

Committee Report

Item 6A

Reference: DC/17/04049

Case Officer: Elizabeth Flood

Ward: Chadacre

Ward Member/s: Cllr Michael Holt

Cllr Stephen Plumb

RECOMMENDATION – REFUSE PLANNING PERMISSION

Description of Development

Full Planning Application - Erection of 6 single - storey dwellings and associated outbuildings, improvements to existing vehicular access and highway improvements. As amended by agent's email dated 17/8/17 and amended drawings numbered 17/60/02A,03A and 12A showing changes to proposed footpath arrangement. Further amended drawings received 9/11/17 numbered 17/60/02B, 03B, 04A, 05A, 06A, 07A, 08A, 09A, 10A, 11A, 12B and 14B showing changes to layout and form of dwellings.

Location

The Paddocks, Lawshall Road, Hartest, Bury St Edmunds Suffolk IP29 4DR

Parish: Hartest

Expiry Date: 29/09/2017

Application Type: Full planning application

Development Type: Minor Dwellings

Applicant: Lewis Morgan Ltd

Agent: Architectural Design & Planning Ltd

Application Type: FUL - Full Planning Application

Development Type: Minor Dwellings

Environmental Impact Assessment: Not required

Applicant: Lewis Morgan Ltd

Agent: Dean Jay Pearce - Architectural Design & Planning Ltd

PART ONE – REASON FOR REFERENCE TO COMMITTEE

The application was lodged in August 2017 and was referred to Planning Committee at the request of Councillor Nunn.

The application (comprising a revised scheme received November 2017) was considered by Planning Committee in February 2018. Planning Committee resolved to grant planning permission subject to

conditions (contrary to Officer recommendation). Planning permission was subsequently issued on 8 February.

A judicial review challenge was subsequently brought by an objector, based on four grounds:

- (1) Failure to determine whether or not, and the extent to which, the development proposal complies with the development plan;
- (2) Failure to give proper, intelligible and adequate reasons;
- (3) Misdirection in relation to development plan policy CS11(iii);
- (4) Errors of fact as to proximity of the Claimant's home to the development and as to the ridge heights of the proposed dwellings.

In May 2018 after considering the papers, a High Court Judge granted permission for this judicial review to proceed to a full oral hearing, determining that all four grounds of challenge were arguable.

In the light of this decision, following advice from Counsel as to the likelihood of the planning permission being quashed if the case proceeded to a full hearing, the Council offered to consent to the quashing of the February 2018 Planning Committee decision solely on Ground 2- inadequate reasons, and the High Court approved a quashing order to that effect

The application was therefore remitted back to Planning Committee for re-determination on the 12 December 2018. Planning Committee resolved to grant planning permission subject to conditions (officers had recommended refusal). Planning permission was subsequently issued on 20 December 2018.

A second judicial review challenge was subsequently brought by an objector, based on six grounds:

- 1) Failure to give reasons for the decision to grant planning permission;
- (2) Failure to determine whether or not, and the extent to which, the proposal complied with the development plan;
- (3) Inconsistency in decision-making and failure to explain a change in approach to the weight to be afforded to that part of the development plan, Policy CS2, concerning settlement pattern;
- (4) Misinterpretation of Policy CS2, failure to give adequate reasons, and error on the part of officers in advising that it had reduced weight and should not be determinative of the application;
- (5) A suggested misdirection by officers concerning the need for the defendant to determine whether relevant policies of the Core Strategy generally conform to the aims of the NPPF;
- (6) A misdirection by officers in relation to development plan policy CS11 concerning development in or adjacent to hinterland villages;

A hearing took place in the High Court after permission had been granted for the case to proceed on grounds 1-4 and 6. Ground 5 was an additional ground which the objector asked the High Court to consider at the hearing. In July 2019 the High Court decided to quash the planning permission having found in favour of the objector on grounds one and two. .

Details of Previous Committee/Resolutions and Member Site Visit

No member site visit. Previous February 2018 Planning Committee resolution and December 2019 Planning Committee resolution as detailed above.

PART TWO – POLICIES AND CONSULTATION SUMMARY

Summary of Policies

Relevant saved policies of the Babergh Local Plan 2006:

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

Babergh Core Strategy 2014:

CS01 - Applying the presumption in Favour of Sustainable Development in Babergh
CS02 - Settlement Pattern
CS11 - Core and Hinterland Villages
CS15 - Implementing Sustainable Development
CS19 - Affordable Homes

Supplementary Planning Documents:

Suffolk Guidance for Parking (2014)
Rural Development and Core Strategy Policy CS11 Supplementary Planning Document 2014

National Planning Policy Framework

Hartest Neighbourhood Plan (Stage 3 - Second Pre-submission Consultation phase, thus carrying limited statutory weight).

Consultations and Representations

During the course of the application consultation and representations from third parties have been received.

There have been additional representations received since the Planning Committee's resolution to grant planning permission in December 2018.

A: Summary of Consultations

The following is a summary of responses received, made in respect to the revised scheme submitted November 2017.

Hartest Parish Council

Object for reasons as follows which replicates comments of Hartest Neighbourhood Plan Working Group:

- Proposal is outside BUAB and not immediately adjacent to boundary. Contrary to emerging Hartest Neighbourhood Plan Policy HAR 6;
- According to HAR3 only up to 4 houses allowed outside BUAB and no CS11 checklist submitted;
- Housing mix satisfies HAR4 especially for first time buyers and residents seeking to downsize;
- Site lies within a Visually Important Gap as defined under HAR 12;
- Contrary to HAR11 as site within a Key view from Village Green and no Landscape Visual Impact Assessment (LVIA) submitted to assess its harm;
- Proposal does not demonstrate compliance with HAR8 - impacts on biodiversity;
- Proposal does not offer adequate protection to setting of listed buildings in the vicinity

SCC - Highways

No objection subject to conditions relating to new access and bin/recycling storage on site.

SCC Archaeology Service

Request condition requiring programme of archaeological work at the site.

Heritage Team

1. The Heritage Team considers that the proposal would cause no harm to a designated heritage asset because the organic nature of the layout, disposition and range of properties with contemporary agricultural influence would preserve the character of the Conservation Area.

