

Committee Report

Item 6A

Reference: DC/19/04923

Case Officer: Daniel Cameron

Ward: Box Vale.

Ward Member/s: Cllr Bryn Hurren.

RECOMMENDATION – REFUSE PLANNING PERMISSION

Description of Development

Planning Application - Change of use of land as a single pitch gypsy and traveller site for the siting of up to 1no. mobile home, 2no. touring caravans and erection of 1no. dayroom

Location

Land North of Second Pits, Highlands Road, Monks Eleigh, Suffolk

Expiry Date: 17/12/2019

Application Type: FUL - Full Planning Application

Development Type: Change of Use

Applicant: Mr D Penfold

Agent: Ruston Planning Limited

Parish: Monks Eleigh

Site Area: 0.75 hectares

Density of Development: 1.3 dwellings per hectare

Details of Previous Committee / Resolutions and any member site visit: None

Has a Committee Call In request been received from a Council Member (Appendix 1): No

Has the application been subject to Pre-Application Advice: No

PART ONE – REASON FOR REFERENCE TO COMMITTEE

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

The application has been subject to a petition, confirmed as being representative of a wider view from the local community which strongly opposes the proposed development.

PART TWO – POLICIES AND CONSULTATION SUMMARY

Summary of Policies

NPPF - National Planning Policy Framework (2019)
NPPG - National Planning Policy Guidance
PPTS – Planning Policy for Traveller Sites (2015)

Babergh Core Strategy (2014)

CS01 - Applying the presumption in Favour of Sustainable Development in Babergh
CS02 - Settlement Pattern Policy
CS12 - Design and Construction Standards
CS13 - Renewable / Low Carbon Energy
CS15 - Implementing Sustainable Development
CS18 - Mix and Types of Dwellings

Babergh Local Plan (2006)

CR04 - Special Landscape Areas
CR08 - Hedgerows
CR10 - Change of use from Agricultural Land
CR19 - Buildings in the Countryside - Residential
CN01 - Design Standards
CN06 - Listed Buildings - Alterations/Extensions/Change of Use
CN08 - Development in/near conservation areas
TP15 - Parking Standards - New Development

Supplementary Planning Documents

Suffolk Guidance for Parking (2019)

Neighbourhood Plan Status

This application site is not within a Neighbourhood Plan Area.

Consultations and Representations

During the course of the application Consultation and Representations from third parties have been received. These are summarised below.

A: Summary of Consultations

Town/Parish Council

Monks Eleigh Parish Council

Monks Eleigh Parish Council wishes to object to planning application DC/19/04923 Land North of Second Pits, Monks Eleigh for the following reasons:

Proposals in the Development Plan: The site is not within the Monks Eleigh or Kettlebaston settlement areas as defined in the emerging Babergh and Mid Suffolk Joint Local Plan, nor in the Babergh Local Plan 2006, nor the Core Strategy Plan in 2011 which is still current.

Core Strategy CS20 Rural Exception Sites: The application does not meet the following criteria:

- physical distance / degree of separation - a sequential approach to site selection will be used (that is, sites adjacent to the boundary need to be explored first, with sites at increasing distance being

sequentially less preferable in principle); *This site is far outside the village so does not meet this requirement.*

- the location of the site in relation to the facilities, services and other such sustainability assets (such as recreation provision, employment opportunities, etc.) of that village; *There is no school, health centre and one very small shop within Monks Eleigh.*
- accessibility to the village (primarily by non-car transport modes) and ability to improve it; *There is no public transport in the village so access to a car is essential.*
- visual impacts and ability to integrate the development into the landscape: *A mobile home and two touring caravans and a dayroom will not integrate into the landscape and will have a large negative visual impact.*

Babergh's Policies for Gypsies and Travellers: There is inconsistency in various statements from Babergh about the numbers of sites required. The cross-boundary Gypsy and Traveller Accommodation Assessment 2007 concluded that one pitch was required to meet existing need. We believe this has been provided near Sudbury.

A subsequent assessment states that sites for travellers needed were one site until 2020. It then says a further site will be required after 2031. Therefore, the need for such a site has already been satisfied within the planning time frame.

The applicant has identified that the 2 travelling caravans will be used to house his family and not for visiting travellers so it is purely for the applicant's family use. As a result, it is not clear if this application lies within the policy for gypsies and travellers or a permanent residence relying on gypsy and traveller planning guidelines. It clearly will not be used as a transit site.

Core Strategy & Policies – February 2014 60: *There is no close functional relationship to the rest of the village and its surroundings due to the distance to the middle of the village as evidenced by the policy:*

Development in Hinterland Villages will be approved where proposals are able to demonstrate a close functional relationship to the existing settlement on sites where the relevant issues listed above are addressed to the satisfaction of the local planning authority (or other decision maker) and where the proposed development:

- i. 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.

Siting caravans and a mobile home in this setting will not meet the above criteria and bears no relation to the existing patterns of development within Monks Eleigh. Any holiday home chalets or similar would be well screened from the roads and well camouflaged into the landscape which this is not.

This application does not meet the criteria for Core Strategy Policy CS20: Rural Exception Sites which states that:

- "The Council will take a flexible approach to the location of rural exception sites in the district, and will allow proposals adjacent, or well related, to the settlement development boundaries of Core and Hinterland Villages where:
 - the development complies with other relevant policies in the Core Strategy and Policies document, particularly Policy CS15;

- the proposed development by virtue of its size, scale and type will not exceed the identified local need (including need identified in other settlements within the same or adjacent / adjoining functional cluster(s));
- the type of dwellings to be provided are consistent with the needs identified by the housing needs survey and agreed in advance by the District Council.

We note that there is no previously agreed need to provide a traveller site in Monks Eleigh

Effect on listed building and conservation area: Siting caravans, a mobile home and a day room structure in close proximity to the grade II listed Wagger Farm will have a large impact, especially on its historical setting. The site falls within a Special Landscape Area designated by Babergh with landscape sensitivity and scenic quality. Neighbouring Kettlebaston is also a Conservation Area Village.

Design, appearance and materials: As above a mobile home and caravans will not be keeping with the immediate surroundings this setting or with the rest of the village which has many grade II listed buildings in its conservation area. There are no large trees or hedges to soften the impact.

Highway safety and traffic generation: The applicant proposes to live on the site permanently with his large family. There is no school, health centre or large shop within walking distance so there is no sustainability in terms of its location. There is no public transport in the village so everyone has to rely on private cars – this site will increase this on a single-track road with few passing spaces.

