conservation Area and identified within the Conservation Area Appraisal, such as 'Suffolk red' or 'Suffolk white' brick, render, timber-framed windows

and doors. Proposed materials have been outlined in the Street View - Plot 1-31 Drawing, however minimal detail has been provided.

Minimal information has been provided as such, the documentation does not meet the requirements of Paragraph 189 of the NPPF, as the potential impact to a number of assets cannot be determined. However, it is considered that provided minor amendments are made to the design and materials, the proposals will result in the setting of the Parish Church and Bildeston Conservation Area being preserved in line with Section 66 and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Paragraph 193 of the NPPF should be considered as this gives great weight to the conservation of heritage assets. However, amendments will ensure that the potential of impact has been mitigated resulting in no harm to the significance of each designated heritage asset.

N.B – Amendment to the materials shown originally has been resolved by the applicant through the submission of revised documents.

Place Services – Landscaping Comments Received 12th May 2021

The amendments made are welcome. Additional detail regarding planting around the SUDS basin should be secured and a boundary treatment to the property frontages are expected.

Place Services – Urban Design Comments Received 6th December 2021

The submitted scheme should be reviewed and amended in a number of areas.

N.B – This work has been undertaken and the Parish Council comments now note no design objections to the scheme as before Members.

Strategic Housing Team Comments Received 17th May 2021

The proposed affordable housing mix is acceptable as is the ‘pepper potting’ of units across the site. Design, layout and parking provision is in keeping with the open market units.

Additional Consultee Responses

Suffolk Wildlife Trust Comments Received 14th May 2021

Concerns are noted with regards to the outline details and the details brought forward now. These are similar to those of the Place Services – Ecology comments. Notes are made about integration of swift boxes and the hedgehog friendly fencing.

B: Representations

At the time of writing this report at least six letters/emails/online comments have been received. It is the officer opinion that this represents six objections, 0 support and 0 general comment. A verbal update shall be provided as necessary.

Views are summarised below:

Objections to the scheme note the following material planning considerations:

- Size of scheme represents 10% growth on existing dwellings in Bildeston.
- Lack of integration to rest of village.
- Impact on local highways network and particularly impact of HGV traffic through villages to supply the site with building materials.
- Materials chosen do not reflect local character.

- Insufficient information on how development here affects neighbouring site at Rotherham Road and Artiss Close which are lower.
- Layout of the development is too formal and car dominated and restrict passive solar gain within site.
- Ecology impacts and lack of biodiversity enhancement.
- Flooding not satisfactorily dealt with.

(Note: All individual representations are counted and considered. Repeated and/or additional communication from a single individual will be counted as one representation.)

PLANNING HISTORY

REF: DC/19/05285	Discharge of Conditions Application for B/15/01433 - Condition 5 (Contamination), Condition 6 (Archaeological Works), Condition 28 (Part Discharge- Protected Species Mitigation Measures)	DECISION: PGR 02.04.2020
REF: DC/20/01643	Discharge of Conditions Application for B/15/01433- Condition 28 (Part Discharge- Protected Species Mitigation Measures)	DECISION: GTD 18.05.2020
REF: DC/20/04666	Application for Non Material Amendment to Condition 9 relating to B/15/01433 - To allow for alterations to wording relating to footpath.	DECISION: GTD 04.11.2020
REF: DC/20/04902	Application for the Modification of Section 106 Planning Obligation dated 19 October 2017 relating to B/15/01433 under sub-section 106A (1) (a)	DECISION: GTD 11.12.2020
REF: DC/21/02405	Application for approval of reserved matters following outline application B/15/01433 Town and Country Planning Order 2015 - Appearance, Scale, Layout and (Discharge of Condition 20 - Landscaping details) for the erection of 48No dwellings (including 17 affordable dwellings).	DECISION: PCO
REF: B/16/00859	Application under Section 73 of the Town and Country Planning Act (1990) to vary condition 29 attached to Planning Permission - B/15/1433/OUT (Outline - Erection of 48 residential dwellings with detailed consideration of access) - Prior to occupation of the dwellings the replacement of those parts of the frontage boundary hedge that are to be removed will be undertaken in accordance with the details shown on Smeeden Foreman plan reference LL01 dated 13 June 2016	DECISION: DIS 29.01.2018

REF: B/15/01433	Outline - Erection of 48 residential dwellings with detailed consideration of access.	DECISION: GTD 20.10.2017
REF: B/14/01435	Outline - Erection of 49 residential dwellings with details of access, as amended by details received 23rd January 2015, 24th & 25 February 2015.	DECISION: REF 07.05.2015
REF: BIE/13/00949	Policy CS11 - Proposed Residential Development of up to 80 dwellings	DECISION: PCO
REF: B//02/01567	Application under Regulation 3 of the Town and Country Planning General Regulations 1995 - Outline - Residential development (for local needs housing).	DECISION: WDN 24.10.2002

PART THREE – ASSESSMENT OF APPLICATION

1.0 The Site and Surroundings

- 1.1 The site is located to the east of Bildeston's settlement boundary, was previously utilised in arable cultivation and is currently laid to grass. The topography slopes from its south-east corner. The fall across the site is from 56 metres above ordnance datum (AOD) at the highest point in the south-eastern corner adjacent the B1078 to 44 metres AOD in the north-west corner. A stream (Bildeston Brook) is located to the north of the site.
- 1.2 To the immediate west is Artiss Close and residential development on Rotheram Road. Both developments are cul-de-sac estates layouts with properties backing onto the site. Artiss Close and Tailor Made Joinery across the road mark the current village entrance.
- 1.3 Bildeston's spatial character is one of an historic core with conservation area status with estate-style development set out to the east of this core. The village and its historic core retain a visual affinity with the countryside surrounding the village and its landscape setting, particularly to the west.
- 1.4 A public right of way runs north to south through the field to the east of the site, parallel to the eastern boundary. A public footpath runs along Bildeston Brook to the north and connection to this public right of way is secured through the outline planning permission.

2.0 The Proposal

- 2.1 The application provides reserved matters details for appearance, landscaping, layout and scale for the erection of 48 no. dwellings including 17 affordable dwellings. Matters relating to access were fixed as part of the outline planning permission.
- 2.2 Access to the site is taken from the B1078, with internal roads creating a single spine road within the site except for a single private access. Dwellings are to take access directly from the spine road or from the private access. In the main, development faces inwards within the site, focused around an area of open space, although several dwellings face outwards onto the B1078.

