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Members of the Babergh Planning Committee  
Babergh District Council

## **URGENT: By Email Only**

10 July 2020

Dear Councillor

### **Planning Application Reference B/15/01196 (the Application) Land to the rear of 1-6 The Street, Kersey (the Site)**

I am writing on behalf of a group of Kersey residents. The residents wholly support the officer's recommendation to refuse the above application as set out in the report for your planning committee meeting to be held on 15 July 2020.

However, for the reasons which I hope will become self-evident, the report to committee is wrong to suggest that the Application satisfies the character and setting requirements of Core Strategy Policies CS11 and CS15, both of which carry full force. Equally, the report is wrong to dismiss Policy CR04 as 'tangential'. All these policies are breached by the Application, and given the sensitive nature of the Site, these breaches are serious.

Much of the debate at committee is likely to revolve around heritage. For the sake of clarity, I have summarized the considered views of Historic England (the Government's independent advisor), and from the Council's own heritage officer below. Members are particularly asked to note that these are the only impartial heritage advisors on this Application. Both advise that the harm to the heritage assets is unacceptable. As members will be aware, harm to designated heritage assets must as a matter of law be given significant weight.

The supporting material considerations on offer are additional housing, of which 4 are 'affordable', and an EPC 'B' rating. The Council has a more than adequate 5-year housing land supply, and a 123% delivery record against target for the past 3 years. In these circumstances, the Council quite rightly gave only moderate weight to the provision of additional housing in the recent Vale Lane decision. There is no reason to depart from that assessment here. As regards the affordable housing, the Applicant has not explained why the harms of the other three market units are necessary in order to deliver the affordable housing. In any event, 4 affordable housing units is a modest number. The improved energy efficiency is a benefit to the future private residents of the proposal in terms of reduced bills. Given the number of units proposed, the wider public benefit is very small indeed.

This Application is clearly contrary to adopted policy, and notably, causes material and permanent harm to the setting of the Grade II\* listed 1-6 The Street, the Kersey Conservation Area and the Special Landscape Area. The proposed benefits are in reality modest. For these reasons, my clients urge Members to protect Suffolk's heritage, and refuse the Application.

## **Introduction**

The letter starts with a brief summary of key factual points about Kersey, the Application Site and the Application, and then explains the related heritage harm and policy breaches. Thank you for your patience in reading and considering the points raised.

## **Kersey**

Members will be well aware of Kersey's defining characteristics: sited within the Brett Valley Special Landscape Area, within its own conservation area, an unusually well preserved linear form, with a predominantly single row of 15<sup>th</sup> – 17<sup>th</sup> century timber framed buildings (many stuccoed and many Grade I and II\* listed) either side of The Street, and long rear gardens giving opening on to the surrounding fields.

As the Appeal Inspector noted in her decision to refuse an application to develop land to the rear of Linton House in Kersey (Application reference DC/19/01295, December 2019):

“Properties ... in the village would originally have been set on large plots which would have been used in part for horticulture. As such, the plot contributes to the character of the building as is indicative of the origins of the house. It also contributes to the character of the Kersey Conservation Area and the large gardens to the rear of the properties on The Street protect the open setting to the village and its relationship with the countryside beyond”.

## **Numbers 1-6 The Street**

Numbers 1-6 The Street form a single Grade II\*-listed row of timber framed buildings with a jettied upper story. The earliest of these was built in the 15<sup>th</sup> Century, the latest in the 17<sup>th</sup> century. At the back of all the buildings is the characteristic long garden opening onto surrounding fields. The Site is also within the setting of the neighbouring Grade II listed Bell Inn, and its equally long garden. Public footpath 12 runs along the boundary between the gardens and the neighbouring field.

## **The Application**

Please see the attached site plan and elevation, this shows that the Application proposes:

- 7 Edwardian/Victorian-style cottages (three pairs of semis and a single detached house), with small gardens.
- two rows of development to the rear of 1-6 The Street. The first straddles Kersey's built-up are boundary (BUAB), the second is in designated countryside;
- roughly half of the Site will be hard surfaced, to accommodate vehicle maneuvering and 18 car parking space.

## **Key Policy Breaches.**

### *Heritage Harm*

Heritage assets “are an irreplaceable resource” (NPPF para 184). “[G]reat weight should be given to the asset's conservation ... irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm ...” (NPPF Para 194), and such harm can only be outweighed by actual and weightier public benefits (Para 196).

Members are especially referred to two important pieces of guidance on the setting of heritage assets from Historic England's guidance note 3<sup>1</sup> (emphasis added):

- “The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights or an ability to access or experience that setting”.
- “Settings of heritage assets which closely resemble the setting at the time the asset was constructed or formed are likely to contribute particularly strongly to significance”

Please note that the only impartial assessments of heritage are those provided by Historic England (HE) (see Consultation Response 19 July 2019) and the Council's own heritage officer (see Consultation Response 30 July 2019).