Brent Eleigh Parish Council:

Brent Eleigh Parish Council has considered this application and recommends refusal on the following grounds:

- Babergh's current policy in relation to the provision for gypsies and travellers (2006) and the emerging policy contained in the new draft Local Plan, requires that sites are located outside settlements, but in reasonable proximity to key services, can be adequately screened, are not in a designated landscape area and with good access to the main road and capable of being connected to utilities. The National Planning for Traveller Sites (PPTS) document published in 2015 makes the point that local planning authorities should strictly limit new Traveller site development in open countryside that is away from local settlements or outside areas allocated in the development plan. The new Babergh draft Local Plan goes further and states that access to services should be other than by car. The Planning Statement attached to the application argues that the proposed site (at 1 mile distant from the village of Monks Eleigh) cannot be said to be "away" from it. However, this contention is strongly arguable, and it can be considered that this proposal is both outside the PPTS guidelines and the Local Plan, within which at any stage no potential Traveller site has been identified within the parish of Monks Eleigh.
- Paragraph 190 of the National Planning Policy Framework (NPPF) requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal (including where the setting is affected) to avoid or minimise any conflict. The application site lies immediately south of the Grade II listed Wagger Farm and in considering this application the planning authority must have special regard to the preservation of the setting of this listed building which would be adversely affected by this proposal.

Kettlebaston Parish Council

The parish council and members of the public attended an extraordinary meeting on 3 November 2019. At the meeting a number of observations and comments were made about the planning application. These are reflected in the commentary which follows.

Background

The picturesque hamlet of Kettlebaston set within the rural landscape of Suffolk has at its centre the church of St. Mary's, a Grade 1 listed, 14th century, flint and stone building. The nave is much older, dating back to the 11th century, with wall paintings circa 1100.

The church Visitors' Book lists people travelling from all over the United Kingdom and also from abroad to visit Kettlebaston and its fine church.

The planning application relates to land located between the conservation areas of Kettlebaston and Monks Eleigh. The surrounding area is open countryside and it is within this context that the issues have been raised by the parish council and parish community.

Views expressed at the meeting

In addition to the Parish Council and the district and county councillor, 15 members of the public were in attendance. They were asked to indicate whether they were for, neutral or against the proposals and all 15 indicated that they were against.

The comments submitted by the Kettlebaston Parish Council are as follows:

The Parish Council is of the view that the application should be refused as it would be contrary to the National and Local Planning policies in many respects. These being as follows:

1. Paragraph 25 of the Planning policy for traveller sites ("PPTS") requires Local planning authorities to limit very strictly new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.

The proposed site is very clearly in open countryside. It is also a long way from existing settlements and would require private motor transport to reach local settlements and services.

It should also be noted that the land is outside the areas allocated in both the existing Babergh development plan and the draft joint local plan such. Any development that is in conflict with these would create a precedent that is not sustainable.

2. PPTS, paragraph 25 further requires Local planning authorities to ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and must avoid placing an undue pressure on the local infrastructure.

The proposed site is next to a cluster of only two existing rural properties. The existing two properties are themselves isolated from the nearest settlements meaning that the proposed site would dominate the immediate settled community.

On the issue of infrastructure, the land in question is located on a very narrow, single track road. The road is the principal route affording access to Kettlebaston and its surrounding area. The road already struggles to accommodate existing flows due to being single track width with many blind bends and undulations. It is not suitable for additional traffic, particularly large vehicles such as touring caravans.

3. PPTS Paragraph 25 further requires Local planning authorities to avoid placing an undue pressure on local services. In this case, the local services are very limited and private motor transport would be required to access shops, healthcare and schools.
4. Paragraph 13 of the PPTS requires the Local planning authority to ensure that traveller sites are sustainable economically, socially and environmentally. The Parish Council considers that the proposal is not sustainable as it is in direct conflict with the following sub paragraphs:

- b) promote, in collaboration with commissioners of health services, access to appropriate health services
- c) ensure that children can attend school on a regular basis
- e) provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development
- f) avoid placing undue pressure on local infrastructure and services

The proposal is in clear breach of the policies set out under b, c, e and f above, due to the location of the proposed site. The site is in open countryside. Health, education and other services are only accessible with the use of private motor vehicles (there being no public transport or footpaths and the distances to such services being several miles away) The nearest primary school is several miles away and middle/secondary schools are many miles distant.

As set out above, the road is narrow and already overused.

5. Paragraph 14 of the PPTS requires local planning authorities to ensure that the scale of such sites does not dominate the nearest settled community. The proposed site is next to a cluster of only two existing rural properties. The existing properties are themselves isolated from the nearest settlements meaning that the proposed site would dominate the immediate settled community both in scale and population.
6. Turning now to the National Planning Policy Framework as updated in February 2019 (“NPPF”), paragraph 79 (on Rural Housing) mandates the avoidance of isolated homes unless one of the following specific exceptions applies.
 - a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
 - b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
 - c) the development would re-use redundant or disused buildings and enhance its immediate setting;
 - d) the development would involve the subdivision of an existing residential dwelling; or
 - e) the design is of exceptional quality, in that it: - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

With this proposal, none of the above exceptions is either claimed or in point so the policy should mean the application is refused.

7. NPPF, Section 15 (Conserving and enhancing the natural environment) places a requirement at Paragraph 170 that policies and decisions must meet the following conditions:

- a. protect and enhance valued landscapes

This condition is not met. Rather, the proposed development would detract from the existing open countryside and rural landscape.

- b. recognise the intrinsic character and beauty of the countryside

The proposed development would also breach this requirement as it would result in developing what is currently open countryside.

8. NPPF Section 16. (Conserving and enhancing the historic environment) then requires at paragraphs 193 and 194 that consideration is given to the loss of importance of sites of designated heritage assets.

The proposal would cause harm to the Grade II listed property Wagger Farm through development within its setting. The policy (paragraph 194 specifically) states that any such harm would require substantial justification and should only be allowed in exceptional circumstances. It was noted that the application did not contain any justification and we cannot see any reasonable justification.

We also draw the Local planning authority's attention to Babergh Council's Heritage Team's response to the earlier change of use application for the same site (ref B/15/00056/FUL). In its commentary, the Heritage team acknowledged that the erection of a stable at the time would cause some harm to the setting of the listed building. The team went on to propose detailed conditions for the materials to be used for the stables, the landscaping and the position of the stable in order to mitigate the harm.

It is clear here that the harm which would be caused by the additional building and caravans would be significantly greater than with the change of use and that the mitigating measures around materials and location on the plot that were mandated for the stable cannot be applied to this proposal. A clear consequence of this proposal would be very significant harm to the setting in a way that is not compatible with the policies on the historic environment.

9. Turning to the adopted Babergh Local Plan (the "Local Plan"), HS02 (paragraph 3.38) sets out the importance of Built Up Area Boundaries and confirms that these are to protect the open countryside.

The proposed development is a long way outside the defined boundaries of the nearest villages. Any development outside these boundaries would set a dangerous precedent and lead to the loss of important open countryside.

10. The Local Plan then goes on to state at 3.42 that "In the Countryside, new houses will not normally be permitted, except to house an agricultural worker living on an agricultural holding".