2.3 The mix of market dwellings is as follows:

Number of bedrooms	Number within site
5 bed house	3
4 bed house	8
3 bed house	12
2 bed house	4
2 bed bungalow	4

2.4 While the mix of affordable dwellings is as follows:

Number of bedrooms	Number within site
2 bed house (AR)	3
2 bed house (Low Cost)	4
2 bed flat (AR)	4
1 bed flat (AR)	6

3.0 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 on land that is currently unallocated for development, as defined in the adopted development plan. Therefore, its development for residential purposes is a departure from the current plan.
- 3.3 As Members are aware, the examination of the Council’s emerging Joint Local Plan (JLP) is currently paused, pending the submission of additional information. Within the emerging Joint Local Plan (JLP), this site does not form part of an overall residential land allocation for the village which is located to the south of Wattisham Road (ref. LA048). The settlement boundary of Bildeston is proposed to be altered to include the application site. Nevertheless, Members are advised that the weight that may be attached to JLP as part of the consideration of development proposals is limited at this stage.
- 3.4 Notwithstanding the above policy summary, in the case of the determination of this reserved matters proposal, it is considered that the outline planning permission that has been granted by the Council under application ref. B/15/01433 clearly establishes the acceptability of residential development taking place on the identified site for up to 48no. dwellings, and is the starting point for the decision-making process. Members are not tasked with re-considering the planning permission from scratch; rather, it is necessary to consider those details reserved under the planning permission for determination at this current stage of the overall process. The principle of development is therefore effectively fixed, subject to the conditions attached to the grant of outline planning permission.
- 3.5 In summary, the acceptability of the identified site to accept 48no. dwellings is established in principle and is the starting point for the determination of this reserved matters application.

4.0 Nearby Services and Connections Assessment of Proposal

- 4.1 The application is located on the edge of Bildeston, a core village, as identified within Core Strategy policy CS2. Core villages are to act as a focus of development within their functional cluster and

are considered to have sufficient services and facilities to accommodate a degree of housing growth.

- 4.2 The application site is located around 500 metres from High Street up the B1078, putting future residents within a reasonable walking distance of most of the shops, public houses and the primary school. The application proposes the connection of the site to the footways within Bildeston in order to facilitate this. In addition, a footpath connection to the wider network of footpaths crossing the countryside is proposed and secured as part of the Section 106 attached to the outline of this application.
- 4.3 For reference, the Chartered Institution of Highways and Transportation (CIHT) Planning for Walking document states “Across Britain about 80 per cent of journeys shorter than one mile are made wholly on foot”. Furthermore, the CIHT guidelines for Providing Journeys on Foot set out desirable walking distances for journeys with acceptable distances of between 400 and 1000 metres, with the maximum of 1200 metres being suggested. The Department for Transport Local Walking and Cycling Infrastructure Plans Technical Guidance for Local Authorities sets out a core walking distance of 400 metres (approximately five minutes), with a 2km radius around this, extending the walking zone to 2.4km. It is considered that the site would offer a good level of connectivity to the rest of the village.

5.0 Site Access, Parking and Highway Safety Considerations

- 5.1 Details of the access to the site were agreed at outline stage; however, the consultation with the Highway Authority notes that the access and its visibility splays are sufficient to be acceptable and that the only issues at hand are minor queries regarding the submitted documents. These relate to the width of internal roads, whether shared surfaces might be more appropriate for the site and that roads within the site appear too straight to naturally reduce speed within the development.
- 5.2 With regards to these queries, the width of the road meets adoptable highways standards and is measured as five metres in width. A shared surface approach might not be appropriate for this site given the traditional estate road layout of the adjacent site and road calming measures are noted within the scheme to reduce traffic speeds.
- 5.3 Policy TP15 requires that the layout of new developments will need to provide parking in line with the adopted parking standards. This is delivered within the site and further, it is noted that no triple-parking is proposed within the site.
- 5.4 Paragraph 111 of the NPPF confirms 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. No such impact is found with the application.

6.0 Design and Layout

- 6.1 Policy CN01 sets out to ensure that all development is of appropriate scale, form, design and construction materials. Paragraph 130 of the NPPF seeks to achieve similar aims as does policy CS15.
- 6.2 The originally proposed layout is in accordance with the illustrative plans submitted at outline stage and retains the central area of open space with development. Revised plans have adapted and altered the proposed layout and design such that it is now considered to be acceptable.

- 6.3 The layout of the site proposed a crescent of development centred around an area of open space proposed to incorporate a central area of open space creating a focal point for the development and area for the residents to mix. Affordable housing is located as a group and while normally policy prefers a 'pepper-potting' of units within the site, discussion between the Strategic Housing Team and various RPs has noted that within a scheme of this scale, a concentration of affordable housing is preferable in that it provides benefits in terms of streamlining the maintenance of the dwellings. Housing is designed to be inward looking, however, given the position of the proposed development at the edge of the village and adjacent to the wider countryside, this is not particularly objectionable.
- 6.4 Housing is typically two-storey in height, matching the overall character of development in the surrounding area, although a number of bungalows are noted as well at key points within the scheme. The design of the proposed units are in one sense uniform, a key feature of a crescent development, and also individualised through use of materials. A mix of brick, render and weatherboarding is noted, all materials which can be seen within Bildeston itself and are considered to be acceptable within the context of the listed buildings and conservation area as well as in the immediate context of the surrounding development.
- 6.5 Vehicle movement within the site is, in the main, undertaken along a single spine road, with a secondary route providing access to the frontage development. Pedestrian movement from the site to Bildeston is achieved via improvement to the footpath running along the B1078 as well as through connection to the wider public footpath network and would provide access to the services and facilities of the village as well as the wider countryside.