2. The Heritage Team recommends that conditions be imposed should permission be granted.

These comments follow an objection from the Heritage Team to an earlier scheme. Subsequently, additional information and an amended scheme have been submitted following discussions. The Heritage Team does not now object to the proposed development as it would accord with the LBA, NPPF and Local Plan.

This application relates to the proposed development of 6 single-storey dwellings and new access to the above site. The issues of heritage concern involve the potential impact of the development on the setting of listed buildings in the vicinity and the character of the Conservation Area. The impact on the setting of the listed buildings to the west, surrounding the historic green, is considered negligible and as such the emphasis of the analysis is based on the impact on the Conservation Area.

The submitted amended scheme with changes to layout and building form are broadly as discussed. As previously stated, there would be some impact through development of currently open land, however the pattern of development would be sustained by the amended scheme and would not detrimentally affect the character of the place. The layout of the development is now more organic in approach, with pinch points creating interest within the site, as well as subtle variations in the proposed building types but with a coherence of agricultural influence and material palette running through the development. The proposed single storey dwellings draw on the rural context of the site for their architectural influence but make an honest, contemporary interpretation of this theme. Density of the proposed development would not disrupt that of the village and reflects the rural character evident, representing a cluster of agricultural buildings; these factors together on a modest scale is appropriate.

In conclusion, the scheme is not inappropriate and as such the development would accord with the requirements of the LBA, the policies within the NPPF and the Local Plan. As such, the Heritage Team does not object to the proposed development, subject to conditions.

Notwithstanding the drawings submitted, no close boarded fencing, hit & miss or similar fencing will be supported – a detailed submission of proposed boundary treatment must be provided by condition.

Conditions to include:

Brick details and manufacturer's literature

External cladding materials manufacturer's literature

Manufacturer's literature on rainwater goods

Manufacturer's literature for the driveway and footpath surfaces

Detailed joinery sections for external joinery at 1:10, to include eaves and verges

Detailed joinery sections at 1:2 and/or manufacturer's literature for all windows and doors

Boundary treatment including walls, fences, gates and soft boundaries, and landscaping scheme

Removal of PD rights

BMSDC - Arboricultural Officer

No response.

BMSDC - Environmental Health - Land Contamination

No objection.

BMSDC - Environmental Health – Other

No objection subject to standard conditions.

BMSDC - Environmental Health- Sustainability

No objection and welcome sustainability features and request these are secured by condition.

B: Representations

The original scheme attracted eight objections and five supporting submissions. Details of these submissions are not summarised here given that the application was subject to a revised scheme (submitted November 2017) that was re-consulted on.

Nine objections have been received in response to the revised scheme. Grounds of objection are summarised as follows:

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- Revised proposal does not address concerns about unsuitability of narrow lane for development
 - Will exacerbate flooding and safety problems with this section of highway
 - Increased risk of serious accident along the lane
 - Widened existing passing place is a cosmetic change only
 - Amended new footpath provision would mean longer walk along road to village and back
 - Housing will meet a specified need but not a proven need
 - Unlikely that priority for new housing will be given to local residents
 - Lack of demand for additional housing in village as confirmed in draft Neighbourhood Plan
 - Existing facilities within village likely to reduce in future due to closure
 - Fails to contribute positively to setting of several listed buildings and to preserve or enhance the character or appearance of the conservation area
 - Five-metre high anthracite grey roofs of proposed buildings would obscure views of listed buildings on Green except for their roofs
 - Closer grouping of buildings in layout will create greater obstruction to views of listed buildings on the Green
 - Dwellings likely to look more like a small industrial estate
 - Benefits of development outweighed by harm to SLA/CA and increased accident risks
 - Once allowed will set precedent for further development in this area.

- Lack of adequate justification /submissions regarding landscape impact assessment, heritage impact, impacts on views, cul-de-sac layout and number of dwellings
- 'Farmyard' layout does not reinforce local distinctiveness or provide permeability
- Development on 'wedge' of countryside adjacent to Green and blocks views to/from village green
- Proposals should have been referred to the Suffolk Design Review Panel
- Proposals do not improve the character and quality of an area
- No economic, social or environmental benefits to outweigh harm to heritage assets
- No engagement by developer/agent with local community
- Proposals are contrary to Paragraphs 60, 61, 62, 64, 65 and 66 of NPPF relating to good design.

An additional objection letter was received in September 2019. Grounds of objection are summarised as follows:

- Development is harmful to character of Hartest
- Development has a detrimental impact on the setting of the listed building
- Development is harmful to the designated Special Landscape Area
- Development is contrary to adopted local plan policies

In addition, an objector has provided reports from a Heritage Consultant and Transport Consultant with regards to the Heritage and Transport issues. The Council's Heritage Team has considered the report from the Heritage Consultant and have concluded that:

The Statement is thorough on policy but does not assess the characteristics of the site. It therefore does not provide any further information likely to further understanding of the significance of the site, in heritage terms. Therefore, the Heritage Team's earlier conclusion which raised no objection, subject to conditions, still stands, and the proposal is therefore considered to be in accordance with the Local Plan, the NPPF and the P(LBCA)A1990.

Hartest Neighbourhood Plan Working Group (HNPWG) initial response

The proposal is for open market housing contrary to the emerging HNP.

The proposal is for more than 4 dwellings and is not accompanied by a Core Strategy Policy CS11 checklist, contrary to HAR3.

Mix of housing types and smaller two-bedroom houses is welcome.

The site lies in an identified visually important gap and is therefore contrary to HAR12.

The proposal lies within a key view from the village green. The application does not include an appropriate Landscape Visual Impact.

The proposal does not demonstrate a biodiversity net gain, contrary to HAR8.

The proposal lies within the Conservation Area and proximity of listed buildings, impacts are contrary to HAR14.

The proposal is for open market housing, is not a rural exception site, therefore contrary HAR6.

