

17 December 2019

Philip Isbell Esq
Chief Planning Officer
Babergh District Council Planning Department
Endeavour House
8 Russell Road
Ipswich
IP1 2BX

Dear Mr Isbell

**Land North of Waldingfield Road
Reserved Matters Application Reference DC/19/04650**

Montagu Evans LLP is retained to provide expert heritage advice to Anderson Design & Build. We have been working with our client's landscape consultants, James Blake Associates, on the Reserved Matters application proposals which are being reported to Members on 18 December 2019.

We have reviewed the late representation of Mr Collins of 16 December 2019, which is made on behalf of Lady Hart and Chilton Parish Council. Whilst we consider that Officers have already provided Members with a thorough report, we thought it would be helpful to provide a brief response.

The extant outline planning permission establishes a clear set of parameters. The full range of considerations relating to the principle of the development, including the effect of development on the historic environment, was considered by the Council in making that decision.

The outline planning permission provides parameters within which a Reserved Matters application needs to sit. This is articulated in the approved Development Parameter Plan which sets, *inter alia*, a clear envelope within which built form must sit.

The Reserved Matters application before Members provides for development that sits within this envelope, and it is therefore consistent with the terms already judged to be acceptable in Members granting that permission; the Reserved Matters application does not present an opportunity for the planning authority to reconsider the principle of what has already been approved at the outline stage.

In granting outline planning permission the Council decided that the proposed development, as articulated by the Development Parameter Plan, would result in 'less than substantial harm' (in terms of the NPPF) and decided that this would be outweighed by the public benefits that would flow from the approved development.

Members must attach great weight to the conservation of heritage assets and should seek to avoid or minimise any conflict between a heritage asset's conservation and any aspect of the proposal (NPPF paragraph 190). The difference in wording between the NPPF and Mr Collins' letter is subtle but very significant; the policy does not require, as Mr Collins asserts, that harm should be avoided.

In our experience decisions relating to development that might affect the historic environment are more frequently challenged by objectors than other types of development. Because of this it is essential that Members are clear about the considerations that they have taken into account in making their judgement (for this is a matter of judgement and not the binary choice implied by Mr Collins).

For the avoidance of doubt we attach a full copy of Section 16 of the 2019 NPPF so that the precise wording is fresh in Members' minds when they decide this application.

Members will also be fully aware of, and will no doubt confirm at committee their knowledge of, the existing context and setting of the designated heritage assets in the vicinity of the application site. That context informed the maximum permissible heights of dwellings, and other matters such as the requisite depth of strategic landscaping to the immediate north of Waldingfield Road, and these were considered and approved at the outline stage and secured through the approved parameter plan. That decision was unsuccessfully challenged by the Parish Council and therefore stands and is a legally sound basis for this Reserved Matters application. This is articulated very clearly in the Officers' Committee Report (para 39):

"The exercise for Members is not to re-strike the planning permission from scratch, but to ensure that the development delivers the anticipated benefits without causing any unjustified or unacceptable harm in relation to the matters for which reserve matters approval is sought. The proposed reserved matters sit squarely within the parameters set within the outline planning permission."

As Members will know and as noted above, the assessment of heritage harm is a matter of judgement, hence why there are different judgements between the parties, but it is not open to the decision maker to modify at this stage the permission already given. Notwithstanding, our client has sought through engagement with Chilton Parish Council and the owner of Chilton Hall to minimise harm further still.

Yours sincerely,

Montagu Evans LLP

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Ministry of Housing,
Communities &
Local Government

National Planning Policy Framework

16. Conserving and enhancing the historic environment

184. Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value⁶¹. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations⁶².
185. Plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. This strategy should take into account:
- a) the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation;
 - b) the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
 - c) the desirability of new development making a positive contribution to local character and distinctiveness; and
 - d) opportunities to draw on the contribution made by the historic environment to the character of a place.
186. When considering the designation of conservation areas, local planning authorities should ensure that an area justifies such status because of its special architectural or historic interest, and that the concept of conservation is not devalued through the designation of areas that lack special interest.
187. Local planning authorities should maintain or have access to a historic environment record. This should contain up-to-date evidence about the historic environment in their area and be used to:
- a) assess the significance of heritage assets and the contribution they make to their environment; and
 - b) predict the likelihood that currently unidentified heritage assets, particularly sites of historic and archaeological interest, will be discovered in the future.

⁶¹ Some World Heritage Sites are inscribed by UNESCO to be of natural significance rather than cultural significance; and in some cases they are inscribed for both their natural and cultural significance.

⁶² The policies set out in this chapter relate, as applicable, to the heritage-related consent regimes for which local planning authorities are responsible under the Planning (Listed Buildings and Conservation Areas) Act 1990, as well as to plan-making and decision-making.

188. Local planning authorities should make information about the historic environment, gathered as part of policy-making or development management, publicly accessible.

Proposals affecting heritage assets

189. 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. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.
190. 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.
191. Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.
192. In determining applications, local planning authorities should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - c) the desirability of new development making a positive contribution to local character and distinctiveness.

Considering potential impacts

193. 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). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
194. 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. Substantial harm to or loss of:

- a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;
 - b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional⁶³.
195. Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:
- a) the nature of the heritage asset prevents all reasonable uses of the site; and
 - b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
 - c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
 - d) the harm or loss is outweighed by the benefit of bringing the site back into use.
196. 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.
197. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
198. Local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.
199. Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible⁶⁴. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.

⁶³ Non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.

⁶⁴ Copies of evidence should be deposited with the relevant historic environment record, and any archives with a local museum or other public depository.

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.
201. Not all elements of a Conservation Area or World Heritage Site will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 195 or less than substantial harm under paragraph 196, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole.
202. Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.