7.0 Landscape Impact, Trees, Ecology, Biodiversity and Protected Species

- 7.1 Core Strategy policy CS15 sets out a number of requirements for development to demonstrate. With regards to landscape, arboriculture, ecology and biodiversity impacts the following sections of the policy are relevant:
- i) *respect the landscape, landscape features, streetscape / townscape, heritage assets, important spaces and historic views;*
 - vii) *protect and enhance biodiversity,...*
 - x) *create green spaces and / or extend existing green infrastructure to provide opportunities for exercise and access to shady outdoor space within new developments, and increase the connectivity of habitats and the enhancement of biodiversity, and mitigate some of the impacts of climate change e.g. enhancement of natural cooling and reduction in the heat island effect, provision of pollution sequestration for the absorption of greenhouse gases,...*
- 7.2 Paragraph 170 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils.
- 7.3 On-site vegetation is proposed to be retained and incorporated within the layout of the development. This is then to be enhanced further with additional planting within the site. Planting specifications have been subject to consideration by Place Services Ecology who confirm they are appropriate. Given the edge of settlement location of the site adjacent to open countryside, it is considered that a softer boundary approach is warranted. In views from the countryside, the site would be seen against the backdrop of existing residential development and would sit well in context.

7.4 Specific comments regarding wildlife impacts have also been taken from Place Services Ecology. They note that details regarding on site ecology are acceptable, as are on site biodiversity enhancements and lighting. They do note that off-site provision for additional biodiversity enhancement is required of the development, however, as noted earlier within this report, Officers do not feel this can be insisted upon and in any event, conditions attached to the outline grant of planning permission includes conditions to secure biodiversity enhancement within the site.

8.0 Land Contamination, Flood Risk, Drainage and Waste

8.1 Core Strategy policy CS15 sets out a number of requirements for development to demonstrate. With regards to land contamination, flood risk, drainage and waste the following sections of the policy are relevant:

vii) ensuring any risk of contamination is identified and adequately managed, and make efficient use of greenfield land and scarce resources;

xi) minimise the exposure of people and property to the risks of all sources of flooding by taking a sequential risk-based approach to development, and where appropriate, reduce overall flood risk and incorporate measures to manage and mitigate flood risk;

xii) minimise surface water run-off and incorporate sustainable drainage systems (SUDs) where appropriate;

xiii) minimise the demand for potable water in line with, or improving on government targets, and ensure there is no deterioration of the status of the water environment in terms of water quality, water quantity and physical characteristics;

8.2 Land contamination was assessed at outline stage and found to be acceptable. There is no need to revisit this issue within this application.

8.3 Suffolk County Council, as Lead Local Flood Authority (LLFA) confirms that the SUDS scheme approved at outline stage is acceptable. A query with regards to the SUDS basin within the site is noted; however, it is considered that this could be answered off with judicious use of planning conditions. The query itself relates to whether the SUDS basin is to be permanently wet then pond maintenance is required (and is currently set out within the landscaping details). If it is not, then no pond maintenance is required.

8.4 Anglian Water has capacity to accept the flows from this development site and no issue is noted with regards to its ability to deal with the flows. The Internal Drainage Board has no comments to make as the application would not affect its assets.

9.0 Heritage Issues

9.1 Policy CN06 of the Local Plan seeks to protect the character and appearance of buildings of architectural or historic interest, particularly protecting the settings of Listed Buildings. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving a listed building, its setting or other architectural or historic features from which it draws significance. Section 72 is also applicable; it requires that attention be given to whether the application preserves or enhances the character or appearance of a conservation area. In practice, a finding of harm to the historic fabric of a listed building, its setting or any special features it possesses gives rise to a presumption against the granting of planning permission.

- 9.2 The duty imposed by the Listed Buildings Act 1990 imposes a presumption against the grant of planning permission which causes harm to a heritage asset. A finding of harm, even less than substantial harm, to the setting of a listed building must be given “*considerable importance and weight*”. (*Bath Society v Secretary of State for the Environment [1991] 1 W.L.R. 1303). While paragraph 199 of the NPPF further states “*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be).*”
- 9.3 The Council’s Heritage Team was consulted on the outline application and noted that the site would have little impact on either the setting of the Parish Church within Bildeston or upon the Bildeston Conservation Area. Development is located adjacent to other modern residential estates, at the periphery of both the conservation area and the setting of the Parish Church. Consultation on this application with Historic England has not identified any issue with the application as it currently stands.
- 9.4 Specific comments from Place Services Heritage Officers was taken on the application and, while the application could have been more considered and been accompanied by a rationale to set out how the design choices shown within the scheme impacts on the heritage assets within Bildeston, there is no major objection to the proposed scheme noted. In particular, comments note that lack of detail on the materials proposed within the scheme. It is considered that a condition to secure this would not be required as the additional comments from Bildeston Parish Council notes no issue with the revised scheme.

10.0 Impact on Residential Amenity

- 10.1 Paragraph 130 of the NPPF sets out a number of core planning principles which underpin decision-taking, including seeking to secure a high standard of amenity for all existing and future occupants of land and buildings.
- 10.2 With regards to the site itself first, there is nothing within the submitted drawings that indicates that the proposed dwellings would be subject to a compromised degree of amenity by way of inadequate private amenity space or their relationship to each other. It is considered that they would enjoy a similar level of amenity that is currently enjoyed at the neighbouring estates and that the flatted dwellings to be provided within the scheme would also have access to shared private amenity space. Within the site, public amenity space set within the central area of open space is also noted.
- 10.3 Dwellings within the site are arranged in such a manner that it is not considered that adverse impacts would arise from the development by way of loss of natural light or overlooking. The neighbouring site is at a lower level than the application site; however, the use of bungalows at key points along that boundary means that no issues are created in terms of overlooking. Elsewhere, good back-to-back distances with the neighbouring site are noted and boundary planting is proposed to remain.

11.0 Planning Obligations / CIL

- 11.1 A Section 106 Agreement is in place for the application site and secures contributions for education as well as open space and connections to the public footpath network.
- 11.2 Community Infrastructure Levy would be collected from the application site in addition to the infrastructure contributions secured under the Section 106.