Additional correspondence was received from the HNPWG on the 4th October 2019 which stated that it was proposed to amend Policy H4 of the Hartest Neighbourhood Plan to remove The Paddocks as an allocated site. The Hartest Neighbourhood Plan is proposing to rely on windfall sites to fulfil its housing need during the plan period.

PART THREE – ASSESSMENT OF APPLICATION

From an assessment of relevant planning policy and guidance, representations received, the planning designations and other material issues the main planning considerations considered relevant to this case are set out including the reason/s for the decision, any alternative options considered and rejected. Where a decision is taken under a specific express authorisation, the names of any Member of the Council or local government body who has declared a conflict of interest are recorded.

1.0 The Site and Surroundings

- 1.1. The site comprises part of an agricultural field approximately 0.46ha in area, currently used for grazing horses and belonging to The Paddocks, a dwelling located to the west of the site and located within the settlement boundary of Hartest, a designated Hinterland Village. The field lies to the north-west of Lawshall Road, which is a narrow single-track lane leading from Shimpling Road (Hartest Hill) at the south-eastern end of the village.
- 1.2. The site is raised approximately 0.5 metres above road level and is enclosed along the road frontage by a raised bank and a hedgerow above it. On the opposite side of the road, south-east of the site, is a steep bank with a hedgerow/trees and behind which is an estate known as Greenview, which is a cul-de-sac of eleven dwellings built in approximately 1960. These properties are elevated some considerable height above the road in places. Beyond the Greenview estate are further dwellings on the south-east side of Lawshall Road.
- 1.3. The site is to the north-east of a two-storey, late 20th Century, farmhouse known as The Paddocks. This property is served by an access from Lawshall Road, adjacent to the south-west corner of the application site. It is separated from the garden of The Paddocks by a post and rail fence. There is a hedgerow to the northern boundary of the field.
- 1.4. The application site rises in height from west to east by up to three metres.
- 1.5. The site lies within the Hartest Conservation Area and within a Special Landscape Area. Both these designations cover the whole of the village and land surrounding it. The nearest designated heritage assets comprise nine Grade II listed buildings west of the site that front the historic green, separated from the site by The Paddocks, including the domestic curtilage serving this dwelling. An additional Grade II listed building (Bridge House) is located to the southwest, at the junction of Lawshall Road and Shimpling Road.
- 1.6. The site is outside the Hartest settlement boundary. The settlement boundary extends along the south side of Lawshall Road just beyond the junction with the lane leading to Cooks Farm and includes the Greenview estate. The boundary wraps around the northern and eastern sides of The Paddocks dwelling, noting that it bisects the curtilage, as well as the driveway, serving The Paddocks. The access point at Lawshall Road to The Paddocks is located outside the settlement boundary.

2.0 The Proposal

- 2.1 The full application seeks planning permission for the erection of six two/three-bedroom single-storey dwellings together with a new access onto Lawshall Road.
- 2.2 Access to the site for vehicles and pedestrians would be from a new opening created halfway along the frontage to Lawshall Road. This would be combined with a new footpath from the access leading to the existing access which serves The Paddocks. As originally proposed, a new segregated footpath was shown set back from the road and within the garden of The Paddocks

and extending for a distance of 25 metres to where it joined the Lawshall Road. The proposal also includes widening of the carriageway to 4.5 metres further along Lawshall Road.

- 2.3 Each dwelling would have two or three bedrooms, with rear gardens varying in size from 220 to 340sqm. The units would be single-storey. The ridge heights of the proposed dwellings above ground level vary from plot 1 at 6.2 metres, plot 2 at 5.6m, plot 3 at 5.5m, plot 4 at 5.2m and plots 5 and 6 at 5.6m. The original officer's report erroneously referred to each dwelling having a consistent ridge height of 5.5 metres above ground level.
- 2.4 Each unit would have three parking spaces including a single garage.
- 2.5 Additional tree and shrub planting is proposed along the perimeter of the site and to the front of the site would be a retained open grassed area intended as a retained vista along Lawshall Road in between Plot 6 and the road.
- 2.6 Facing materials would be Anthracite grey profiled sheet roofing, Anthracite grey vertical profiled sheet wall panels and natural larch boarding with anthracite grey aluminium windows.
- 2.7 There are no development proposals for the remainder of the field and the applicant indicates that it would remain as existing, but this cannot be secured and further applications cannot be prevented.
- 2.8 In August 2017 the proposals were amended by the deletion of the proposed segregated footpath following comments from the Highway Authority, which was concerned over safety aspects.
- 2.9 In November 2017 the proposal was amended, with revised plans received showing changes to the proposed site layout. The effects of these changes were that the dwellings were brought closer together and in a more informal grouping with linked buildings or screen walling.

3.0 Hartest Neighbourhood Plan

- 3.1 The Hartest Parish Council has published a second (updated) Pre-submission draft Neighbourhood Plan which was subject to public consultation from March to May 2018. The HNP process is currently at stage 3 as set out in the Planning Practice Guidance (PPG). There has been no significant progress on the Hartest Neighbourhood Plan since the second Pre-submission draft Neighbourhood plan was published in March 2018. However, the Hartest Neighbourhood Plan Working Group has stated that it is proposed to amend Policy H4 of the Hartest Neighbourhood Plan to remove The Paddocks as an allocated site. The Hartest Neighbourhood Plan is proposing to rely on windfall sites to fulfil its housing need during the plan period.
- 3.2 The Parish Council and the HNPWG object to the scheme on the grounds that it is contrary to the emerging HNP. A key test is, therefore, to determine whether the application is premature in the context of the HNP.
- 3.3 The PPG outlines the circumstances in which a development proposal may not be supported owing to prematurity. The PPG states that where the presumption in favour of sustainable development applies, arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. The PPG then follows (officer emphasis):

'Such circumstances are likely, but not exclusively, to be limited to situations where both:

(a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or neighbourhood planning; and

(b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period.'

3.4 The HNP is not at the end of the Council's publicity period. The Council's publicity period (stage 4) has not yet commenced. The emerging HNP is far from being considered as formally constituting part of the development plan. For these reasons, the emerging HNP is attached such limited statutory weight that any conflict with it is not considered fatal to the application. There are no justifiable grounds to refuse the application based on it being premature or in conflict with the HNP.

