

Committee Report

Item 6D

Reference: DC/19/02315

Case Officer: Jack Wilkinson

Ward: Sudbury North West

Ward Members: Cllr Trevor Cresswell

Description of Development

Full Planning Application - Erection of 5No dwellings, garages and landscaping along with alterations to improve existing junction with the highway.

Location

Land South of High Bank, Melford Road, Sudbury, Suffolk

Town: Sudbury

Site Area: 0.79ha

Conservation Area: No

Listed Building: No

Received: 14.05.2019

Expiry Date: 30.01.2019

Application Type: Full Planning Application - Erection of 5 No dwellings, garages and landscaping with alterations to improve existing junction with the highway.

Development Type: Minor Dwellings

Environmental Impact Assessment: N/A

Applicant: Mr P Llewelyn-Jones

Agent: Tricker Blackie Associates Ltd

DOCUMENTS SUBMITTED FOR CONSIDERATION

This decision refers to the Site Location Plan received 31/10/18 referenced PA01 as the defined red line plan with the site shown edged red. Any other drawing showing land edged red whether as part of another document or as a separate plan/drawing has not been accepted or treated as the defined application site for the purposes of this decision.

The application, plans and documents submitted by the Applicant can be viewed online at www.midsuffolk.gov.uk.

PART ONE – REASON FOR REFERENCE TO COMMITTEE

The application is referred to committee for the following reason:

- The application is of a contentious nature, with concerns raised by locals and respective Ward Members, justifying the need for determination by Planning Committee.

PART TWO – APPLICATION BACKGROUND

History

DC/18/04798 for; “Full Planning Application - Erection of 5No dwellings, garages and landscaping with alterations to improve existing junction with the highway” was withdrawn on 8th January 2019. This was refused for reasons relating to Affordable Housing provision, which the applicant has since sought to address.

All Policies Identified as Relevant

The proposal has been assessed with regard to adopted development plan policies, the National Planning Policy Framework and all other material considerations. Highlighted local and national policies are listed below. Detailed assessment of policies in relation to the recommendation and issues highlighted in this case will be carried out within the assessment:

Summary of Policies

Development Plan Documents

Babergh Local Plan Alteration No.2 (2006):

- CN01 - Design Standards
- CN06 - Listed Buildings - Alteration/Ext/COU
- HS28 - Infilling / Groups of Dwellings
- TP15 - Parking Standards

Babergh Local Plan Core Strategy (2011 – 2031):

- CS1 - Applying the Presumption in Favour of Sustainable Development
- CS2 - Settlement Pattern Policy
- CS3 - Strategy for Growth and Development
- CS11 - Strategy for Development for Core and Hinterland Villages
- CS13 - Renewable/ Low Carbon Energy
- CS15 - Implementing Sustainable Development in Babergh
- CS18 - Mix and Type of Dwellings
- CS19 - Affordable Housing

National Planning Policy Framework (2019):

- Para 7: Achieving sustainable development
- Para 8: Three dimensions to sustainable development
- Para 11 - 14: Achieving sustainable development
- Para 47 - 50: Determination of planning applications
- Para 124 - 132: Achieving well-designed places
- Para 192 - 197: Considering potential impacts

Other Relevant Planning Documents

Suffolk Adopted Parking Standards (2015)

Rural Development & Core Strategy Policy CS11 SPD (2014)

Suffolk Design Guide (2000)

Previous Committee / Resolutions and Any Member Site Visit

Officers presented the application to Members on 17th July 2019 requesting a Member Site Visit, at the express request of Cllr Jan Osbourne. Members resolved to undertake site inspection which was carried out on 31st July 2019.

The item was presented to Members on 11/09/2019. Members deferred to enable Officers to consider alternative access to the development, pedestrian connectivity and heritage harm.

Pre-Application Advice

None.

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

Strategic Housing

No objection subject to the following:

Rented – 1 home required:

- 1 x 2 bedroom 4 person house @ 79sqm

There is currently a high registered housing need for Sudbury of 275 applicants. Therefore if delivered on site the recommendations would be for an affordable rented dwelling either a two (2b 4p) or three-bedroomed house (3b 6p)

Environmental Health – Land contamination

No objection.

Local Highways Authority (LHA)

Original response (before deferral):

No objection subject to conditions:

No other part of the development hereby permitted shall be commenced until the existing vehicular access has been improved, laid out and completed in all respects in accordance with DM01 and with an entrance width of 4.5m. Thereafter the access shall be retained in the specified form.

Before the access is first used visibility splays shall be provided as shown on Drawing No. 0110 Rev.P01 and thereafter retained in the specified form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.