12.0 Parish Council Comments

- 12.1 Parish Council comments raise issues with the design of the scheme, surface water flood risk and pedestrian links to the rest of Bildeston. Amendments made to the application have resolved issues centred on design and accessibility such that no objection is noted on these grounds, however, their comments on surface water flood risk remain.
- 12.2 In this regard consultation with Anglian Water, the Internal Drainage Board and with the LLFA resulted in only minor queries being left to resolve with the LLFA. These revolve around the incorporation of landscape maintenance relating to the SuDS basin within the site and do not relate to the ability of the site to deal with issues of flooding or surface water drainage. It is considered that this issue has been resolved to a satisfactory manner and further, a condition is suggested to resolve this minor issue.
- 12.3 Comments relating to the change in width of the pedestrian connection to the rest of Bildeston are noted which now meets the requirements of the Parish Council. While an additional walking and cycling route to reach the centre of Bildeston would be advantageous, it is not considered necessary in planning terms given that this site connects in a satisfactory manner through the existing footway network and additional extension to the public footpath network is to be secured.

PART FOUR – CONCLUSION

13.0 Planning Balance and Conclusion

- 13.1 The principle of development on this site has been agreed through the approval of B/15/01433 and this application only relates to matters of appearance, landscaping, layout and scale.
- 13.2 In this regard, the application is found to be acceptable. It would sit comfortably with the immediate surroundings of the site, which are modern estate developments. It is not directly read against the finer grain of development seen within the centre of Bildeston, particularly the Parish Church and the conservation area.
- 13.3 Some minor queries are noted within the consultee responses to the application, including with regards to ecological enhancement, landscape maintenance with regards to the SUDS basin and highway considerations within the site. It is considered that none of these queries represents an objection to the scheme, but rather an aspect on which there is insufficient detail, but which could be secured via the use of planning conditions. It is considered that this would allow the detail required to be secured without the need for further consultation or delay to the delivery of homes within the application.

RECOMMENDATION

That the Chief Planning Officer be authorised to APPROVE reserved matters subject to conditions as summarised below and those as may be deemed necessary by the Chief Planning Officer:

- Confirmation as to the scope of the approval given and noting that the condition attached to the outline remain in force.
- Development to be undertaken in accordance with the approved drawings.
- Details regarding planting and maintenance requirements for SUDS basin to be agreed.
- Construction method statement to include details of HGV routing to site.

- Estate roads, footways and parking to be delivered prior to occupation within site.
- Additional enhancement measures including swift nest bricks and hedgehog friendly fencing to be agreed.

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

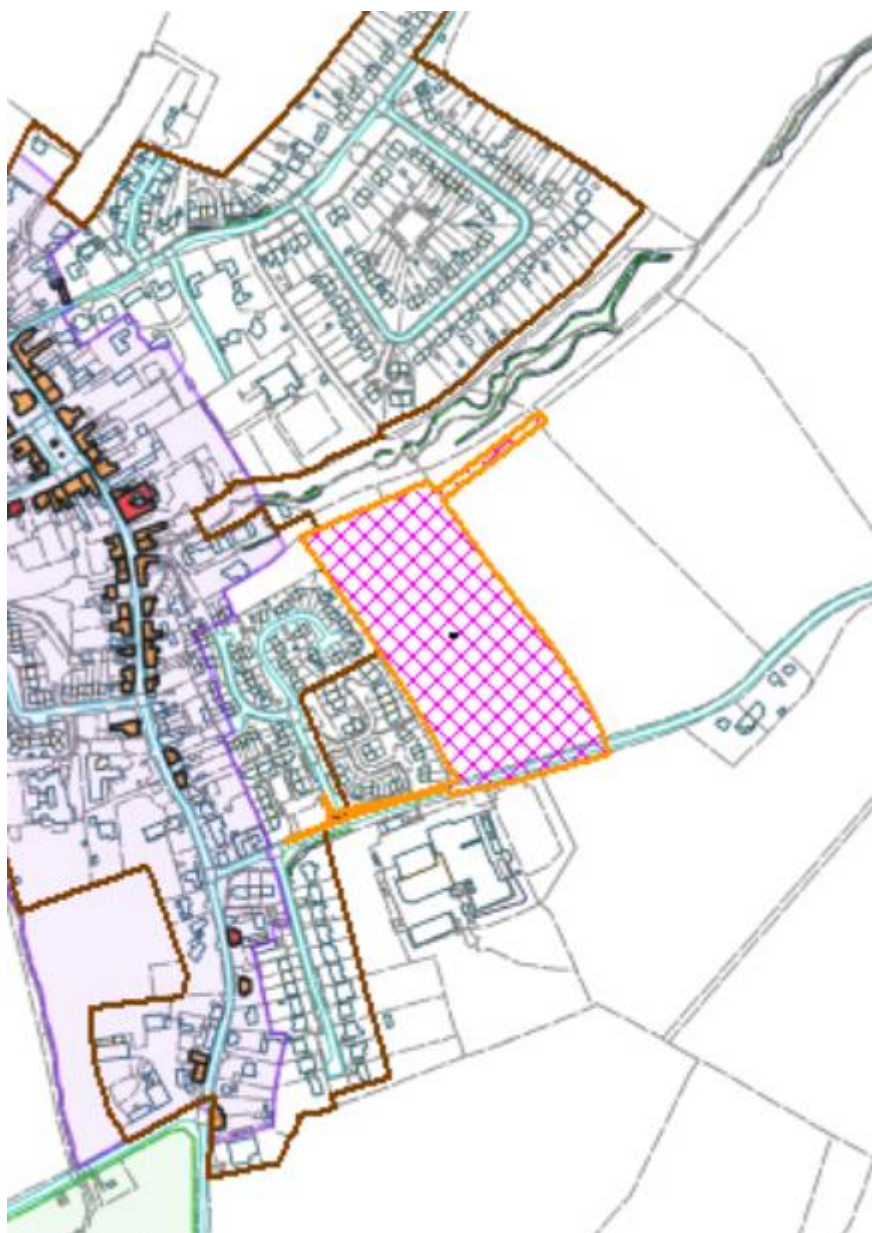
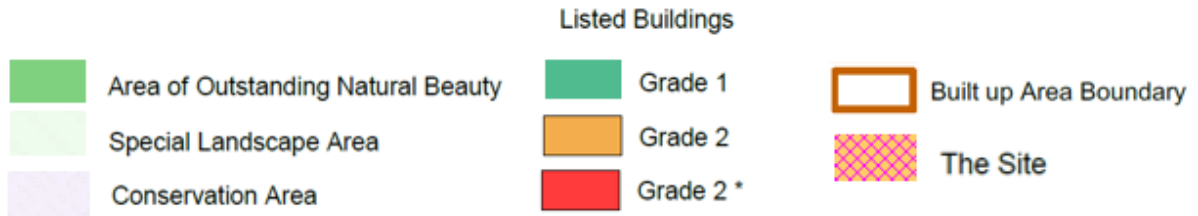
- Proactive working statement
- Notes regarding Anglian Water assets within the vicinity of the site.