4.0 The Joint Local Plan

4.1 The Joint Local Plan (JLP) is currently at the Preferred Options (Regulation 18) stage. A public consultation is currently being undertaken. The emerging JLP is far from being considered as formally constituting part of the development plan. For these reasons, the emerging JLP is attached such limited statutory weight that any conflict with it is not considered fatal to the application. There are no justifiable grounds to refuse the application based on it being premature or in conflict with the HNP.

5.0 The Principle of Development

5.1 At the time the Planning Committee considered the application in February 2018, the Council could not demonstrate a five-year housing land supply as required by paragraph 73 of the NPPF. The tilted balance (now at paragraph 11(d) of the NPPF) was engaged.

5.2 Subsequent to the February Committee decision, the Council has been able to demonstrate a five plus year housing land supply position. This position was current as in December 2018, subsequently the Council could not demonstrate a five plus year housing land position but with the publication of the in Babergh District Council Housing Land Supply Position Statement September 2019 a 5.67 years housing supply can be demonstrated. The tilted balance at paragraph 11(d) of the NPPF is now not engaged in that respect. On that basis, there is not a requirement for the Council to determine what weight to attach to all the relevant development plan policies in the context of the tilted balance test, whether they are policies for the supply of housing or restrictive 'counterpart' policies, such as countryside protection policies. This said, there is a need for the Council to determine whether relevant policies of the Core Strategy generally conform to the aims of the NPPF. Where they do not, they will carry less statutory weight.

Policy CS2 Settlement Pattern Policy

- 5.3 Policy CS2 (Settlement Pattern Policy) designates Hartest as a Hinterland Village. Policy CS2 requires that, outside of the settlement boundary, development will only be permitted in exceptional circumstances subject to a proven justified need. The site is outside the settlement boundary and therefore Policy CS2 applies.
- 5.4 The Core Strategy adopted in 2014 expressly anticipated, and stated within the document, that the District settlement boundaries would be reviewed and sites allocated for development following the adoption of the Core Strategy. The Local Development Scheme (LDS) produced in 2012 advised that a new combined LDS would commence in autumn 2012 and stated it was not possible to provide an up-to-date programme for site specific allocations. It is noted that in the original LDS in 2007 it was anticipated that the Site Allocations document would be adopted within six months of the Core Strategy having been adopted. To date, this has not happened.
- 5.5 The exceptional circumstances test at Policy CS2 applies to all land outside the settlement boundary. This blanket approach is not consistent with the NPPF, which favours a more balanced approach to decision-making. The NPPF does contain a not dissimilar exceptional circumstances test, set out at paragraph 79, however it is only engaged where development is isolated. For the reasons set out in this report, the development is not isolated. Paragraph 79 of the NPPF is not engaged.
- 5.6 Having regard to the material delay in the review of settlement boundaries and in the allocation of sites, and the absence of a balanced approach as favoured by the NPPF, the statutory weight to be attached to Policy CS2 is reduced. The fact that the site is outside the settlement boundary is therefore not a determinative factor upon which the application turns. It is noted that the approach to Policy CS2 has altered since the application was first determined in February 2018, and it is now considered that the weight attached to Policy CS2 is reduced. This change in approach is due to the delay in the review of the settlement boundaries and various inspectors' decisions which reduce the weight of CS2.
- 5.7 A momentum towards securing development that is founded upon sustainable principles and the need for a balanced approach to decision-making are key threads to Policy CS1, CS11 and CS15 of the Core Strategy. Unlike Policy CS2, these policies are consistent with the NPPF, carry full statutory weight and provide the principal assessment framework applying to the subject application.

Policy CS1 Presumption in Favour of Sustainable Development

- 5.8 Policy CS1 takes a positive approach to new development that, as noted above, reflects the thrust in favour of sustainable development and also repeats the operation of the presumption in favour of sustainable development (the tilted balance). It seeks to secure development that improves the economic, social and environmental conditions in the Babergh district.

Policy CS11 Strategy for Development in Core and Hinterland Villages

- 5.9 As noted in the Core Strategy, delivery of housing to meet the district's needs within the framework of the existing settlement pattern means there is a need for 'urban (edge) extensions' as well as locally appropriate levels of growth in the villages. Policy CS11 responds to this challenge, setting out the 'Strategy for Development in Core and Hinterland Villages'. The general purpose of Policy CS11 is to provide greater flexibility in the location of new housing development in the Core and Hinterland Villages.

- 5.10 The site is located on the eastern fringe of the main body of Hartest, an edge-of-settlement location where Policy CS11 applies.
- 5.11 Policy CS11 states that development in hinterland villages will be approved where proposals are able to demonstrate a close functional relationship to the existing settlement and where the following criteria are addressed to Council's satisfaction:
- (a) Core villages criteria:
 - i) the landscape, environmental and heritage characteristics of the village;
 - ii) the locational context of the village and the proposed development (particularly the AONBs, Conservation Areas, and heritage assets);
 - iii) site location and sequential approach to site selection;
 - iv) locally identified need - housing and employment, and specific local needs such as affordable housing;
 - v) locally identified community needs; and
 - vi) cumulative impact of development in the area in respect of social, physical and environmental impacts.
 - (b) Additional hinterland village criteria:
 - i) is well designed and appropriate in size / scale, layout and character to its setting and to the village;
 - ii) is adjacent or well related to the existing pattern of development for that settlement;
 - iii) meets a proven local need, such as affordable housing or targeted market housing identified in an adopted community local plan / neighbourhood plan;
 - iv) supports local services and/or creates or expands employment opportunities; and
 - v) does not compromise the delivery of permitted or identified schemes in adopted community / village local plans within the same functional cluster.
- 5.12 The accompanying 'Rural Development & Core Strategy Policy CS11 Supplementary Planning Document' (the 'SPD') was adopted by the Council on 8 August 2014. The SPD was prepared to provide guidance on the interpretation and application of Policy CS11, acknowledging that the Site Allocations Document foreshadowed in Policy CS11 may not be prepared for some time. Although the SPD is not part of the statutory development plan, its preparation included a process of community consultation before it was adopted by the Council, and means that it is a material consideration when planning applications are determined.
- 5.13 The matters listed in Policy CS11, which proposals for development for Hinterland Villages must address, are now considered in turn. Policy CS15 matters, which an application must score positively against, are addressed later in this report.