The agricultural workers exception is not claimed in the application and is clearly not in point here so the application should be refused as being in breach of this part of the policy.

11. Local Plan policy HS04 sets out that "In the interests of agriculture, rural amenity, road safety and the economy of services, new housing will be integrated into the defined areas of Towns and Villages. In the Countryside outside Towns and Villages it is intended that existing land uses will remain for the most part undisturbed."

The proposed development would clearly be in breach of this policy as it is both outside the existing development boundaries and would be a change in land use that is not in keeping with the surrounding area.

12. Also, in the Local Plan, policy HS42 sets out a number of conditions that need to be met for permanent sites for Gypsies and other Travellers to be acceptable. In particular, the conditions include the following:

- a. there must be evidence of a local need for a site.

On this condition, the adopted plan has identified no need in Babergh. We have also considered the draft local plan that is under consultation. This identifies no current need and indeed no need for the next years. The plan goes on to conclude that there is only likely to be a need for one pitch at some point in the period from 2029 to 2034.

b. If they are located outside settlements, they must be in a reasonable proximity to key services, particularly schools and shops.

This condition is not met. As set out above, the location of the site is unsustainable as it would require private motor transport to access any of these key services.

c. Any proposed development must have no adverse impact on landscape character or historic features.

As set out above, these conditions are not met as it would compromise a rural landscape and also involve development in the proximity of a listed building with consequent significant harm to the setting of that listed building.

d. The site must offer safe access and adequate off-site parking for cars, lorries and caravans.

This condition is not met as the site is on a bend in a dip on a very narrow single-track lane which is not suitable for lorries or caravans. It should also be noted that the application only contemplates parking for one private motor car and one commercial vehicle.

e. In granting planning permission, the number of caravan pitches to be accommodated must agree with the supporting evidence of local need, which has been agreed with the relevant authorities before the application is submitted.

As set out above, there is no evidence of need in the existing local plan and the draft local plan doesn't envisage any need until at least 2029.

13. The Local Plan also contains policy CR01 which states that "The landscape quality and character of the countryside will be protected by restricting development to that which is essential for the efficient operation of agriculture, forestry and horticulture and for appropriate outdoor recreation."

This is a further policy that would be breached by the proposed development. The proposal would be damaging to the landscape character and quality and clearly does not fall within any of the exceptions listed in CR01, above.

14. CR01, continues to state that any rural development must "not introduce a proliferation of buildings and structures; and must be well related to the highway network, including where possible, pedestrian links, cycle routes and public transport, and be acceptable in terms of road safety."

In this case, the proposal would introduce 4 new structures/buildings. As discussed above, is not well located for the highway network. It is also noted that the site has no access to cycle routes, pathways or to public transport.

15. Local Plan policy CR11 is also relevant here. This is a policy to protect greenfield land, including agricultural land. It sets out that development on greenfield land will only be permitted where opportunities have been assessed for accommodating development on previously developed sites or within existing urban boundaries. In this case, there is no evidence of other possibilities having been explored or exhausted. This being the case, the application should be refused.

We also note that there are a number of points in the planning statement which accompanied the application that we consider either inaccurate or requiring of clarification. These include the following:

At paragraphs 24 and 34 of the statement, there is an assertion that the draft Local Plan has identified an immediate unmet need for an additional site in Babergh. We consider this potentially misleading as the report cited in the statement actually shows zero additional requirement in the five-year period that it covers. In fact, even the draft Local Plan only shows that there is a potential requirement for a site in the period from 2029-2034.

At paragraph 34 the statement further asserts that the proposed site has reasonable access to key services. However, in the same paragraph it continues to describe how many miles and minutes' drive away those services are. This is a tacit admission that the site is not in line with the sustainability requirements and policies as it requires private motor vehicle use to access any and all services.

Paragraph 34 also asserts that the proposal has "no adverse impact on residential amenities, the flood plain, drainage infrastructure, landscape character, historic features or biodiversity". For the reasons set out in the sections above, this assertion is manifestly in our view incorrect as it would cause substantial harm to the landscape character and historic features in particular.

Paragraph 40 of the statement then asserts that the site should not be considered to be "away from existing settlements" (as that would be against planning policy). The PC respectfully disagrees with this conclusion. Given the planning statement itself concedes that Monks Eleigh is only realistically reached by motor vehicle, the site must be considered to be "away from" the nearest settlement.

The statement then goes on to the subject of 'material considerations' in relation to the proposal. At paragraph 43 the matter of identified local, regional and national need is discussed. It is asserted again here that there is an urgent, unmet local need. However, as set out above, the adopted and draft Local Plans make clear that any local need in Babergh is neither unmet nor urgent. There is an existing site which has been assessed to meet existing demand fully. The plan further sets out that no provision over and above that existing site is likely to be required in Babergh for at least the next ten years.

Finally, on the planning statement, at paragraph 61 the following condition is suggested by the applicant's agent:

- The site shall not be permanently occupied by persons other than gypsies and travellers as defined in Annexe 1 of Planning policy for traveller sites, August 2015.

In our view, this is a clear acknowledgment by the applicant that unrestricted permission for a caravan site or other residential use should not and would not be granted in this location as it is very clearly in conflict with national and local planning policies, for the reasons discussed above.

The effect of an approval, even with the proposed condition, would be to create a permanent occupation which effectively bypasses the relevant planning laws to create a residence for single family occupation (which would be very unlikely to obtain approval).

Other matters

The Parish Council would also like to draw the Planning Authority's attention to the restrictive covenants in place in relation to the land in question (a copy of the Land Registry Transfer, contained within Title Number SK292245, is enclosed herewith for ease of reference). Whilst it is acknowledged that the covenants themselves are not material considerations, they were clearly agreed for a reason at the time of the transfer of the land. The fact that detailed requirements inter alia to maintain agricultural, grazing and/or amenity use and not to use the site for residential or commercial purposes have been agreed lends further support

to the view that the rural landscape, environmental and conservation impacts are of significant relevance and importance here.

Following advice received from a practising property lawyer we would like to draw your particular attention to the provisions of clause 12.4 of the deed, that the restrictions are perpetual in nature, i.e. they “run with the land”. Clause 12.4.2 clearly stipulates no dwelling must be placed on the land. Clause 12.4.3 goes on to say precisely (and only) what the land can be used for. Any other use is strictly prohibited. This would clearly override any planning permission granted and thus if planning permission were granted, this would be in direct conflict with what has been registered at The Land Registry. A conflict could then arise between the Land Registry and the Local Authority, whilst the provisions of this deed subsist.

We suspect the applicant is either not aware of the provisions of this deed, or is seeking to act in a way to automatically breach them by pursuing his proposed changed of use, which we consider to be fundamentally material to the proposed change of use (and thus an ancillary and reasonable consideration for you to factor into your decision).