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Application No: DC/21/02405

Parish: Bildeston

Location: Land East Of Artiss Close And Rotheram Road



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Agenda Item 6c

Committee Report

Item No: 6C

Reference: DC/21/06977

Case Officer: Elizabeth Flood

Ward: Great Cornard.

Ward Member/s: Cllr Simon Barrett. Cllr Peter Beer. Cllr Mark Newman.

RECOMMENDATION –PLANNING PERMISSION WITH CONDITIONS

Description of Development

Reserved Matters Application for Outline Planning Permission DC/18/02469 considering Appearance and Landscaping (Access, Layout and Scale previously approved) for the erection of up to 46no dwellings with vehicular and pedestrian access from Bures Road. Demolition of 182A Bures Road and storage buildings.

Location

182A Bures Road, Great Cornard, CO10 0JQ,

Expiry Date: 10/06/2022

Application Type: RES - Reserved Matters

Development Type: Major Small Scale - Dwellings

Applicant: North Avenue Development Co.

Agent: Mr Adam McLatchie

Area: 1.68ha

Parish: Great Cornard

Details of Previous Committee / Resolutions and any member site visit: None

Has a Committee Call In request been received from a Council Member: No

Has the application been subject to Pre-Application Advice: No

PART ONE – REASON FOR REFERENCE TO COMMITTEE

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

- Residential development greater than 15 dwellings.

PART TWO – POLICIES AND CONSULTATION SUMMARY

Summary of Policies

CS01 - Applying the presumption in Favour of Sustainable Development in Babergh
CS02 - Settlement Pattern Policy
CS03 - Strategy for Growth and Development
CS15 - Implementing Sustainable Development
CS18 - Mix and Types of Dwellings
CN01 - Design Standards
CN06 - Listed Buildings - Alteration/Ext/COU
CR04 - Special Landscape Areas
TP15 - Parking Standards - New Development

Neighbourhood Plan Status

This application site is not within a Neighbourhood Plan Area.

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

Great Cornard Parish Council

recommends - REFUSAL based on the following grounds:

The Parish Council has a long standing policy against back land development. However, in its response to the JLP, it stated that if any development should take place on this site then it should be of low density and low rise.

Great Cornard has an ageing population and bungalows are sought after in the area. Despite the Parish Councils comments, we note that there is only two bungalows on the site plans. Some of the properties on the plans are too high and in particular, The Hayloft which includes 9 apartments - identified as two storeys on the Accommodation Schedule but is in fact a three/two and a half storey building it is significantly higher than any of the adjacent properties. It is also not in keeping with the surrounding area.

Over-Development of the Site Number of properties proposed is too dense and a number closer to 30 would be more appropriate for the size of the site. Great Cornard has been well developed in recent years and squeezing 46 units on to this site is in the Councils opinion, over development.

The Parish Council objects to the demolition and loss of a perfectly good property (182a Bures Road).

The proposed public open space appears to be insufficient for the size of the development and has no provision for a children's play area. It is also poorly located along the access road into the development.

In addition to Suffolk County Councils holding objection, overall the parking allocation of 102 spaces is insufficient for the site and in particular, 12 spaces for visitor parking is not adequate.

Safety Concerns The Parish Council has safety concerns over the developments close proximity to the railway a secure fence should be installed along the boundary with the railway line. This will also discourage people crossing from the railway line onto privately owned land and seeking access to the riverside walk.

Infrastructure/Drainage/Flooding Lack of supporting infrastructure in the vicinity, i.e. lack of doctors/dentists, schools already oversubscribed, closest play area on the Stour Croft development etc.

The Design and Access Statement states that the development may seek to include PV panels or air source heat pumps to ensure improvements on basic building regulation guidance. The District Council should ensure that all environmental schemes are over and above the basic building regulation guidance and are practical, low cost and maintenance options for the provision of energy in the long term.

Lack of information provided over foul and surface water drainage. The Parish Council notes that some of the existing sewers will be used and they are already known to struggle with current demand and are prone to blockages. They would not be suitable to take on the requirements of proposed new houses in that area.

There does not appear to be any further information on the flood and water management. The Parish Council refers to SCCs response to the Outline Planning application and whether the Applicant has addressed the conditions outlined in that response.

Highways Issues The proposed development has only one entrance/exit point and is very close to the Grantham Avenue roundabout. The additional traffic flow will be dangerous for all road users and pedestrians.

There are inadequate pavements on either side of Bures Road for pedestrians to use safely. This would also be the route for any pedestrians accessing the river walk and Sudbury as there is no provision for a direct footpath from the development.

The access road splays do not appear wide enough to be able to provide good visibility when exiting the development.

Bures Road already has a speeding problem and the Parish Council recently installed an SID unit very close to the site but continues to receive complaints of speeding and accidents/near misses.

Concerns over where construction vehicles will park during the build. Bures Road is unsuitable and the site is too close to the roundabout. Contractor vehicles for other developments in the area have parked on the highway and caused issues and complaints from local residents.

National Consultee

Natural England: No comments

Network Rail: The risks posed from the proposed work to Network Rail will necessitate an agreement with ASPRO via a Basic Asset Protection Agreement. Network Rail has no objection to the proposed work but has concerns.

County Council Responses

Highway Authority:

The County Council as Highway Authority recommends that any permission which the Planning Authority may give should include conditions. Please note that the proposed layout of the estate roads means that the main access roads within the development may be suitable for adoption by the Highway Authority but the shared surface and turning head areas are unlikely to be suitable for adoption, which may subsequently impact upon the adoption of other roads within the development.

It is also noted that highway related planning conditions do not appear to have been included in the Outline Planning Permission DC/18/02469, hence conditions covering all highway related matters are proposed.