The use shall not commence until the area(s) within the site shown on Drawing No. PA04 Rev.A for the purposes of manoeuvring and parking of vehicles has been provided and thereafter that area(s) shall be retained and used for no other purposes.

Before the development is commenced, details of the estate roads and footpaths, (including layout, levels, gradients, surfacing and means of surface water drainage), shall be submitted to and approved in writing by the Local Planning Authority.

The gradient of the vehicular access shall not be steeper than 1 in 20 for the first five metres measured from the nearside edge of the adjacent metalled carriageway.

The access driveway shall be constructed at a gradient not steeper than 1 in 8.

Before the development is commenced details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of surface water from the development onto the highway. The approved scheme shall be carried out in its entirety before the access is first used and shall be retained thereafter in its approved form.

*Following deferral of the application on 11/09/2019, Officers reconsulted the LHA. Comments are presented here verbatim:

“Footway construction details provided on Drawing No. PA10 Rev. A are commensurate with current guidance. Therefore, SCC would have no objections to the implementation of the new pedestrian link. Providing a gradient of 1:20 may require substantial engineering works, details of which would need to be agreed within a S278 agreement along with the footway construction itself, should planning permission be granted for DC/19/02315”.

Arboricultural Officer

No objection subject to a condition requiring a detailed Arboricultural Method Statement

SCC Archaeology

No objection subject to two standard pre and post commencement conditions This site lies in an area of archaeological potential recorded on the County Historic Environment Record, the site lies to the southeast of the find spot of an Iron Age coin (HER no. SUY 009) which is indicative of further occupation remains in the area. It also overlooks the River Stour in a valley side location above the floodplain which was topographically favourable for early occupation. Although there are no recorded heritage assets within the site itself, this area of the valley side has not been the subject of previous systematic investigation, but offers high potential for the discovery of previously unknown important features and deposits. The proposed development would cause significant ground disturbance that has potential to damage any archaeological deposits and below ground heritage assets that exist.

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.

Place Services (Ecology)

No objection.

Natural England

No comment.

BDC Planning Policy

No comment.

Heritage

Objection quoted verbatim as follows:

Firstly, the Heritage Team agrees that there is no conclusive proof that the development site had a historic functional relationship with the mill. However, neither does there appear to be conclusive proof to show it never has. Given the articulation of the mill and the site, the Heritage Team considers that there is a reasonable likelihood that they did at some point and would therefore have concerns if this potential link was lost.

Secondly, the Heritage Team considers that isolation does make a contribution to the significance of the mill. The mill was historically isolated within the landscape and was clearly built to be within a rural environment. While its setting has been increasingly suburbanised in the C20, its sense of isolation has not been entirely lost.

A medium (moderate) level of less than substantial harm to a designated heritage asset because the proposed development would sever the likely historic link between the listed building and its land and dilute its sense of isolation, which contributes to its significance.

Sudbury Town Council

Objection based upon unsafe access onto Melford Road, no pedestrian footway on Melford Road and an incomplete ecological report which appears not to mention the presence of bats or several bird species.

B: Representations

11 no. objections were received relating to the following:

- Affects Local Ecology/Wildlife
- Boundary Issues
- Building Work
- Conflict with local plan
- Development too high
- Dominating/Overbearing
- General dislike of proposal
- Harm to Listed Building
- Health & Safety
- Impact on Property Value
- Inadequate Access
- Inappropriate in a Conservation Area
- Increase in Anti-Social Behaviour
- Increase in Pollution
- Increased Traffic/Highways Issues
- Landscape Impact
- Loss of Open Space
- Loss of Outlook and Privacy
- Noise
- Overdevelopment of site
- Overlooking
- Harm to trees
- Visibility issues
- No pedestrian crossing

- Flooding

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 0.79 ha application site is located at the northern outskirts of Sudbury Town Centre, adjoining the defined Built Up Area Boundary (BUAB) for Sudbury (a Town / Urban Area). The site is currently undeveloped meadowland with long grass and natural boundary features.
- 1.2 To the immediate north are domestic properties (including Highbank which is a Grade II Listed dwelling house) with generous curtilages. There are also several TPO trees located north outside of the defined red line outline of the proposal site. To the east and south are further domestic properties which form part of the outer area of Sudbury Town Centre, and the defined BUAB. These established residential dwellings vary in single and two-storey form, design, and layout. To the south are further domestic dwellings along Melford Road. Melford Road forms the western boundary of the site, providing sole vehicular access to the site. The area is predominantly residential owing to its edge of town centre location, flanked on three sides by residential dwellings, and access. The site is also served at a pedestrian level by Melford Road, via established footpath links. The site is closely related to the services, facilities and amenities of Sudbury, and wider connecting areas.