The landscape, environmental and heritage characteristics of the village

Impact on Landscape

- 5.14 The site lies within the SLA where saved policy CR04 of the Local Plan identifies that proposals will only be permitted where they maintain or enhance the special landscape qualities of the area, identified in the relevant landscape appraisal, *and* are designed and sited so as to harmonise with the landscape setting.

- 5.15 The site, at present, is part of an open field enclosed on all its boundaries by established trees and hedgerows. The development site would be severed from the rest of the field and enclosed by a post and rail fence and new hedgerow planting. In terms of topography there is a rise in levels from the western corner of the site to the east side of around three metres.
- 5.16 Hartest sits within a valley with the land rising steeply to the north and east. The majority of development in the village is characterised by a layout that is one plot deep with farmland to the rear. There are some pockets of estate development, but they are not a dominant characteristic.
- 5.17 The site contributes to the rural character that currently exists to the northern side of Lawshall Road. Beyond The Paddocks the land is open, interspersed with hedgerows. There is an undeniable open countryside quality to the area. The dwelling known as The Paddocks is set in a generous plot and provides an effective visual graduation, from the built-up body of the village to the west, to the open countryside east of its domestic curtilage.
- 5.18 The creation of the new access, road widening and a tightly-knit group of dwellings would have an unduly urbanising effect on the locale, resulting in the loss of the open field character and markedly change the rural setting of the village. A significant landscape effect of developing a denser development beyond the single dwelling at The Paddocks would be the creation of a more abrupt, harder built up edge to the village boundary. This would have an undermining impact on the transitional qualities evident at this eastern village approach.
- 5.19 The SLA character type is identified as 'undulating ancient farmland' and The Joint Landscape Guidance for this character type states that *'The setting of Hartest village complements the landscape with high banked lanes cutting a path to the village centre that then open up to an area with houses framing small pockets of green open spaces with mature trees'*. It is clear that the site is integral to one of the green open spaces and is a valued quality of the countryside at this location. Development of the site would undermine the enclosed character, to the detriment of the surrounding countryside.
- 5.20 Presently, on the approach from Lawshall Road into the village, the site offers unrestricted views into the village. These views contribute to its general appreciation and the significance of the SLA and can be positively or negatively affected by development of this site. Moreover, these views and open gaps between development within and outside the village centre are identified as significant in the Draft Neighbourhood Plan. Draft Policy HAR 11 identifies this as one of the key views to/from the village and Policy HAR 12 designates this part of Lawshall Road as part of a Visually Important Gap. Whilst these policies are not attached statutory weight they are nevertheless a useful reference when considering the contribution the site and surroundings make to the village setting.
- 5.21 The previous scheme in 2016 was of similar layout and siting, albeit including some two-storey dwellings. This was refused in part on the basis that the proposal would develop an open, un-built site which contributes to the character of the Conservation Area and the SLA. In particular, the form of the development, with houses arranged in a radial inward-looking layout, was deemed inappropriate for the site, being considered to be too 'suburban' in character.
- 5.22 The current proposal, in comparison to the 2016 scheme, is for a single-storey development designed in a contemporary 'farmyard' style, which seeks to create a justification for, and establish a sense of place for, the development. Some respect is also shown for the open gap and key views identified in the emerging Neighbourhood Plan by the inclusion of an un-built "viewing cone" along Lawshall Road, within which no development will take place. However, the undeveloped slither is just that, a slither. It is extraordinarily modest. Moreover, this landscape

mitigating measure does nothing to assist with the impact on views to the village on the approach westward along Lawshall Road. It does not address the development's impact on the village setting.

- 5.23 The proposed development would not maintain the special landscape qualities of the area and the development as a whole would not harmonise with the landscape setting. The proposal would, therefore, not comply with policy CR04 and this part of Policy CS11.

Impact on Heritage Assets

- 5.24 By virtue of the legal duty in section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the Listed Building Act"): "in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority ... shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses".
- 5.25 Recent case law on the application of that statutory duty acknowledges that the consideration of the impact of a proposed development on the significance of a designated heritage asset is a matter for its own planning judgement, but that the local planning authority is required to accord considerable importance and weight to any identified harm to the significance of a designated heritage asset. This also applies to the duty under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act (see below).
- 5.26 The NPPF sets out the Government's national planning policy for the conservation of the historic environment and builds upon the 1990 Act referred to above. It also identifies protection and enhancement and establishes a presumption in favour of sustainable development in the planning system. Good design is a key part of sustainable development, and the Government attaches great importance to it. The NPPF also states that the significance of listed buildings and conservation areas can be harmed or lost by alteration to them or development in their setting, and that the conservation of heritage assets is a core principle of the planning system.

Saved Policy CN06 requires that development affecting the setting of a listed building is justified in terms of causing the minimum possible impact to the heritage asset.

- 5.27 The Heritage Team advises that the amended scheme, with changes to layout and building form, (responding to its original suggestions) would give rise to some impact through development of currently open land. However, the pattern of development would be sustained by the amended scheme and it would preserve the character of the Conservation Area. The layout of the development is now considered more organic in approach, with pinch points creating interest within the site, as well as subtle variations in the proposed building types, but with a coherence of agricultural influence and materials palette. The Team also confirmed that the impact on the setting of the listed buildings to the west surrounding the historic green is considered negligible.
- 5.28 Having regard to the Heritage team's comments, and as an exercise of planning judgement, it is concluded that any 'harm' to the character of the Conservation Area and to the setting of the listed buildings to the west, is effectively nugatory. Conflict with Policy CN06, the NPPF and this part of policy CS11 therefore attract a negligible weighting.