Archaeology:

This site lies in an area of archaeological potential recorded on the County Historic Environment Record, to the west of a group of three Bronze Age burial mounds (HER nos. COG 004, COG 005 and COG 006), of which two have been recently excavated. There is high potential for encountering further heritage assets of archaeological interest at this location. The proposed works will cause significant ground disturbance that has potential to damage any archaeological deposit that exists. As a result, there is high potential for the discovery of below-ground heritage assets of archaeological importance within this area, and groundworks associated with the development have the potential to damage or destroy any archaeological remains which exist. Recommend conditions.

NOTE – these conditions were already imposed at Outline stage

Internal Consultee Responses

Public Realm:

The Open Space element will be under the ownership of a management company or other nominated body and not be transferred to the council. This would appear appropriate in terms of the Open Space positioning within the development. The area of open space also appears appropriate for the size of the development. Public Realm has no objections to this element of the Application

Environmental Management Sustainability: Recommend condition relating to the provision and implementation of water, energy and resource efficiency measures.

Environmental Management Air Quality: No objection

Arboricultural officer: no objection to the arboricultural element of this reserved matters application.

Environmental Management Land Contamination: I can confirm that I have reviewed the Phase I report by Brown2Green Environmental (ref. 2960/Rpt1v1) dated November 2021 and can agree with the findings of the report and the recommendations for further works. These further works are outlined in the report referenced above but will require expanding into a formal investigation strategy as outlined in the above report.

Environmental Management Noise: Included with the application details is a noise assessment which identifies that the selected site layout can comply with condition 8 of the [Outline] planning permission. Internal noise can only be achieved with windows closed and alternative means of ventilation, with Plot 1 (receptor R6 for noise assessment) requiring slightly more enhanced building envelope mitigation (likely to be Glazing units selected) and would benefit from mechanical ventilation due to the ambient noise levels exceeding 60dBLAeq16hours. The specific details required by condition 8 are not provided at this time; however, I am satisfied that the layout presented in this reserved matters application is suitable and have no objection to the application being approved

Strategic Housing: It is recognised that there is limited scope to change the proposals set out at present, given what was agreed in the Outline planning permission. However, a number of objections are set out to this application which can hopefully be resolved:

- Support: The mix of affordable units is as per the Section 106 agreement.

- Objection: Two units do not meet the Nationally Described Space Standard, as required by the Section 106 Agreement.
- Objection: The phasing plan, if taken on face value, is not acceptable, under the terms of the Section 106 agreement. **Officer's Note: a revised phasing plan has been provided which would provide the affordable as the first properties on the site**
- Objection: The affordable units are not integrated into the site and there are too many flats in one block. Distribution of the units creates some risks.
- Comment: The site would benefit from more smaller open market units. Comment: Any part of the highway network intended for transfer to an RP ought to be constructed to an adoptable standard.
- Comment: The proximity of the railway line is noted. The amenity impacts on residents will, presumably, have been considered at Outline stage, but please confirm that Environmental Health colleagues are content that any necessary noise mitigation measures are being included and required in the design

B: Representations

At the time of writing this report at least four letters/emails/online comments have been received. It is the officer opinion that this represents four objections. A verbal update shall be provided as necessary.

Views are summarised below:-

- Loss of privacy to existing dwellings
- Noise and light pollution
- Backland development
- Adjacent to a Conservation Area
- Restricted parking
- Potential access to the railway track
- Limited pavements on Bures Road
- Unsustainable located, not within walking distance of facilities
- Dentists and schools are at capacity
- Overloading of sewers, drains and highways
- Overdevelopment of the site
- Lack of children's play equipment
- Lack of open space
- Insufficient space of refuse/ emergency vehicles
- 3-storey building out of keeping with surroundings
- 3-bedroom dwellings not required in Great Cornard
- Require renewable energy technology/ EV parking/ ground source heat pumps
- Highways dangers
- No links with wider footpath network
- Loss of trees
- Potential to lead to flooding
- Boundary issues
- Detrimental to wildlife

(Note: All individual representations are counted and considered. Repeated and/or additional communication from a single individual will be counted as one representation.)

PLANNING HISTORY

REF: DC/18/02469	Outline Planning Application (Access Layout and Scale to be considered) - Erection of up to 46 dwellings with vehicular and pedestrian access from Bures Road. Demolition of 182A Bures Road and storage buildings.	DECISION: GTD 01.10.2019
REF: DC/22/01090	Non-Material Amendment to Outline Planning Permission DC/18/02469 - Amendment to layout	DECISION: INV

PART THREE – ASSESSMENT OF APPLICATION

1.0 The Site and Surroundings

- 1.1 The application site comprises 1.68 ha of rough grassland (recently ploughed), fringed by a mix of small and large trees, with the Sudbury Marks Tey railway line to the west and the Stour beyond. The access is taken off of the Bures Road (B1508).
- 1.2 It is backland in nature, with the eastern boundary butting up to the rear gardens of 158 to 188 Bures Road, with open land to the north and south.
- 1.3 The site is not in, adjoining or near to any Conservation Area. There are no nearby listed buildings, the closest being the public house some 150 metres south-east of the site. It is not in an area of special character designation such as an Area of Outstanding Natural Beauty, but is within a Special Landscape Area (SLA).
- 1.4 The site is outside of, but next to, Flood Zone Areas 2 and 3.

2.0 The Proposal

- 2.1 The application seeks reserved matters planning permission for design and landscaping for 46 dwellings. Layout, scale and access was determined at Outline stage. However, a non-material amendment to provide minor alterations to the layout has been received and an update on this application will be provided verbally at Committee.
- 2.2 Members are reminded, therefore, that only matters of design and landscaping are for consideration here, although other points are covered in the interests of clarification.
- 2.3 The layout, which was previously agreed at Outline stage, shows the existing 182a Bures Road to be demolished, a smaller replacement dwelling built to the south and an access in the position of the current house to the right of the new dwelling.