2.0 The Proposal

- 2.1 “Full” Planning Permission is sought for the erection of a residential development of up to 5 new dwellings including 1 no. affordable unit with garages, landscaped areas and upgraded vehicular access.
- 2.2 Key elements of this are as follows:
 - Reconfiguration of an existing access point from Melford Road, associated internal road including turning / manoeuvring and parking areas.
 - Two-storey detached dwelling units with associated front and rear garden space and off-street parking arrangements, including double bay detached garaging for each. The scheme denotes 4 no. 4 bed units and 1 no. 2 bed unit, all with 4 no. parking spaces.
 - Retention of mature trees / hedgerows along boundaries, and enhancement through further landscaping throughout the site.
 - Devoted pedestrian footpath link to serve the development, linking east to Canterbury Road.

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, then that determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 3.2 The National Planning Policy Framework (NPPF) of 2019 contains the Government's planning policies for England and sets out how these are expected to be applied. Planning law continues to require that applications for planning permission are determined in accordance with the Development Plan unless material considerations indicate otherwise. The policies contained within the NPPF are a material consideration and should be taken into account for decision-making purposes.
- 3.3 The age of policies itself does not cause them to cease to be part of the development plan or become "out of date" as identified in paragraph 213 of the NPPF. Significant weight should be given to the general public interest in having plan-led decisions even if the particular policies in a development plan may be old.
- 3.4 Even if policies are considered to be out of date, that does not make them irrelevant; their weight is not fixed, and the weight to be attributed to them is within the remit of the decision taker. There will be many cases where restrictive policies are given sufficient weight to justify refusal despite their not being up to date.
- 3.5 As required by paragraph 213 of the NPPF, the weight attributed to development plan policies should be apportioned according to their degree of consistency with the NPPF. The closer a policy to the NPPF, the greater the weight that can be attributed to them.
- 3.6 Policy CS1 'Applying the Presumption in favour of Sustainable Development in Babergh' is in-step with paragraph 11 of the NPPF, even though the policy's wording was based on the earlier 2012 NPPF. This policy is therefore afforded full weight. Policy CS15 sets out desirable characteristics for development which are based upon the principles of sustainable development; this policy is also consistent with the NPPF and given full weight. Policy CS11 also accords with the NPPF, particularly in relation to paragraph 77 and 78 of the NPPF relating to rural housing, locally identified needs and promoting sustainable development in rural areas, paragraph 103 relating to limiting the need to travel and offering a genuine choice of transport modes, paragraph 127 to achieve well-designed places, and paragraph 170 to contribute to and enhance the natural and local environment. This policy is also afforded a full weighting.
- 3.7 Policy CS2 'Settlement Pattern Policy' designates Sudbury as a Town / Urban Area. Policy CS2 requires that outside of the settlement boundary, development will only be permitted in exceptional circumstances subject to a proven justified need. As a matter of planning judgement this approach is not entirely consistent with the NPPF, which favours a more balanced approach to decision-making; this has been further reflected in recent appeal decisions affecting the Council. 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.
- 3.8 The operation known as the "tilted balance" (under Paragraph 11(d) of the NPPF and Policy CS1) engages where the most important policies for determining an application are out of date. This does not apply here: the Council can demonstrate a deliverable housing land supply of 5.67 years and taken in the round the most important policies for determining the application are up to date.

3.9 It is clear the site is adjoining the edge of a Town / Urban Area for which Policies CS1 and CS2 accommodate. As Policy CS11 pertains to development within Core and Hinterland Villages or at their edge, Policy CS11 is not engaged in this instance.

3.10 Consideration against other development plan policies.

3.11 The site is located in the countryside and is in conflict with CS2. As such, the principle of development must fall on the negative side of the 'balance' albeit the significance of that conflict is lessened given the reduced weight to the policy. In light of the entirety of this assessment, the three strands of sustainable development set out in the NPPF.

3.12 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 impacts, sustainable drainage, biodiversity and minimising car use and it is not, therefore, necessary to run through each and every one of those criteria in this section of the report. What follows is, therefore, an overarching summary of the key points.

3.13 Policy CS15 seeks to minimise the need to travel by car using alternative means and improving air quality. The site is well connected with the surrounding settlement via the local highway and bus network, with good pedestrian linkage to Sudbury Town Centre. Therefore, residents would not be solely reliant on the private motor vehicle, in order to access opportunities for employment, recreation and leisure.