We also note here that the PPTS sets out the Government objective that planning decisions should “reduce tensions between settled and traveller communities”. It would be at odds with this objective to grant permission for an application that is so clearly in contravention of the numerous material planning considerations outlined above and that, in its granting, would almost certainly lead to the possibility of separate litigation from the dominant land owner, against the servient land owner, to enforce the covenants contained within the deed, should an attempt be made by the applicant to breach those covenants, which are still binding on the land.

National Consultee (Appendix 4)

County Council Responses (Appendix 5)

Archaeology Service

Thank you for consulting us on this proposal. In my opinion there would be no significant impact on known archaeological sites or areas with archaeological potential. I have no objection to the development and do not believe any archaeological mitigation is required.

Fire and Rescue Service

Access and Fire Fighting Facilities

Access to buildings for fire appliances and firefighters must meet with the requirements specified in Building Regulations Approved Document B, (Fire Safety), 2006 Edition, incorporating 2010 and 2013 amendments Volume 1 - Part B5, Section 11 dwelling houses, and, similarly, Volume 2, Part B5, Sections 16 and 17 in the case of buildings other than dwelling houses. These requirements may be satisfied with other equivalent standards relating to access for firefighting, in which case those standards should be quoted in correspondence.

Suffolk Fire and Rescue Service also requires a minimum carrying capacity for hard standing for pumping/high reach appliances of 15/26 tonnes, not 12.5 tonnes as detailed in the Building Regulations 2000 Approved Document B, 2006 Edition, incorporating 2010 and 2013 amendments.

Water Supplies

Suffolk Fire and Rescue Service records show that the nearest fire hydrant in this location is over 500m from the proposed build site and we therefore recommend that consideration is given to the provision of extra water for firefighting.

Should you need any further advice or information on access and firefighting facilities, you are advised to contact your local Building Control in the first instance. For further advice and information regarding water supplies, please contact the Water Officer at the above headquarters.

Highways Authority

Notice is hereby given that the County Council as Highway Authority recommends that any permission which that Planning Authority may give should include the conditions shown below:

- Construction of a passing place in accordance with standard highways drawing DM06;
- The access to site to accord with standard highways drawing DM04;
- Visibility splays with x dimension of 2.4m and y dimension of 120m to be provided at the access and retained at all times; and
- Any gates to the site to be set back 10m from the public highway.

Internal Consultee Responses (Appendix 6)

Environmental Health – Land Contamination

Many thanks for your request for comments in relation to the above application. Having reviewed the application I can confirm that I have no objection to the proposed development from the perspective of land contamination. I would only request that the LPA are contacted in the event of unexpected ground conditions being encountered during construction and that the below minimum precautions are undertaken until such time as the LPA responds to the notification. I would also advise that the developer is made aware that the responsibility for the safe development of the site lies with them.

Environmental Health – Noise, Odour, Light and Smoke Pollution

Thank you for your consultation on the above application. The Environmental Protection team have no objections in principle to the development, subject to the following conditions:

1. No burning of waste shall take place on site at any time, in order to protect local amenity (as per condition 11 of the existing planning permission B/15/00056).
2. No external illumination shall be installed until such time as a written scheme is submitted to and agreed in writing by the local planning authority that specifies the provisions to be made for the level of illumination of the site and to control light pollution. The scheme shall be implemented prior to beneficial use of the approved development and maintained for the lifetime of the approved development and shall not be altered without the prior written approval of the local planning authority. The scheme shall provide that each pole/wall counted light must be aligned to ensure that the upper limit of the main beam does not exceed 70 degrees from its downward vertical. All pole/wall mounted lighting shall be designed and operated to have full horizontal cut-off such that the Upward Waste Light Ratio does not exceed 2.5%. The submitted scheme shall include an isolux diagram showing the predicted luminance in the vertical plane (in lux) at critical locations on the boundary of the site and at adjacent sensitive properties (including those within the scheme where appropriate).

The applicant's attention is drawn to the Institute of Lighting Professionals Guidance Note for the reduction of obtrusive light 2011 (or later versions). It should be designed so that it is the minimum needed for security and operational processes and be installed to minimise potential pollution caused by glare and spillage).

I note that the intention is to dispose of foul sewage by means of septic tank. It is unclear as to whether this would be a new system or connecting to an existing system. I would advise that the applicant's attention be drawn to the general binding rules, which will change in January 2020 - <https://www.gov.uk/guidance/general-binding-rules-small-sewage-discharge-to-the-ground> and <https://www.gov.uk/guidance/general-binding-rules-small-sewage-discharge-to-a-surface-water>

Heritage

This application involves the proposed change of use of paddock land to a single pitch gypsy and traveller site, along with the siting of a mobile home and two touring caravans, and the erection of a 'day room'. There is a Grade II listed building to the north of the site, listed as Wagger Farm, a C16th and C17th timber frame farmhouse. The issues of Heritage Team concern therefore relate to the impacts of the proposed development on the significance of the listed building.

There is no Heritage Impact Assessment supplied with this application, which means that para.189 of the NPPF has not been addressed. Nevertheless, there are clear Heritage Team concerns over the proposed development.

The site is to the south of the farmhouse and is within its setting. The setting of the farmhouse is broad and consists of arable land, paddock and woodland which separately or together surround it on all sides (along with a hardstanding to the south west which is as a result of a previous application, reference no. B/15/00056, which included the erection of a stable block).

The soft landscape contributes notably to the rural aesthetic of the place. In turn this contribution amplifies the significance of the farmhouse. This setting is historic as is evidenced by the First Edition OS maps, which illustrate the rural nature of the site. Except for the hardstanding previously noted, and a house to the south of Highlands Road, the landscape in the vicinity of the listed building has changed very little in the last century or so. A change to this setting would undoubtedly therefore have an impact upon that significance.

The proposed development would involve the introduction of alien features into the countryside, in very close proximity to the farmhouse. The hard, shiny forms of the mobile home and caravans will detract from the tranquillity and rural character of the place, which are aspects of the setting of Wagger Farmhouse. This harm is considered low, on the spectrum of less than substantial harm - and as such it must be weighed in the balance against the public benefits of the proposed development.

The development would not accord with the requirements of Local Plan Policy CN01, which states that 'All new development proposals will be required to be of appropriate scale, form, detailed design and construction materials for the location. Proposals must pay particular attention to... the scale, form and nature of adjacent development and the environment surrounding the site [and] the materials forming the external elevations and roofs of the buildings.'

Nor does the proposed development accord with Local Plan Policy CN06, which states that 'new work within... the setting of a listed building should... be of an appropriate scale, form, siting and detailed design to harmonise with the existing building and its setting... [and] retain a curtilage area and/or setting which is appropriate to the listed building and the relationship with its surroundings.' It is for these reasons I do not support the proposed development.