- 2.4 The access track is approximately 80 metres in length and planted on one side, before reaching the first dwelling on the left.
- 2.5 To the right-hand side of that dwelling, and for the next 30 metres, is an area of proposed Public Open Space, measuring about 1,000m². An informal play area is proposed within the Public Open Space.
- 2.6 Given the broadly linear, north-south shape of the site, the layout largely consists of a central road and housing on either side. Most of the residences are to the right (north) of the access, with a set of flats and ten houses forming a smaller group to the left (south).
- 2.7 The dwellings consist of the following:

Market

- 8 x 4 bedroom detached
- 7 x 3 bedroom detached
- 7 x 3 bedroom semi-detached
- 4 x 2 bedroom semi-detached
- 2 x 2 bedroom bungalow
- 1 x 2 bedroom maisonette
- 1 x 1 bedroom maisonette

Affordable

- 4 x 2 bedroom semi-detached
- 2 x 3 bedroom semi-detached
- 6 x 1 bedroom flat
- 3 x 2 bedroom flat
- 1 x 1 bedroom FOG

- 2.8 Private drives and access roads to the east and west accommodate parking which meets local authority standards.
- 2.9 Whilst most buildings are two-storey, the apartment block (units 8-17) is described as 2.5-storey. This equates to ridge heights of approximately 8 metres and 11 metres respectively.

3.0 The Principle Of Development

- 3.1. The Principle of Development was determined with the granting of the Outline planning consent under planning application no. DC/18/02469. The key test is whether the proposed appearance and landscaping responds appropriately to the character and amenity of the area, having regard to relevant guiding development plan policies.
- 3.2 This application is different to most Reserved Matters applications, in that access, scale and layout have previously been agreed at outline stage. Therefore, the reserved matters are limited to the appearance of the proposed buildings and proposed landscaping.

4.0 Nearby Services and Connections Assessment Of Proposal

- 4.1. The application site is close to a number of facilities in this sustainable location. This matter was dealt with at Outline.

5.0 Site Access, Parking And Highway Safety Considerations

- 5.1. Site access / egress has been established by the grant of outline planning permission DC/18/02469.
- 5.2. The access would be from Bures Road, using a new access located in place of 182A Bures Road, with a replacement dwelling to the side. Parking was determined at Outline stage and comprises 104 parking spaces, 95 for the dwellings and 9 visitor parking spaces.
- 5.3. Following the Outline planning approval, the Highway Authority has had several concerns regarding the layout and parking. However, layout and parking was agreed at Outline stage which restricts the amount of possible changes. Minor changes have been undertaken following the Highway Authority comments.

6.0 Design And Layout [Impact On Street Scene]

- 6.1. The NPPF attaches great importance to the design of the built environment and good design is a key aspect of sustainable development.
- 6.2. At a local level, policy CS15 requires that proposals for development must respect the local context and character of the different parts of the district and should (inter alia): make a positive contribution to the local character, shape and scale of the area. Policy CN01 requires all new development proposals to be of appropriate scale, form, detailed design and construction materials for the location and Policy HS28 states (inter alia) that applications for infill developments will be refused where the proposal represents overdevelopment to the detriment of the character of the locality, residential amenity or where the proposal is of a scale, density or form which would be out of keeping with adjacent or nearby dwellings.
- 6.3. The layout was agreed at Outline stage, the proposed layout is logical for its backland setting and creates a street which is parallel with Bures Road, mimicking traditional patterns.
- 6.4. Scale was also agreed at Outline, building heights are sympathetic and similar to those around them. The key difference is the block of affordable flats which is described at two-and-a-half-storey and is, in practice, three storeys high. This does appear different to the built form around it and will be glimpsed from pasture land to the south and potentially from passing trains.
- 6.5. The dwellings have been designed generally in a traditional Suffolk vernacular character, with chimneys, brick and render and slate and pantiles. There is a large variety of different designs of dwellings. The site is located to the rear of Bures Road which is characterised by detached dwellings of a large variety of ages and designs. The development will not be especially visible from Bures Road but generally fits into this character of variety of designs, although the development will be of a higher density.

7.0 Landscape Impact, Trees, Ecology, Biodiversity And Protected Species

- 7.1. The site is generally enclosed by the houses located on Bures Road to the East and the railway line to the West. As such there will limited impact on the wider landscape. The approved layout is relatively dense (which is in character with the urban location of the site) which limits the amount of landscaping can be provided.

- 7.2 The two significant trees within the site are to be retained as part of the public open space. Boundary trees will also be retained. It is also proposed to provide some additional trees in key locations within the site. Further details of landscaping, including a detailed planting scheme, is a condition of the Outline planning application and it is proposed that details of play equipment is also dealt with by condition. The arboricultural condition is to be discharged concurrently with the Reserved Matters application. An application for the discharge of condition has been received and is considered to be acceptable by the Arboricultural Officer.
- 7.3 Ecology was also considered at Outline stage, a condition relating to the protection of reptiles and amphibians is to be discharged concurrently with the Reserved Matters application. An application for the discharge of condition has been received and is considered to be acceptable by the Ecological Officer.

8.0 Land Contamination, Flood Risk, Drainage and Waste

- 8.1. These matters were dealt with at Outline, with details of the drainage and waste management, conditions of the Outline planning permission. The drainage condition is to be discharged concurrently with the Reserved Matters application. An application for the discharge of condition has been received and the overall drainage strategy is considered to be acceptable by the Flood and Water Officer, although further details are required to discharge this condition.

9.0 Impact On Residential Amenity

- 9.1 Paragraph 130 of the NPPF states that Local Authorities should create places with a high standard of amenity for existing and future users
- 9.2 Layout has been previously determined; the proposed dwellings are not significantly nearer the properties on Bures Road, as previously approved.
- 9.3 The gardens of the existing dwellings are deep and largely screened, such that any overlooking should be negligible or non-existent in many cases. The one property which needs to be considered is the annexe at 180 Bures Road, which has become used as a separate unit of accommodation and has a clear window facing out on to the current field. The lounge window will look out onto the shared surface while the obscurely-glazed bathroom will look onto the side of Plot 44, where the only windows will be a bathroom/WC, at approximately four metres distance. Whilst this is clearly a significant change to the existing outlook and level of privacy, this relationship is considered acceptable; however, the removal of permitted development rights will be required to prevent the erection of boundary treatment along the boundary of 180 Bures Road which would have a detrimental impact on the amenity of the annexe at 180 Bures Road. In addition the landscape plan shows spikey plants below the window of the annex of 180 Bures Road, to help reduce the loss of privacy to this property.
- 9.4 Internal amenity for future occupants will be of a sufficient standard, with all dwellings provided reasonable levels of private open space and appropriate aspect/outlook. Solar and daylight access levels are adequate, and whilst there will be a level of intervisibility between the new properties, appropriate privacy is afforded to each plot. The flat above garage (FOG) will have a very small garden with limited outlook, but with the addition of a balcony which will have an open aspect, it is considered acceptable.