3.14 This report considers the landscape setting of the site and surroundings later, including heritage assets (criterion i of CS15), and the following issues are also noted in respect of criteria within policy CS15;

- The proposal would provide work for local contractors during the construction period, thereby providing a short term economic gain through local spend within the community. (criterion iii of CS15).
- The application site is situated within Flood Zone 1, where a residential use is appropriate due to the extremely low risk of flooding. It is therefore considered that the application site is sequentially appropriate for this development (criterion xi of CS15).
- During construction, methods will be employed to minimise waste. (criterion xiv of CS15).
- 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 of CS15).

3.15 The provision of employment during the construction period would provide a short term economic gain. Whilst this does not weigh heavily in favour of the development, it also does not result in any adverse impact to the economy. However, given the proposal is for 5 no. dwellings this would be minimal and is only given limited weight.

For these reasons, it is also considered that limbs (vii), (xviii), (xvi) and (xix) of policy CS15 are complied with where relevant.

3.16 Summary of Assessment Against Policy CS15

- 3.17 Policy CS15 is a detailed policy setting 19 individual criteria as to how sustainable development will be implemented in Babergh. The proposal has been assessed against these criteria and, whilst a number of the criteria are met, it is not possible to conclude that the development accords with policy CS15 as there are a number of criteria within policy CS15 that the proposal is either silent on or which the development does not comply with. In this regard, the proposal can only be treated as being partly in compliance with Policy CS15.
- 3.18 Whilst the site is technically located outside of the defined BUAB and would not find support through CS1 or CS2, its 'edge of settlement' relationship to a key Town / Urban Area is considered to be acceptable in this instance.

4.0 Nearby Services and Connections Assessment of Proposal

- 4.1 The application site is located within close access of Sudbury Town Centre and its abundant services, facilities and amenities. These include; Schools, Public Houses, Supermarkets, Restaurants, Town Hall, Playing Fields, Leisure Facilities and Shops. There are routine public bus services connecting the site to the wider area, along with train links.
- 4.2 Public transport accessibility from the site is good with bus stops available on Melford Road, which is within walking distance from the site. The bus routes connect Sudbury to the surrounding areas of Ipswich, Bury St Edmunds and Colchester. The accessible bus network provides a viable option for residents to commute to other settlements for employment, education and healthcare etc. As such, there is the opportunity for residents to choose more sustainable modes of transport than the private vehicle.

5.0 Design and Layout

- 5.1 Policy CN01 seeks to encourage good design and layout in new development.
- 5.2 Policy HS28 states that planning applications for infilling or groups of dwellings will be refused where; the site should remain undeveloped as an important feature in visual or environmental terms; the proposal, in the opinion of the District Council, represents overdevelopment to the detriment of the environment, the character of the locality, residential amenity or highway safety.
- 5.3 Paragraph 127 of the NPPF attaches great importance to the design of the built environment, stating that good design is a key aspect of sustainable development. This is further emphasised by Policy CN01.
- 5.4 Appropriate design is proposed for the new build units given the location. The scheme adopts similar aesthetic details of existing residential dwellings along Melford Road and surrounding estate streets, and therefore harmonises with the character and form of the area. Certainly, the existing houses of two-storey form establish the principle of two-storey new build here. It is also noted that the area is visually unconstrained, with varying design precedent offered within the area. Such variance can in some instances attract a more expressive design, however, the scheme responds appropriately to the existing visual character.
- 5.5 Officers acknowledge that the irregular shape of the application site is naturally going to attract a break in the settlement pattern, however, the layout works effectively in which is a unique parcel of land set within a residential area. The development pattern

and street scene along Melford Road would remain largely unbroken, with suitable domestic footprints enabling effective use of land. The materials palette is as follows:

- **Roof** – Clay pantiles (Natural Red)
- **Walls** – Bricks (Soft Red) / Render (French Grey)
- **Windows** – Coated Aluminium (White)
- **Roofline** – Painted Timber (White)
- **Rainwater Goods** – Stainless Steel

5.6 A material factor in the overall consideration of the application is the impact of built form on the site in the form of 5 no. dwellings. The site is readily capable of accommodating such increase, without undue harm to the character, landscape or indeed residential amenity experienced by occupants of neighbouring property.

5.7 The proposal offers suitable design and an effective layout, offering an efficient and practical use of the land which provides uplift to what is currently an under-utilised plot of residential land in a sustainable location. Officers consider the design to be sympathetic to the character of the surrounding area. Despite the inevitable urbanising effects of development on site, Officers consider that there is a good degree of betterment for the area through the design and layout cues proposed, reflecting Policies CN01, HS28 and the NPPF.

6.0 Heritage

6.1 Policy CN06 seeks to protect the character and appearance of buildings of architectural or historic interest, including the setting of Listed Buildings.

6.2 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Listed Building or its setting. In this case there are specific NPPF policies relating to designated heritage assets that should be considered.