Strategic Housing

- This response is given with regards to the NPPF and DCLG Planning Policy for Traveller Sites, and current Babergh Local Plan Policy.
- There is a requirement for the Council to provide a demonstrable 5-year land supply for Traveller pitches in the same way as for residential housing developments.
- The SHMA (2017) Part 2 section 6 identified within the accommodation needs assessment an additional pitch need of 1 pitch for the period 2016 to 2036.

- Generally, government guidance recognises the long-standing under-provision of sites for Gypsies and Travellers and the need for identification of suitable pitches in appropriate locations.
- We note the above application is on land outside the settlement boundary, but our understanding is that this does not prohibit development, but such development would be likely to have conditions attached should any planning permission be granted. That is a planning consideration and the response from the Housing Enabling Team is regarding accommodation need only.
- There are no Local Authority public sites within the Babergh district and pitch availability on any alternative existing sites would be at the discretion of the owner of the site.
- All the sites in Babergh are in private ownership and the availability of pitches is not within the Councils control.
- All the existing traveller pitch provision in Babergh is provided through mainly smaller private sites. It is also widely acknowledged that smaller sites are generally considered to be easier to manage and maintain. We are also aware that small family sites tend to work best when integrated into local settled communities - this site is another such example.
- If granted this site would count towards the pitch provision requirements identified in the ANA.
- For the above reasons this application is supported by Strategic Housing.

B: Representations

At the time of writing this report at least 88 letters/emails/online comments have been received. It is the officer opinion that this represents 84 objections, 2 support and 2 general comments. A verbal update shall be provided as necessary.

Views are summarised below:-

Objectors note the following material planning considerations:

- The site is known to flood when the river is high;
- Development is out of character with the surrounding area;
- Access to the site is not suitable for large vehicles;
- Development will affect the setting of a nearby listed building;
- Site is removed from facilities and services;
- Impacts on the Special Landscape Area;
- Impacts on ecology and biodiversity;
- Highlands Road is a narrow country lane without passing places;
- Development is contrary to the provisions of the adopted Development Plan;
- Development is contrary to the provisions of the National Planning Policy for Travellers Sites;
- Site lacks social, economic and environmental benefits to the outweigh the harms of the application;
- Development would be highly dependent on the use of the private motor vehicle to reach facilities and services;
- The application offers parking on site out of keeping with the likely parking needs of the applicants;
- Lack of evidence within the application to demonstrate the need for the development;
- The personal circumstances of the applicant are key to the proper consideration of this application and should be open to public scrutiny;

- Application site is located in the countryside, outside of any established settlement boundaries; and
- Proposed landscaping would take too long to effectively screen the site and would still leave it prominent in long views across the landscape.

Support comments note that communities should be open to minority groups and that the site seems suitable for its intended purpose.

General comments note a lack of evidence within the emergent Joint Local Plan to underpin the Council's proposed policies outlining their approach for dealing with applications for Gypsy and Traveller sites. Comments are also received from Strutt and Parker (Farms) Ltd, noting restrictive covenants in their favour on the land. They note the construction of a hardcore driveway and access to the site has already breached these covenants and they confirm they are considering further action to enforce the covenants.

It should be noted by members of Planning Committee that the covenants referred to by Strutt and Parker (Farms) Ltd constitute a civil matter between themselves and the owners of the land in question. The granting of planning permission on the site in opposition to the intended purpose of the covenant would not serve to overrule the nature of the covenant which could still be enforced by the party it is made in favour of.

(Note: All individual representations are counted and considered. Repeated and/or additional communication from a single individual will be counted as one representation.)

PLANNING HISTORY

REF: B/15/00056 Change of use of agricultural land to equine; **DECISION:** GRA
 Erection of stables, as amplified by 02.04.2015
 landscape details submitted by Ruston
 Planning, dated 02/04/2015.

PART THREE – ASSESSMENT OF APPLICATION

1.0 The Site and Surroundings

- 1.1 The application site is a roughly rectangular parcel of land measuring 0.75 ha in size. It is relatively flat and open and laid to grass. An existing element of hardstanding is located at the north-western end of the site, for the siting of stables approved under application (B/15/00056) and an access has been installed approximately halfway along its south-western boundary.
- 1.2 It is located one mile to the north of Monks Eleigh, along Highlands Road, which runs along the south-western boundary of the site and the River Brett runs along its north-eastern. The site is surrounded on all sides by agricultural fields used for both arable farming and equestrian purposes with large field patterns and dividing hedgerows apparent.

2.0 The Proposal

- 2.1 The application proposes the change of use of the land to provide one traveller pitch comprising one mobile home, two touring caravans and one dayroom. They are arranged at the westernmost point in the site, opposite the stables. A stone track is proposed within the site to connect to the

existing access. The remainder of the site would be utilised for equestrian purposes and is shown as paddock land.

- 2.2 The mobile home, touring caravan and dayroom are all single storey in height, with the dayroom being the only built form. It is arranged in a simple square form, 6m by 5m with a 4m high roof, providing a living/dining/kitchen area, utility room and bathroom and is composed of brick walls with clay tile roof. No elevational details of the mobile home or touring caravans are presented as part of this application, but it is reasonable to assume that these would be restricted to one storey in height.
- 2.3 The application form is clear that one parking space suitable for cars are to be provided on site as well as one parking space for a light goods vehicle. The form states these are already present on site.
- 2.4 The application is clear that while accommodation would be provided by means of one mobile home and two touring caravans, these would collectively form one dwelling for use by one family resulting in a site density of 1.3 units per hectare.
- 2.5 The nearest neighbouring properties are identified as Second Pits and Wagger Farm. Wagger Farm is listed at Grade II and located on the northern side of the River Brett, 96m from the proposed development. Second Pits located on the southern side of Highlands Road is located 80m from the proposed development.

3.0 The Principle of Development

- 3.1 The starting point for any planning decision is the development plan, as identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004. Determination of any application must be made in accordance with the plan unless material considerations indicate otherwise. A key material consideration regarding the principle of development is the National Planning Policy Framework (NPPF) 2019. The Government's 2015 policy, the Planning Policy for Travellers Sites (PPTS), is to be read in conjunction with the NPPF and provides the principal national planning framework to guide land use decisions in respect to gypsy and traveller accommodation. The PPTS seeks, amongst other things, to promote more private traveller sites and increase the number of sites in appropriate locations whilst paying due regard to the protection of local amenity and the local environment.
- 3.2 Babergh benefits from a five-year housing supply. There is no 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 Council to determine whether relevant development policies generally conform with the NPPF. Where they do not, they will carry less statutory weight.
- 3.3 The NPPF requires the approval of proposals that accord with an up to date development plan without delay, or where there are no policies, or the policies which are most important are out of date, granting permission unless the NPPF policies provide a clear reason for refusal, or adverse impacts of doing so would demonstrably outweigh the benefits. 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, and weight can be attributed to policies based on their compliance with the requirements of the NPPF.