Site location and sequential approach to site selection

- 5.29 To be acceptable under Policy CS11, proposals should adjoin and be well related to the built up area boundary of the village. The SDP acknowledges that some sites even though they adjoin a

settlement boundary may not be well related to the village and a judgement will need to be made taking into account issues such as:

- Whether the proposal would constitute ribbon development on the edge of the village
- How the site is connected to the existing settlement, jobs, facilities and services including location of site access and availability of sustainable transport links
- The scale, character and density of the proposal in relation to the existing adjoining development
- Whether the proposal constituted a logical extension of the built up area of the village
- Whether the proposal is self-contained and has logical natural boundaries.

5.30 The site is close to, but not strictly speaking adjacent to, the settlement boundary as there is a gap of around 35 metres comprising the rear garden of The Paddocks. The proposed development is not infill as it would extend the built up area of the village. The applicant states that development would not extend further along Lawshall Road than it already does along the south side. This is acknowledged; however, the character of the northern side of Lawshall Road is very different to that of the southern side. Its open character, unlike the built-up character to the south, is a principal contributor to the rural setting of the village. Having regard to the other indicators of how well related the site is to the village, it is not considered that the site is a logical extension for reasons that it would be separated from The Paddocks and in a relatively open setting on the north-west side of the road and taking up part of a much larger field. It requires new planting and enclosure to its lateral boundaries to satisfactorily separate it from The Paddocks and the rest of the field.

5.31 With regard to connectivity, particularly for pedestrians between the site and the village, there would be a long narrow (minimum 3-metre wide) lane for a distance of 105 metres to the junction with Hartest Hill. The road is on a hill and also bends round to the right with overhanging vegetation and, therefore, has limited forward visibility of oncoming vehicles. There is no footpath or lighting. The residents of Greenview have the benefit of a set of steps leading from the estate down onto Lawshall Road, approximately 45 metres from Hartest Hill, which, for many residents, is a short-cut to the village compared to the road access.

5.32 The lane is, however, lightly trafficked and subject to a 30 mph speed limit. Nevertheless, pedestrian access from the site to the village centre is not safe given the width of the lane, the bend in the road and lack of suitable verge to step onto for safe refuge. This was part of the reason for refusal of the 2016 scheme. It was assessed that, whilst this may not be sufficient to refuse the proposal on highways grounds, it was considered indicative of the site's poor pedestrian connectivity to local services within the village and the existing pattern of development within the settlement having regard to the locational criteria to be assessed under Policy CS11.

On the basis of the foregoing the proposal is not considered to comply with the locational and relational criteria of policy CS11.

5.33 There are no sequentially-preferable allocated sites within Hartest, nor are there any sites within the built up area boundary which would enable a development of commensurate scale.

5.34 The outcome of *R (on the application of East Bergholt PC) v Babergh District Council* CO/2375/2016 before Mr Justice Mitting has clarified that in relation to sequential assessment there is no requirement to look at alternative sites adjoining the built up area boundary, as sequentially they are within the same tier.

- 5.35 In this regard, there is not considered to be any direct conflict with this element of policy CS11 for the reasons given above, and it can therefore be concluded that this element of policy CS11 has been met.

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

- 5.36 The outcome of *R (on the application of East Bergholt PC) v Babergh District Council* CO/2375/2016 before Mr Justice Mitting has clarified that "Locally Identified Need" within policy CS11 means the needs of the Core Village, its functional cluster and perhaps in areas immediately adjoining it (paragraph 23). It does not mean the needs of the wider rural parts of the district, it being agreed by all the parties that it would not in any event apply to urban areas such as Ipswich fringe.
- 5.37 The approach to the distribution of new dwellings within Policy CS3 is to be driven by the function of the villages, their role in the community, and the capacity for a particular level of growth which will be guided by many factors and which will result in a different level of development being identified as "appropriate" in different settlements, even those within the same category. The approach will also provide for a degree of in-built flexibility within the catchment area.
- 5.38 The villages are very varied and their needs and factors which influence what is an "appropriate level of development" will vary from village to village, especially where villages are situated within environmentally and visually sensitive landscapes, particularly the AONBs, and/or where villages include conservation areas and heritage assets. These landscapes and heritage assets will be key considerations when considering planning applications.
- 5.39 Accordingly, "locally identified need" or "local need" should be construed as the development to meet the needs of the Hinterland Village identified in the application, namely Hartest and the functional cluster which it sits within.
- 5.40 The SPD identifies that proposals should be accompanied by a statement that analyses the local housing needs of the Village and how they have been taken into account in the proposal. For the reasons explained, the local housing needs of the village must be construed as the needs of the village itself and the needs of the functional cluster of smaller rural settlements it serves.
- 5.41 The scheme comprises modest sized 2 and 3- bedroom units (94 sqm internal area) which are identified as being in demand in the emerging HNP. Draft HNP Policy HAR 4 (Housing Mix) states that proposals will be supported where they provide a mix of types and sizes that reflect the needs of local people, particularly where they include 2 and 3-bedroom houses for first time buyers or residents wishing to downsize. The HNPWG welcomes the smaller dwellings.
- 5.42 The application is not supported by a housing need statement. This said, it does respond favourably to the housing need set out in the HNP which counterbalances the harm associated with the policy conflict that is identified.

Locally Identified Community Needs

- 5.43 Policy CS11 requires a similar approach to the determination of proposals for development to meet locally identified community needs, recognising the role of Core Villages and the "functional clusters" they serve. Paragraph 2.8.5.2 of the Core Strategy notes that the "approach advocated for the management of growth in Core Villages and their hinterlands, has many benefits for the

communities". The benefits that the application of Policy CS11 and other relevant policies should secure include "Flexibility in the provision of and location of facilities" ... "to reflect a catchment area pattern which relates to the day to day practice of the people living in the villages" (see item iii) in paragraph 2.8.5.2).

- 5.44 The SPD identifies that proposals should be accompanied by a statement that analyses the community needs of the Village and how they have been taken into account in the proposal. In this case the applicant submits that the site is close to and within walking distance of existing services within the village, but also states that the development, being a relatively modest sized scheme, cannot be expected to have a tangible material impact on their long term viability. However, given their accessibility to the village, it is likely that they will make some contribution. Moreover, the proposed development will generate contributions towards community infrastructure, to be spent on local services and infrastructure, therefore supporting rural communities, local services and facilities. In this regard, despite the absence of the needs assessment, the proposal delivers benefits through CIL that are considered to satisfy this element of policy CS11.