10.0 Parish Council Comments

10.1 Most of the matters raised by Great Cornard Parish Council relate to the fundamentals of the scheme which have already been covered in the Outline permission, but the following issues have also been raised:

- Safety of residents due to proximity of railway.

10.2 It is proposed to condition details of boundary treatment and ensure an adequate fence is provided between the dwellings and the railway line.

PART THREE – ASSESSMENT OF APPLICATION

12.0 Planning Balance and Conclusion

12.1. This is an application for reserved matters for detailed design and landscaping only. The detailed design of the dwellings is considered acceptable. The dwellings have been designed in the Suffolk vernacular with a mix of designs. The landscape details are also considered acceptable. The two significant trees of the site are to be retained within an area of public space which will also provide a children's play area.

RECOMMENDATION

That the application is GRANTED reserved matters planning permission and includes the following conditions:-

- PD removed for fence, walls, hedges along the boundary with 180 Bures Road.
- Details of children's play equipment
- Details of boundary treatment
- As recommended by the LHA

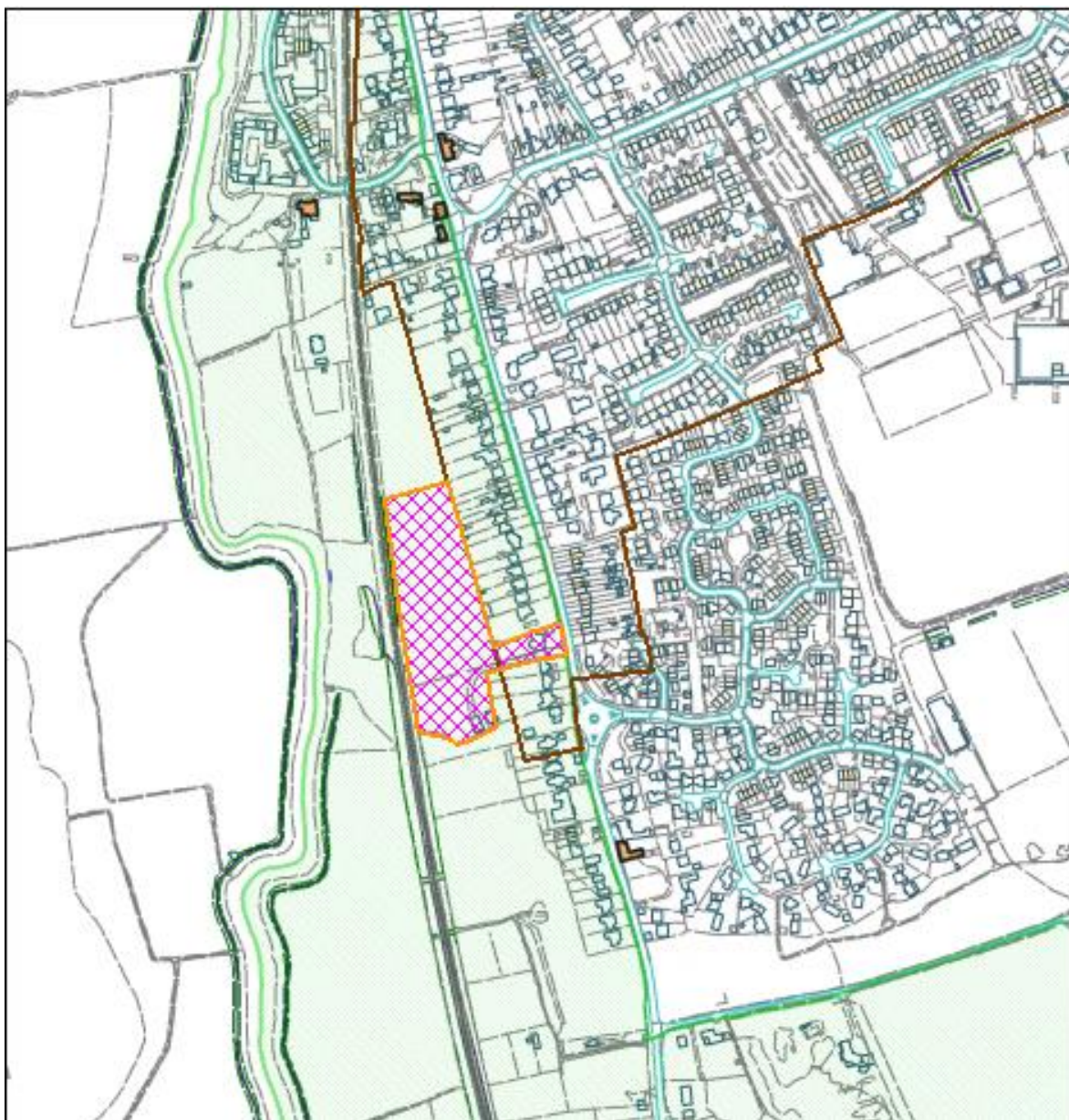
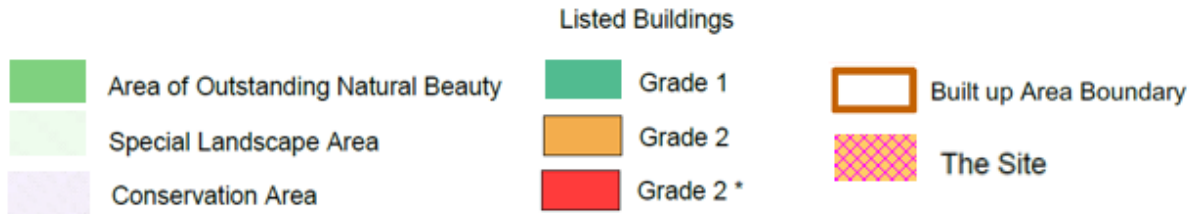
(3) And the following informative notes as summarised and those as may be deemed necessary:

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

Application No: DC/21/06977

Parish: Great Cornard

Location: 182A Bures Road



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