Assessment of Core Strategy Policies

- 3.4 Babergh Core Strategy policy CS1 sets out the Council's position with regards to sustainable development. This is reflective of the general approach outlined within the NPPF which seeks to grant planning permission for sustainable development in line with the policies of the Council unless there are no policies relevant to the application or the policies most important for determining the application are out of date. In which case CS1 is clear that planning permission should be granted unless the adverse impacts of granting said permission would significantly and demonstrably outweigh its benefits.
- 3.5 Core Strategy policy CS18 commits to providing pitches and plots to meet the identified needs of Gypsies and Travellers in the district. It identifies the preferred approach to meeting these needs through strategic housing sites, mixed use development or through small sites. It is clear that proposals for new Gypsy and Traveller pitches will be assessed against the provisions of CS2 and CS15 as well as other relevant policies.
- 3.6 CS2 sets out the settlement pattern policy within Babergh directing development sequentially to form a strategy to provide for a sustainable level of growth. The policy identifies categories of settlement within the district, with Towns and Urban Areas representing the most preferable location for development, followed by Core Villages and then Hinterland Villages. The countryside is defined as the areas outside of those categories of settlement referred to above. The application site falls outside of the categories set out as part of the settlement hierarchy policy and as such forms part of the countryside where development is to be resisted.
- 3.7 The NPPF seeks to avoid the use of blanket policies which generally prevent development based on its geographic location, preferring to take a more balanced approach. The NPPF does contain a not dissimilar test, however, set out at paragraph 79, it is only engaged where development is isolated. The definition of isolation in the context of this policy has been shown within court judgements to relate to physical isolation only. The application site is not considered to be physically isolated given the proximity of other residential buildings to it. It is therefore considered that paragraph 79 does not engage in this instance.
- 3.8 CS15 sets out the Council's approach to implementing sustainable development within the district, setting out 21 criteria against which applications should be judged in order to determine whether they represent sustainable development. It is not necessary to consider whether an application would comply with all 21 criteria as not all will necessarily be applicable or relevant to a given application. These broadly reflect the social, economic and environmental aspects of sustainable development identified by the NPPF but delve more deeply into the specific local criteria against which sustainable development can be measured.
- 3.9 In light of the above, CS18 identifies that the most important policies held within the 2014 Core Strategy for the determination of this application are CS2 and CS15. In assessing these policies in terms of their compliance with the NPPF, it cannot be held that CS2 can be afforded full material weight in the decision-making process in accordance with paragraph 213 of the NPPF. Therefore, the fact that the application site falls outside of any established settlement boundary and within the countryside for the purposes of planning policy, cannot be held to be determinative in this instance.
- 3.10 That being said, CS15 is more compliant with the NPPF generally following the sustainability principles set out in that document to assess sites based on their social, economic and environmental sustainability and is therefore afforded full material weight. Analysis of the application site against these criteria follows later within this report.

Assessment against PPTS

- 3.11 Before considering the site against the policies contained within the PPTS there is a need to identify whether the applicant meets the definition of gypsies and travellers given within the PPTS. Annex 1 of the document sets out the relevant criteria for making this assessment giving the following definition:

“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.”

In determining whether persons meet this definition, the following issues should be considered:

- a) Whether they previously led a nomadic habit of life;
- b) The reasons for ceasing their nomadic habit of life; and
- c) Whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.

- 3.12 It is understood that the applicants currently reside on an existing site where a precondition of occupation is meeting the definition referred to above. There is no reason before the Council to indicate that a different conclusion should be reached in this regard.

- 3.13 Policy C of the PPTS specifically deals with sites in rural areas and countryside. It requires that when assessing proposed sites in these locations, development should not dominate the nearest settled community. This is given further detail in paragraph 25 of Policy H – Determining planning applications for traveller sites, which states that very strict control is required to limit new traveller sites in the open countryside away from existing settlements or outside areas allocated in the development plan. Proposals should also respect the scale of nearby development and should avoid placing an undue pressure on the local infrastructure.

- 3.14 With regards to the scale of development, it is considered that one pitch would not be of such a scale so as to dominate the nearest settled community and therefore no conflict with Policy C, or the relevant section of paragraph 25 is identified. Monks Eleigh is identified as the nearest settlement to the application site and would give access to a very limited range of facilities and services. However, it is not thought that the scale of the proposed development would lead to undue pressure on the few facilities and services that exist in Monks Eleigh.

- 3.15 In addition to the above, a number of other considerations should also be made, including:
- a) the existing level of local provision and need for sites;
 - b) the availability (or lack) of alternative accommodation for the applicants;
 - c) other personal circumstances of the applicant;
 - d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites; and
 - e) that they should determine applications for sites from any travellers and not just those with local connections.

- 3.16 The most recent needs assessment in this area is the Gypsy, Traveller, Travelling Showpeople and Boat Dwellers Accommodation Need Assessment was completed in 2017 to underpin the work on the emergent Joint Local Plan. It shows a need of one pitch within the district within the plan period (up to 2036).

- 3.17 There is nothing within the submitted documents to suggest that there is no availability at alternative accommodation for the applicants. That being said, the supporting documents are clear there is no availability for the applicants on their present site, which is outside of the district, and comments made by the Council's Strategic Housing Team note that there availability at sites within the district would be at the discretion of the owners of the various sites. It should be noted that consideration of point e) above, gives no weight to a lack of local connection to the area on behalf of the applicants.
- 3.18 Supporting documentation notes a number of personal circumstances surrounding the applicants. These will be explored in more detail alongside the specific legal duties of the Council later within this document.

Assessment against CS15

- 3.19 As previously mentioned CS15 sets out how the Council will implement sustainable development. A number of the criteria set out under that policy will be assessed within this report. Those that will not be considered below.
- 3.20 Policy CS15 seeks to minimise the need to travel by car and to promote travel by alternative means. The site is not well connected in highway connectivity terms. It is located 1 mile from the edge of the nearest settlement and is accessed by a narrow, unlit country lane with limited passing places. Monks Eleigh does not benefit from the range of services and facilities required to sustain residential development and connection to settlements further afield would likely be required in order meet the day to day needs of any future residents.
- 3.21 With regards to the economic benefits of the site such as providing support for local services paragraph 78 of the NPPF recognises the importance of development in rural areas providing support for services in the surrounding area. However, villages in the surrounding area are similarly poorly served and moreover the contribution of one dwelling towards their economic prosperity is likely to be low.