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

- 5.45 The SPD identifies, at paragraph 13, that *"cumulative impact should include existing commitments and other proposals in the same village and existing commitments and other proposals in the cluster where they are likely to have a wider impact for example in terms of traffic generation, capacity of schools and health services. The impact on other neighbouring villages and neighbouring local authority areas should also be taken into account"*.
- 5.46 Policy CS11 requires the cumulative impact of development, both within the Village, and its functional cluster, to be a material consideration. Given the responses from statutory consultees and the small-scale of development proposed, there is no reason to believe there would be significant adverse cumulative impacts as a result of the development in combination with others completed/committed to in the cluster. CIL provides a mechanism to address additional infrastructure demand and this development would contribute to providing CIL funding on a district wide and parish level. There is also no evidence to suggest that utilities infrastructure cannot serve, or would be adversely impacted by, the development.
- 5.47 The evidence suggests the development will be easily accommodated within the existing infrastructure of the village and will not lead to a detrimental impact on the social, physical and environmental wellbeing of the village or the wider cluster.

Development scale, layout and character

- 5.48 The site is located outside the settlement boundary and on open land used as a paddock that can be considered to be transitional between the urban character of the village centre and the open countryside beyond to which the road leads. It is identified in the draft NP as both forming part of an important view (HAR11) and a visually important gap (HAR12), which the relevant policies for these designations seek to protect. The site is also part of the SLA and saved Policy CR04 seeks to control development so as not to harm its qualities. As noted above, there is considered to be harm in respect of the likely landscape effects of the proposal.

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

5.49 These issues have already been assessed earlier in the report; the development is considered to conflict with this limb of the policy

Meets local need identified in neighbourhood plan

5.50 Hartest has produced a draft Neighbourhood Plan and it has identified a need for smaller 2-3 bedroom housing to meet local starter home or downsizer needs. The development would contribute to meeting those needs as discussed earlier in the report.

Supports local services and/or creates or expands employment opportunities

5.51 The proposal would provide new dwellings and would make a contribution to supporting the existing facilities in the wider area. The village lies close to Glemsford, which can provide more of the day to day facilities, and there is no reason to discourage this application on the basis that it would support services in another nearby village. As such, the proposal satisfies this element of Policy CS11 and the wider objectives of the NPPF.

Delivery of permitted schemes

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

Policy CS15 Sustainable Development

5.53 Policy CS15 is a long, wide-ranging, criteria-based policy, setting out how the Council will seek to implement sustainable development. It contains a total of 19 criteria, covering matters such as landscape impact, job creation, minimising energy and waste and promoting healthy living and accessibility. Many of the criteria within policy CS15 are covered within the individual sections of this report including, for example, landscape and heritage asset impacts, and it is not therefore necessary to run through each and every one of those criteria in this section of the report. The following issues are noted in respect of Policy CS15:

- The proposal would provide work for local contractors during the construction period, thereby providing economic gain through local spend within the community (criterion iii).
- The proposed development would support local services and facilities, and enhance and protect the vitality of this rural community (criterion v).
- The application site is situated within Flood Zone 1, land not identified as being subject to significant flood risk.
- During construction, methods will be employed to minimise waste (criterion xiv).
- The proposed dwellings will be constructed as a minimum to meet the requirements of Part L of the Building Regulations, which requires a high level of energy efficiency (criterion xv).
- The application is not supported by an ecology report. However, it is unlikely that significant wildlife habitats would be affected by the development given the current horse grazing use and proposed retention of boundary vegetation. The proposal is likely to lead to enhanced ecology values by way of provision of additional planting and provision of bat and bird boxes. A biodiversity net gain would be likely, consistent with local Policy CR08 and the emerging HNP. There is potential for criterion (vii) to be met via planning condition.

- Minimising the need to travel by car using alternative means (criterion xviii) - Hartest is around four miles from the nearest Core Village (Glemsford) and on the Green there is a stop for the 374 bus which runs from Clare via Glemsford through to Bury St Edmunds and back at regular intervals, and utilises this stop. There is also a bus service running from this stop but only once every Thursday to Sudbury and back. Whilst the site is within a reasonable commute (by car) of Sudbury, and thereby has access on that basis to train services to a wider area, there is only a limited bus service and no real opportunity for local employment.
- Highway (criterion xix) considerations are considered below.

6.0 Site Access, Parking and Highway Safety Considerations

- 6.1 The scheme includes the provision of a new vehicular access onto Lawshall Road midway along the frontage adjacent to the existing access which would be stopped up. The Highway Authority objected to the outline scheme in 2016 which proposed a similar access arrangement; however it has not raised an objection to the current layout subject to compliance with conditions.
- 6.2 With regard to pedestrian access to the village this has already been assessed earlier in the report.

7.0 Design and Layout

- 7.1 The design rationale behind the scheme as originally submitted and later modified comprises a form of development based on a grouping of former farm buildings associated with the farmhouse (The Paddocks) and forming, as a whole, an edge of village farmstead. This theme is exemplified by the ad-hoc arrangement of modest-sized farm buildings around a 'farmyard'. Each building is designed with dark grey walls and roofs giving a utilitarian, neutral appearance. Their scale is lower than the farmhouse by at least two metres and boundaries are defined by simple fences and hedges. The plans, as revised following Heritage Team comments, have developed the 'farmstead' theme to create a more cohesive and joined-up layout compared to the original scheme which was too regimented with the 6 dwellings arranged around an 'H' plan road layout. The garages which were detached in the original scheme have been attached to the dwellings and therefore more integrated within the overall layout. The Heritage Team's comments on the revised proposals state that they are satisfied that the 'farmstead' theme of the development as has been satisfactorily demonstrated and they raise no objection to the proposal on heritage grounds.
- 7.2 All of the dwellings would have satisfactory parking provision and external amenity space.
- 7.3 The dwellings include various sustainable design features including air source heat pumps, wood burning stoves and an electric vehicle charging point. There is also potential for solar panels and the dwellings would benefit from high levels of internal insulation. These elements are supported by the Environmental Health (Sustainability) Officer. If approved, a condition would be recommended requiring the implementation of these energy efficiency measures.