6.3 Paragraph 192 of the NPPF states that in determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

6.4 Paragraph 193 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). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance”*.

6.5 Paragraph 193 - 196 of the NPPF states that where a development proposal will lead to harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

- 6.6 Paragraph 197 of the NPPF identifies that the impact of a proposal on the significance of a heritage asset should be taken into account, in order to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.
- 6.7 The NPPF defines the setting of a heritage asset as the surroundings in which it is experienced. The 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.
- 6.8 The Council's Heritage Team have offered formal comment, identifying a moderate (medium) level of less than substantial harm to a designated heritage asset because the proposed development would sever the likely historic link between the listed building and its land and dilute its sense of isolation, which contributes to its significance.
- 6.9 Following deferral of the application on 11/09/2019, Officers have considered the design merit of the proposal relative to wider area. In addition, Case Law handed down from the High Court carries material context.
- 6.10 Officers acknowledge the 'moderate' level, and in consideration of CN06, the obligations of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and finally Paragraphs 193 – 197 of the NPPF. The harm caused to the mill is considered against the public benefits materialising. The 'balancing exercise' is discussed at paragraph 15.

7.0 Residential Amenity

- 7.1 Policy HS28 states that planning applications for infilling or groups of dwellings will be refused where; the layout provides an unreasonable standard of privacy or garden size.
- 7.2 Paragraph 127 of the NPPF sets out a number of core planning principles as to underpin decision-taking, including, seeking to secure a good standard of amenity for all existing and future occupants of land and buildings.
- 7.3 The amenity impact of the works is considered fully, and there is little before Officers to suggest the scheme would result in a materially intrusive development, which would hinder and oppress the domestic enjoyment and function of adjacent property, to an unacceptable level. Officers do not consider that the site is overdeveloped by virtue of the quantum of development shown on the proposed plans, demonstrating sufficient amenity space and parking provision.
- 7.4 The site is readily capable of accommodating the units in a manner that will not unduly compromise the residential amenity of future occupiers of the development or occupiers of neighbouring dwellings. More specifically, suitable distances between dwellings can be achieved to ensure no unacceptable loss of daylight, sunlight, or overlooking to the existing residents would ensue.
- 7.5 Built form visible from a private vantage point does not necessarily result in adverse private residential amenity harm. Officers note that objections raised do not relate to adverse character affects either, therefore the real extent of public harm caused is considered insignificant. Inner site privacy is retained and enhanced through divisional

fencing, and this extends outwards retaining neighbour privacy further. The enclosures included in the scheme are suitably set out.

- 7.6 There is little before Officers to suggest the scheme would generate residential amenity harm worthy of refusal, and in the absence of such evidence to suggest so, Officers are of the sound opinion that the scheme reflects local and national planning policy. The scheme reflects the essence of Policy HS28 and Paragraph 127 of the NPPF.

8.0 Site Access, Parking and Highway Safety Considerations

- 8.1 Policy TP15 requires development to be delivered with safe and sufficient highways access and function.
- 8.2 Paragraph 109 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. This is interpreted as referring to matters of highway capacity and congestion, as opposed to matters of highway safety. The courts have held that the principle should not be interpreted to mean anything other than a severe impact on highway safety would be acceptable (*Mayowa-Emmanuel v Royal Borough of Greenwich [2015] EWHC 4076 (Admin)*).
- 8.3 The site has been assessed by the LHA, who are content that safe and sufficient access / egress can be delivered, subject to conditions. Additionally, they are satisfied with the general parking layout shown and consider sufficient manoeuvring space is provided such that vehicles may enter and leave the site in a forward gear, without severe detrimental impact.
- 8.4 Parking on site is offered in accordance with the Suffolk Parking Standards (2015) such that enough spaces are to be provided that future residents will be able to avoid on street parking.
- 8.5 Officers acknowledge the highway safety concerns raised by third-party objections. In this regard, careful consideration has been paid to the inner site layout ensuring pedestrian, cyclist and vehicular conflict is minimised. Visual obstruction is not created as a result of development. Finally, each plot is afforded sufficient parking space as depicted on the proposed plans. The design response in this regard is endorsed by Officers. Furthermore, the scheme is unlikely to present 'severe' adverse highways impact resulting in unacceptable congestion or obstruction.
- 8.6 The most important highway concern for 3rd party objectors appears to relate to visibility. The Applicant has opted to submit a detailed visibility drawing (reference: 619490-mlm-zz-xx-dr-c-0110-p01) to demonstrate the sight lines for the proposed access. LHA Officers have scrutinised the access arrangements and have concluded that the scheme provides good visibility, above and beyond the minimum LHA requirements. It is necessary to consider the 30mph speed limit along the site entrance and splay stretch of Melford Road, which would normally attract a minimum 43m line of sight requirement in both directions. In this instance, the plans show that 90m (more than double) is achievable. This is a compelling factor in the overall consideration of whether a vehicle can enter the highway with sufficient visibility. Certainly, from assessment of the plans, the LHA comments, and the nature and extent of the access / egress, Officers are of the opinion that the proposed access arrangements are acceptable.