Other Matters

- 3.22 The supporting documents make reference to a number of other duties falling upon the Council and which are of relevance to this application. These include consideration of the Human Rights Act 1998 and to the degree to which not granting planning permission would constitute an interference with their home and family life. Section 149 of the Equality Act 2010 concerns the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. The status of the applicants in meeting the definition of gypsy and traveller status confirms this applies.
- 3.23 Section 11(2) of the Children's Act 2004 requires that regard is given to the need to safeguard and promote the welfare of children in the discharge of the functions of a local authority.
- 3.24 With regards to the Public Sector Equality Duty set out within the Equality Act 2010 and with regards to the Human Rights Act 1998, refusal of planning permission would constitute interference with the rights of the applicant. However, this is considered to be slight given that the applicants already have access to an existing pitch on a lawful site.
- 3.25 With regards to the Council's duty under Section 11(2) of the Children's Act 2004, it is not held that there is an immediate safeguarding or welfare need to consider in the determination of this

application. Supporting documents make clear that the applicants currently live in cramped conditions, it is not held that the level of accommodation provided within this application would lead to an immediate improvement in this situation, especially given the lack of information that accompanies this application with regards to the internal dimensions of the proposed mobile home or touring caravans.

Conclusion

- 3.26 From reading the policies of the PPTS it is clear that the application is in conformity with a number of them. The weight applied to the lack of required sites is noted and material weight applied accordingly. However, the provisions of the document still point towards the need to determine whether the site represents a sustainable location for development.
- 3.27 In directly assessing the site against the criteria of sustainable development outlined within the NPPF, regard should be given to the three dimensions of sustainability outlined. Core Strategy policies CS1, CS15 and CS18 are found to be in conformity with the provisions of the NPPF and are therefore afforded full weight, while CS2 is not, and therefore afforded no material weight.
- 3.28 *Social Dimension* – The site would provide a single traveller pitch and would allow the family to vacate their existing pitch, freeing this up for use by another family unable to currently meet their needs. Provision of private pitches is identified as an aim of the PPTS, and this application would provide such a pitch. It is considered that this aspect of the development is given positive weight.
- 3.29 *Economic Dimension* – Economic benefits stemming from occupation of the site would be slight. Monks Eleigh, Brent Eleigh and Kettlebaston are not considered to offer the range of services and facilities to support the day-to-day needs of the applicants and it is considered that any economic impacts from the occupation of the site would be diverted to settlements further away. Little development would occur on the site itself and therefore no material weight is applied to this consideration.
- 3.30 *Environmental Dimension* – The site does not enjoy a strong functional relationship to the surrounding area. Access to the nearest settlement is made down a narrow, unlit road and given the distance involved and likely conflict with traffic would make it an unappealing prospect for pedestrians, especially those travelling with young children or who are otherwise infirm or disabled and as a result is likely to be highly reliant upon the private motor vehicle. It is considered that the identified harm to the setting of the nearby listed building as well as to the Special Landscape Area (SLA) would combine to apply negative weight to this aspect of the application.
- 3.31 Attention should also be drawn to the provisions of the emergent Joint Local Plan. This has progressed to Regulation 18 stage meaning that while weight can be applied to the document, it is of limited material weight. That being said, the policy direction contained within it mirrors the need for gypsy and traveller sites to be located in sustainable locations as required by the Core Strategy and the PPTS. This indicates that future applications for similar development on this site would continue to be assessed in the same manner.
- 3.32 In conclusion, the applicant is secure in their status, and the application is considered to be one that would bring social benefits. However, the environmental harms identified, both through the reliance of the use of private motor vehicles and to the character and appearance of the area are maintained. There is no economic benefit to the site to speak of. It is therefore considered that the benefits of the application do not add up to sufficiently outweigh the harm such that any planning permission granted would be contrary to the policies of the adopted Development Plan, and to the NPPF. It is considered that planning permission should therefore be refused. In giving regard to

the consideration of the three strands of sustainability it is considered that the same conclusion would be reached regardless of the status of the applicant.

4.0 Nearby Services and Connections Assessment of Proposal

- 4.1 As previously stated, the site is located close to the villages of Brent Eleigh, Monks Eleigh and Kettlebaston. Respectively, they are located 2.5 miles, 1 mile and 1.1 mile from the application site. Routes to the various villages make use of narrow, unlit country lanes, some allowing movement of traffic in either direction, some which make use of passing places.
- 4.2 Brent Eleigh is identified as a hinterland village within the settlement hierarchy set out within Core Strategy policy CS2. It is a relatively small village with a population of 174 taken during the 2011 census, as slight reduction from its 180-population measured in 2005. A few services and facilities are recorded within the village including a café, a public house and the village hall.
- 4.3 Monks Eleigh is also identified as a hinterland village. In terms of services and facilities, a public house and community shop are noted within the village with a café and group of furniture shops with are located at Bridge Farm Barns, located on the outskirts of Monks Eleigh and close to the junction of the A1141, B1115 and Highlands Road.
- 4.4 Kettlebaston is not listed within the settlement hierarchy policy and as such is held to form part of the countryside. Its population is correspondingly small, just over 30 inhabitants. No services or facilities are recorded here.
- 4.5 No bus services operate within the area with the exception of services to schools in Hadleigh, Sudbury and Great Cornard.
- 4.6 The closest Primary Schools within the area are identified as Bildeston Primary School, Whatfield Primary School and Kersey Primary School. Respectively they are located 2.8 miles, 5.5 miles and 5.6 miles from the application site. The closest Secondary Schools are which are identified as Hadleigh High School, Thomas Gainsborough School in Great Cornard and Ormiston Academy in Sudbury. Respectively they are located 7.3 miles, 10 miles and 9.4 miles away from the application site. The closest doctors' surgery is the Bildeston Health Centre, located 3 miles away.

5.0 Site Access, Parking and Highway Safety Considerations

- 5.1 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. The proposed development has been assessed by the relevant Highway Authority in terms of its impact on highway safety, both individually and cumulatively. They have concluded that they do not consider that the development of the site would have an unacceptable impact on highways safety such that refusal on these grounds could be supported.
- 5.2 Parking on the site does not meet the required standard set out in Suffolk Guidance on Parking and required by Local Plan policy TP15 regardless of whether the site is considered to have similar needs to that of a residential dwelling or whether it is considered to represent a number of caravan pitches. That said, the number of additional spaces required is slight and the site contains sufficient space that additional on-site parking could be achieved close the mobile home and touring caravans. Therefore, it is not considered that this deficiency is such that a refusal on these grounds could be supported.