8.0 Environmental Impacts - Trees, Ecology and Land Contamination

- 8.1 Whilst concerns have been raised regarding surface water flooding on land surrounding the site, requirements such as a surface water management plan could be secured by planning condition. In many cases, through SUDs and permeable drainage mechanisms, surface water run-off can

be delayed and arrested within the site, ensuring state close to hydraulic neutrality can be achieved.

- 8.2 The site is identified as having archaeological potential, however, these issues could be addressed via a condition should other matters be acceptable.
- 8.3 There is no evidence to suggest the land is contaminated. The Environmental Health (Contamination) Officer raises no objection.
- 8.4 There are no TPO trees on the site, but trees and hedgerows are protected by virtue of being within the Conservation Area. No trees on the site are required to be felled to carry out the development and the proposals include a landscape plan for substantial new tree and hedgerow planting along the site boundaries.

9.0 Impact on Residential Amenity

- 9.1 Paragraph 127 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.
- 9.2 The nearest dwellings to the site are those within the Greenview estate located on the southern side of Lawshall Road. The impact on the residential amenity of the Greenview residents will not be unacceptable. This is owing to the significant separation distance between the proposed and existing dwellings, the intervening vegetation and the proposed single storey scale of development. Overlooking, daylight and solar access, visual bulk and overshadowing would all be within acceptable parameters.
- 9.3 In respect to The Paddocks, again the single storey scale of development and separation distance ensures that an acceptable amenity interface will be achieved. There are no discernible adverse residential amenity outcomes that would constitute valid reasons to withhold planning permission.

10.0 Planning Obligations / CIL

- 10.1 The application is liable for contributions under CIL.

PART FOUR – CONCLUSION

11.0 Planning Balance

- 11.1 The proposal remains unchanged from that which was assessed by officers and recommended to Planning Committee for refusal in February 2018 and December 2018. The principal reasons for refusal related to landscape harm and poor accessibility by sustainable modes of transport.
- 11.2 The Council benefits from a five-year housing supply. The tilted balance at paragraph 11(d) of the NPPF no longer applies.

- 11.3 The emerging HNP has not been the subject of independent examination. It still remains at a stage where it cannot be afforded statutory weight to an extent that it is a determinative factor in the assessment of the application.
- 11.4 The site is in open countryside for planning purposes and therefore conflicts with Policy CS2. However, Policy CS2 carries reduced statutory weight because of the age of the settlement boundaries and inconsistency with the NPPF. The site's edge-of-settlement location is such that it is not isolated and paragraph 79 of the NPPF is not engaged.
- 11.5 The Joint Local Plan (JLP) regulation 18 consultation draft was published in June 2018. The site is shown within the Countryside within the JLP and Hartest remains as a Hinterland Village. The JLP currently has limited weight.
- 11.6 Policies CS1, CS11 and CS15 are attached full statutory weight given their strong alignment with the NPPF. Whilst it performs admirably in respect to some Policy CS11 criteria, the scheme does not score positively against others. Of particular concern, as in February, is landscape harm. Whilst the Heritage Team does not raise any objection regarding the layout and its effect on the nearest listed buildings or the Conservation Area within which the site (and whole of village) is located, there is nonetheless a significant effect on the landscape setting of the village and on the character of the SLA. A group of tightly-knit dwellings set around a cul-de-sac will create a built-up, hard edge to the village, inconsistent with the predominant village-edge character. The identified harm runs counter to saved Policy CR04 and Core Strategy Policies CS11 and CS15. The NPPF requires development to contribute to, and enhance, the natural and local environment. The scheme falls short in this regard.
- 11.7 Pedestrian connectivity to local services is not favourable, with highway conflict a potential safety risk and absence of lighting a likely deterrent for future residents. Sustainable modes of transport will not be well utilised. Travel by car will not be minimised. These are not factors that weigh in favour of the scheme.
- 11.8 The applicant has not demonstrated how the six dwellings serve an identified local need. That said, the smaller dwellings respond to the need identified in the emerging HNP (and therefore likely to also be in support of Policy CS18), an element of the scheme welcomed by the Hartest Neighbourhood Plan Working Group welcomes the smaller dwellings. Consistency with the merging HNP counterbalances the harm associated with the policy conflict that is identified. The effect, in the context of the planning balance, is a neutral one.
- 11.9 Residential amenity for future occupants and neighbouring residents, is safeguarded and is not a reason to withhold planning permission. The Highway Authority raises no concerns and biodiversity and archaeological matters could be adequately dealt with by planning conditions. Infrastructure enhancements in order to meet increased infrastructure demand could be addressed by CIL contributions, as per standard industry practice. The proposal also offers obvious social and economic benefits, most notably the boost to housing supply. Although this benefit must be considered in the context of the current five plus year housing supply and is therefore attached reduced weight.; there is no overriding need or requirement to allow development in this location.
- 11.10 The application fails to deliver a sustainable development, contrary to the overarching thrust of the Core Strategy and the NPPF. The planning balance does not weigh in favour of the proposal. The application is recommended for refusal.

RECOMMENDATION

Refuse planning permission for the following reasons:

1. The proposed development, by virtue of its location, scale, density and layout, would be inconsistent with the open countryside and edge-of-settlement character, harmful to the character of the Special Landscape Area and setting of the Hartest village, contrary to Policy CS11 and CS15 of the Babergh Core Strategy (2014) and paragraph 170 of the National Planning Policy Framework 2019.
2. The proposed development, by virtue its location and poor pedestrian connectivity, would be car dependent which would not promote healthy living or sustainable transport, would not constitute sustainable development nor improve the social and environmental conditions in the district, contrary to Policies CS1 and CS15 of the Babergh Core Strategy (2014) and paragraphs 8, 17, 91, 103, 117 and 122of the National Planning Policy Framework 2019.