8.7 Following deferral of the application on 11/09/2019, the applicant has submitted an additional plan referenced PA10A. The plan shows a devoted pedestrian footpath link linking the site directly to the established pedestrian network, via Canterbury Road. This is a welcome response to the concerns raised, including those expressed by 3rd parties. The LPA have reconsulted the LHA, who have again supported the application in light of the appropriate levels of pedestrian connectivity. The works set out would be secured through LPA planning condition and S278 agreement with Suffolk County Council.

8.9 The LHA have assessed the proposal, and support the scheme subject to the imposition of planning conditions which include; details of visibility splays, loading / unloading and manoeuvring / parking provision, internal estate road layout, gradient details, and finally surface water discharge management. There is nothing before Officers to suggest an LHA compliant scheme could not be delivered, reflective of Policy TP15.

9.0 Landscape Impact, Trees, Ecology, Biodiversity and Protected Species

9.1 Paragraph 170 of the NPPF seeks to conserve and enhance biodiversity and the natural environment, among other things.

9.2 The scheme presents a limited impact on arboricultural value. The removal of trees and overgrown vegetation as existing is not a matter which Officers raise concern with, inside site. It is noted that existing natural features to boundary edges are retained. TPO value is recognised nearby north, however this is outside of the defined red line outline.

9.3 Guidance on the conservation of protected species is given in ODPM Circular 06/2005. At Paragraph 99 the Circular advises that the presence or otherwise of protected species, and the extent to which they might be affected by the proposed development, must be established before planning permission is granted. However, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place before the permission is granted.

9.4 An Ecological Report was submitted with the application. Bearing in mind the advice in the Circular and notwithstanding that it might well be possible to mitigate the impact on any protected species should they be present, the survey enabled assessment including the possible effect(s) of the development on a protected species. Consequently, the scheme follows the aims of Paragraph 170 of the NPPF.

9.5 Place Services (Ecology) were consulted given the site's location within the wider 'zoned' area. This development falls within the 13 km 'zone of influence' for the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site, as set out in the emerging Suffolk Recreational Disturbance Avoidance and Mitigation Strategy ('RAMS'). It is anticipated that new housing development in this area is 'likely to have a significant effect', when considered either alone or in combination, upon the interest features of European Sites due to the risk of increased recreational pressure caused by that development. As the site is identified as falling within the zone of influence for the Stour and Orwell Estuaries SPA and Ramsar site, a S106 to secure a contribution towards the Suffolk RAMS is required.

9.6 The Service identified that the scheme could be supported subject to the implementation of recommendations within submitted ecological survey report and

Habitats Regulation Assessment. The site has been habitually assessed, with no unidentified species being listed. No other protected or priority species were identified on site, and Officers are of the sound opinion that a full and thorough ecological assessment has been undertaken. There is little before Officers to suggest that habitual harm or displacement would occur as a result of development.

9.7 Natural England (NE) were also consulted however no comments were expressed.

8.0 Land Contamination

8.1 No issues are identified within the submitted land contamination studies and the Environmental Health Officer (EHO) is satisfied that development could go ahead without the need for further investigation or remediation.

9.0 Flood and Water

9.1 The site is not located in a vulnerable flood zone area; therefore the risks of flooding are considered to be low. Given that the application is considered 'minor', on site attenuation and surface water management / disposal is not considered by the Lead Local Flood Authority (LLFA) during the determination process. These matters are brought to the attention of the applicant, who is required to comply with Part H (Drainage and Disposal) of the Building Regulations 2010.

9.2 The surface water run-off onto the highway has been assessed by the LHA, and Officers concur with these findings insofar as the sites sealed surfaces are adequately managed. Foul and surface water drainage function is a matter for Building Regulations approval. The scheme does not present concern in this regard, and there is little before Officers to suggest a flood and water compliant scheme could not be delivered.