6.0 Design and Layout

- 6.1 The layout of the built form within the site is arranged around the western boundary of the site. Submitted drawings show the stables approved under B/15/00056 forming part of the proposed layout, as such it is assumed that this will be built out with the dayroom, touring caravans and mobile home curling around the western site boundary.
- 6.2 The design of the dayroom is fairly simple, but this is considered to be acceptable considering the functional nature of the building and the design itself is not unpleasant. There is a lack of detail for the touring caravans and the mobile home. These are assumed to be single storey in height and would be typical in terms of their design.
- 6.3 Local Plan policy CN01 NPPF

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

- 7.1 Paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. The site is deemed to form part of a valued landscape owing to its dual designation status. Core Strategy policy CS15 requires that development respect the landscape and its features while Local Plan policy CR04 requires the maintenance or enhancement of the SLA by development within the SLA.
- 7.2 The Joint Babergh Mid Suffolk District Council Landscape Guidance (2015) identifies the site as forming part of the Rolling Valley Farmland Special Landscape Area (SLA). The SLA is formed of the valley sides along the Rivers Stour, Brett, Brad, Box, Chad Brook and Glem. The soils of the are ideal for farming, with small and medium sized historic field patterns apparent as are some disused mineral excavations and ancient woodlands. Development within this area should retain, enhance and restore the distinctive landscape and settlement character of the SLA.
- 7.3 The edge of the site is already well defined by established hedgerows and the application seeks to strengthen those hedgerows closest to the proposed development using native species. This is welcomed as it will reinforce the field patterns seen within the wider landscape.
- 7.4 Regulation 9(3) of the Conservation of Habitats and Species Regulations 2017 (Implemented 30th November 2017) provides that all "competent authorities" (public bodies) to "have regard to the Habitats Directive in the exercise of its functions." The site is open, laid to grass with the exception of the surrounding hedgerow. It is not considered that the relative low level of development proposed within the application would not give rise to unacceptable ecological impacts. Indeed, conditions applied to the application could provide opportunity to create net gains for biodiversity within the site.

8.0 Land Contamination, Flood Risk, Drainage and Waste

- 8.1 The application has been assessed by the Council's Environmental Health Team who confirm they have no objection to the proposed development. They only note that in the event of discovery of unexpected land contamination, the responsibility lies with the developer to remediate the land. This accords with paragraph 181 of the NPPF.
- 8.2 The site is located within Flood Zone 1 and is not of sufficient size to require a flood risk assessment to be provided. The application form shows that surface water would be dealt with as part of a soakaway. Building Regulations require compliance with Approved Document Part H which sets out the necessary works required to ensure issues surrounding drainage are adequately dealt with.

8.3 The application form shows that foul sewage is intended to be dealt with through connection to a septic tank which would not be unusual given the rural location of the application site.

9.0 Heritage Issues

9.1 Section 66(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard be given to the desirability of the preservation of the listed building, its setting or any special features it may possess. Similar requirements are placed upon development by virtue of Local Plan policy CN06 while paragraph 193 of the NPPF places great weight on the preservation of a designated heritage asset.

9.2 With regard to the application at hand, Wagger Farm is a Grade II listed building, located 96 metres from the application site. The farmhouse itself dates from C16 and C17 and its setting informed by the arable land, woodland and paddock which surrounds it on all sides.

9.3 Consultation with the Council's Heritage Team identifies a low level of less than substantial harm to the setting of Wagger Farm through the introduction of alien features associated with the touring caravans and mobile home proposed on the application site. Where a less than substantial level of harm is identified, the NPPF requires that the test, set out at paragraph 196, to balance the harm against the positive public benefits of the application, be carried out.

9.4 With regards to the positive public benefits of the application, some weight is applied to the provision of a single gypsy pitch in line with the aims of the PPTS, as is the freeing up of another pitch on another site. The fact that this lies outside of the district is noted, but is nevertheless considered to be a wider benefit of the scheme. However, this is not sufficient to outweigh the great weight that should be applied to the conservation of the setting of the heritage asset as directed by the NPPF. It is therefore considered that the application fails in this regard.

9.5 Comment has been made by the agent with regards to the comments of the Heritage Team with regards to an application at Wagger Farm. The agent notes that if they have particular issue with the materials to be utilised within the application, this could be controlled by condition if Planning Committee were so minded.

10.0 Impact on Residential Amenity

10.1 It is not considered that the development of the site would lead to unacceptable impacts upon the existing residential amenity for neighbouring properties. The intervening distances between the neighbouring properties and the application site are such that while views across the landscape are possible both from the site and towards it, no opportunities for overlooking or impinging on privacy are possible.

PART FOUR – CONCLUSION

12.0 Planning Balance and Conclusion

12.1 The applicant enjoys gypsy status as defined within the PPTS with the application brings social benefits through the delivery of one private pitch within the district. The relocation of the applicant and their family to a home more tailored to their needs is supported. However, the application at hand does not give sufficient detail to give the Council certainty that this would be the result of this

application. Additional social weight could be given to the freeing up of another pitch in a neighbouring district were this application to be successful.

- 12.2 The site is not well physically related to the surrounding settlements. Pedestrian access is unlikely to be utilised and the occupants of the site are considered to be highly reliant on the private motor vehicle to meet their day to day needs. Local transport options are limited to school transport and few services and facilities are available within Brent Eleigh, Monks Eleigh and Kettlebaston. This conflicts with paragraph 25 of the PPTS as well as with policy CS15 of the adopted Local Plan.
- 12.3 Additional harm is identified with regards to the impacts on the setting of Wagger Farm that fails to be offset by the public benefits of the application. This, combined with the high level of car dependency arising from the location of the development, combine to apply a strong negative weight to the application.
- 12.4 Any economic benefits accruing from the proposal are, at best, marginal.
- 12.5 It is considered, on balance, that the environmental harm that would arise as a result of granting planning permission would significantly and demonstrably outweigh the social and economic benefits of the scheme. Sustainable development would not be delivered, and it is recommended that planning permission be refused.

RECOMMENDATION

That the application is REFUSED planning permission for the following reasons:

1. The proposed development for the creation of one new gypsy and traveller pitch comprised of one mobile home and two touring caravans fails to accord with the requirements expected for developments within the countryside, contrary to Policy CS2 of the Babergh Core Strategy (2014). Furthermore, the development fails to comply with the requirements of paragraph 8 of the NPPF, with the proposed development not considered to form sustainable development, with particular with regards to the poor access to services and sustainable transport links.

The proposed development is situated on land outside of any settlement boundary remote from services and would lead to reliance on private car use which would not promote healthy living or sustainable transport, contrary to policy CS15 of the Babergh Core Strategy (2014) and paragraphs 8, 91, 103, 117 and 122 of the NPPF.

As such the proposal is not acceptable in principle, being contrary to paragraphs 8, 91, 103, 117 and 122 of the NPPF (2019) and Policies CS2 and CS15 of the Core Strategy (2014).

2. Further, the application would result in a less than substantial level of harm to the setting of Wagger Farm, a Grade II listed farmhouse through the introduction of both alien materials and roof forms belonging to the proposed mobile homes and touring caravans. No positive public benefits associated with proposed development are identified as required by paragraph 196 of the NPPF.

Consequently, the application is held to be contrary to policy CS15 of the Babergh Core Strategy as well as policy CN06 of the Babergh Local Plan. It would also not accord with Section 66(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990.