10.0 Sustainability of the Proposal

10.1 Policy CS1 requires development proposals to be considered in line with the presumption of sustainable development. In order to be considered 'in step' with CS1, the scheme would need to accord with the overall thrust and momentum of sustainability and connectivity, with limited harms, which this proposal demonstrably does 'on balance'. Development that improves the economic, social and environmental conditions in the District will be approved where possible. The three objectives of sustainable development, in the context of the proposed development, are assessed in detail below:

10.2 Economic objective: The provision of up to 5 no. dwellinghouses will give rise to employment during the construction phase of the development. Furthermore, future occupiers of the development would be likely to use local services, facilities and amenities. The New Anglia 'Strategic Economic Plan' (April 2014) acknowledges that house building is a powerful stimulus for growth and supports around 1.5 jobs directly and 2.4 additional jobs in the wider economy for every home built.

10.3 Social objective: In respect to the provision of new housing, the development would provide a benefit in helping to meet the current housing shortfall in the district through the delivery of additional dwellings, although officers this is a modest contribution at best. The scheme will provide 1 no. 2 bedroom unit allocated for affordable housing, helping to ensure that a vibrant and sustainable community is provided.

- 10.4 The matter of the sustainability of the site in terms of access to local services and facilities has been discussed under Section 4.
- 10.5 Environmental objective: The site is located amongst an established area on the outskirts of Sudbury Town Centre, and is within suitable walking distance to a range of local services, facilities and amenities discussed above.
- 10.6 The visual appearance of the proposal set amongst the backdrop of the locality is endorsed by Officers, in providing betterment and uplift to this part of Melford Road, through appropriate design and layout. The design of the scheme enhances the environmental character, without undue landscape, biodiversity or ecology harm, making effective use of land, as underpinned by respective industry professionals.

11.0 Affordable Housing

- 11.1 If a planning application is for 10 dwellings or more, or a residential site over 0.5ha in size, Affordable Housing contribution is required. The application site exceeds 0.5ha, engaging Affordable Housing contribution.
- 11.2 The Strategic Housing Officer (SHO) has provided comment on the nature of the proposal, including the mix and tenure of the proposed residential units. Having considered the registered housing need in Sudbury, the SHO has recommended the following:

Rented – 1 home required:

- 1 x 2 bedroom 4 person house @ 79sqm

- 11.3 There is currently a high registered housing need for Sudbury of 275 applicants. Therefore if delivered on site the recommendations would be for an affordable rented dwelling either a two (2b 4p) or three bedroomed house (3b 6p).
- 11.4 The SHO has resolved to conclude that the scheme is acceptable, conforming to the requirements of Paragraph 63, and the essence of Policy CS19.

12.0 Planning Obligations

- 12.1 As noted above, the application engages affordable housing and ecology contributions. Officers consider it necessary to secure delivery (as per the recommendations of the SHO and Ecologist) through a S106. This is a robust legal arrangement, enforceable by the District.
- 12.2 The scheme would generate pooled CIL funds. The recommendation is made in full view of the comments expressed in relation to; education, pre-school provision, play space provision, transport issues, libraries, waste, supported housing, sustainable drainage systems, archaeology, fire service and superfast broadband.

PART FOUR – CONCLUSION

13.0 Planning Balance

- 13.1 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, then that determination must be made in accordance with the plan unless material considerations indicate otherwise.

- 13.2 The NPPF contains the Government's planning policies for England and sets out how these are expected to be applied. Planning law continues to require that applications for planning permission are determined in accordance with the Development Plan unless material considerations indicate otherwise. The policies contained within the NPPF are a material consideration and should be taken into account for decision-making purposes.
- 13.3 A recent Planning Appeal in Waverley Borough Council relates expressly to 'edge of settlement' development, even if the Council is able to demonstrate a five-year housing land supply (as per the case here).
- 13.4 Paragraph 33 of the Appeal Decision (reference: APP/R3650/W/18/3193390) states that *"The Government is seeking to significantly boost the supply of homes by ensuring a sufficient amount of land comes forward where it is needed. Paragraph 15 of the revised Framework states that the planning system should be genuinely plan-led. On the evidence before me, the WBLPP1 is up-to-date for the purposes of demonstrating that the Council has a five-year supply of deliverable housing sites, notwithstanding doubts that were expressed by the appellant. However, the spatial strategy acknowledges that it will not be possible to accommodate the necessary growth within existing development boundaries"*.
- 13.5 In essence, sites which present as 'edge of settlement', provide a 'close functional relationship' to the settlement boundary, or which are spatially unable to be accommodated within the defined settlement boundary limits, should be granted unless material considerations indicate otherwise, irrespective of whether the Council is able to demonstrate a five-year housing land supply, or not.
- 13.6 Further consideration must also be afforded to a Planning Appeal in Wingerworth (reference: APP/R1038/W/17/3192255) which states at paragraph 53; *"it is important to note that the presence of a five year supply of housing land is not a ceiling and the provision of general needs housing is a significant material consideration in light of national policy to significantly boost the supply of homes"*.
- 13.7 The Inspector goes on to say at paragraph 73 that; *"Although I have concluded that there is a five year housing land supply in the District, based on the standard methodology, this is not a ceiling and the provision of general needs housing is a significant material consideration in the light of national policy. In addition the provision of 40% affordable housing is a very significant material consideration weighing in favour of the appeal scheme"*.
- 13.8 The NPPF and Policy CS1 require development to be approved that accords with an up to date development plan, and without delay. The proposal accords with the 'most important' policies applicable to the proposal, is in a sustainable location on the edge of the settlement boundary, within walking distance of a good range of local services. The proposed development is spatially well related to the area, adjoining the settlement boundary.
- 13.9 Paragraph 59 of the NPPF states; *"To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and*

variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay”.

- 13.10 In recognition of CN06, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and finally Paragraphs 193 – 197 of the NPPF, the scheme does create a degree of harm from a heritage perspective. In ‘weighing up’ the public benefits of the scheme against the ‘medium level’ harm caused by development, the balance would fall in favour of approval owing to; effective use of land, ecology enhancement, landscape improvement, sustainable location and housing units (including affordable provision).
- 13.11 In determining this application Officers are mindful of the specific duty imposed on the local planning authority with respect to the need to have special regard to the desirability of preserving the listed building or its setting, as set out in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Full consideration has been given to the comments received from the Heritage Team. The level of harm to the above heritage assets is noted to be a medium level of less than substantial harm.
- 13.12 Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. In consideration of the contribution towards the Council’s housing targets, provision of affordable housing and economic and infrastructure benefits and biodiversity net gain, it is considered that these material considerations would none the less outweigh the medium level of less than substantial harm to the heritage assets, even where a considerable importance and great weight is applied to the desire to keep the affected asset from harm.
- 13.13 Officers have therefore applied the balance required by Paragraph 196 of the NPPF, having special regard to the desirability of preserving the setting of the listed building as required by section 66 of the listed buildings Act and given the harm considerable importance and weight. The outcome of this balancing exercise is that those public benefits identified outweigh the medium level of less than substantial harm, having given considerable importance and weight to the harm identified.
- 13.14 The design ethos is welcomed, and given the proposed conditions set out, the scheme could be sensitively finished in appropriate materials which would soften the immediate impact of development. Officers are of the sound opinion that a tonally acceptable appearance could be generated, with the overriding public benefits cited.
- 13.15 A recent High Court ruling handed down by Judge Belcher provides material context, at paragraph 34:

“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 (R.(oao James Hall and Company Limited) v City of Bradford Metropolitan District Council and Co-Operative Group Limited [2019] EWHC 2899 (Admin)”.

- 13.16 Clearly, in balancing the level of harm against the benefits, it is evident that the scheme is largely 'in step' with local and national planning policy, and that the benefits far outweigh the harms, when applying sound and logical planning judgement.
- 13.17 There is little before Officers to suggest the scheme conflicts to an unacceptable level in terms of; design and layout, heritage, residential amenity, landscape, ecology, highways, flood and water, land contamination or sustainability. These key outcomes are appropriately safeguarded, and conditioned / legally bound where justified.
- 13.18 In articulating the proposal amongst planning policy, the 'tests' of sustainability within the NPPF are principally engaged. Whilst the LPA is able to demonstrate that it has an adequate 5 year housing land supply, the Council still need to provide homes in sustainable locations. Sequentially, the proposal represents an appropriate proposal for residential development and would deliver sustainable development, furthering the overarching thrust of Policies CS1, CS2, and CS15 of the Core Strategy, and providing net gains to the three objectives of sustainability in accordance with the NPPF (which notwithstanding the Development Plan is a compelling material consideration). The application is therefore recommended for approval.

RECOMMENDATION

That authority be delegated to the Acting Chief Planning Officer to grant planning permission subject to the prior completion of a S106 Legal Agreement on terms to their satisfaction to secure the following heads of terms:

- Affordable Housing (1 no. 2 bedroom 4 person house @ 79sqm set on Plot 1)

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

- Standard time limit
- Approved plans
- Archaeology (post investigation)
- Archaeology (post investigation)
- Levels (FFL and FGL)
- Highways – access layout
- Highways – no visibility splay obstructions
- Highways – manoeuvring / parking
- Highways – estate roads and footpaths
- Highways – access gradient (first 5m)
- Highways – access gradient
- Highways – surface water discharge
- Materials
- Fenestration
- Arboricultural method statement
- Landscaping scheme
- Ecology mitigation
- Biodiversity enhancement
- Lighting design
- Pedestrian link (prior to occupation)