HE advises that the garden to 1-6 the Street “is at least as old as the present buildings, if not earlier ... the size of the garden is indicative of the origins of the building in a period when gardens large enough for growing produce and keeping livestock were common to houses in and adjoining the countryside”. Similarly, the Council's heritage officer advises: “the rear garden land ... always appears to have been open and backed onto fields beyond”. **NB.** In light of the above HE guidance on setting, the fact that the garden plot has remained undeveloped since Nos. 1-6 were first built, means that it contributes “particularly strongly to significance”.

HE then describes that significance:

“This relationship between houses on the Street and fields ... remains a key feature of the conservation area, illustrating Kersey's place in the landscape and the relationship of historic properties in it to that hinterland. All these factors combine to make the garden plot an element of the houses' setting that contributes to their historic significance and to that of the conservation area”.

Similarly, the Council's heritage team finds that: “the consistent relationship with the agricultural land beyond the properties contributes at least as much to the setting of the building, and therefore to its significance as does the façade”.

HE then assesses the heritage harm as follows: “[the Application will] separate the historic buildings from their historic curtilage and from the wider landscape beyond”, it is “at odds with” the historic development pattern of Kersey and will “result in harm to the significance of the listed building and the conservation area in terms of the NPPF paragraphs 194 and 196”.

Noting the potential benefit of additional housing, HE's further comments are damning:

“... we would remind the Council that the NPPF requires ‘great weight’ to be given to the conservation of the listed building and a clear and convincing justification should be made for any (their emphasis) harm. ... We remain unconvinced that such a justification has been made and object to the granting of permission” (emphasis added).

The Council's own expert assesses the heritage harm as: “at the very highest end of the spectrum of ‘less than substantial harm’” (emphasis added) and for this reason objects to the development.

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<sup>1</sup> <https://historicengland.org.uk/images-books/publications/gpa3-setting-of-heritage-assets/heag180-gpa3-setting-heritage-assets/>

The assessments of the HE and the Council's own heritage officer are clearly reasoned and authoritative. Above all, neither the HE nor the Council's heritage officer have any 'skin in the game' – i.e. their advice is completely impartial. For this reason, it should be given particular weight.

Once these buildings are built, the historic significance of 1-6 will be permanently damaged by building over their historic garden plots, severing their historic relationship to the surrounding fields, and further eroding the “essentially linear” character of Kersey.

Furthermore, by replacing the historically green backdrop to the garden to the grade II listed Bell Inn with two rows of built development, the Development will also harm that setting. For the same reasons, the development harms the open aspect of the conservation area, of which the undeveloped gardens (as identified by the Inspector in the Linton House appeal) form such an important part.

There is therefore unacceptable harm to the historic significance of the Grade II\* listed 1-6 The Street, to the setting of the Grade II listed Bell Inn, and to the Kersey Conservation area, and for this reason alone, the Application should be refused.

### **Harm to the character and setting of the Application Site**

The Application clearly breaches Policy CS2, and I need say nothing further on that.

Policy CS11 requires development in hinterland villages such as Kersey to be “appropriate in size / scale, layout and character to its setting and to the village”. Policy CS15 requires development to “respect the local context and character” with in particular, respect “landscape features, streetscape / townscape, heritage assets and important spaces”.

By contrast:

- Within a quintessentially “linear village”, the Application adds two additional rows of development to the rear of 1-6 The Street. The second row of development pushes development well beyond Kersey's established building line (the BUAB).
- As recognised by the inspector in the Linton House appeal, the large garden plots are important spaces “contribut[ing] to the character of the building, ... to the character of the Kersey Conservation Area ... [and] protect[ing] the open setting to the village and its relationship with the countryside beyond”. Into this space, the development introduces a jarringly dense urban form, with 7 new buildings, 18 hard surfaced car parking spaces and related hard surfaced car maneuvering space. The hard surfacing alone covers nearly 50% of the former garden (see attached Site Plan).
- Kersey is notable for its 15<sup>th</sup> – 17<sup>th</sup> century half-timbered and stuccoed buildings, of which Numbers 1-6 The Street are prime examples, as evidenced by their Grade II\* listing. The development proposes to build 7, unremarkable brick, pastiche Victorian/Edwardian-style houses, 6 of which are semi-detached. These are hardly consistent with the predominantly 15<sup>th</sup>-17<sup>th</sup> character at the heart of Kersey.
- The proposal is acknowledged by all parties to harm the heritage significance of the listed 1-6 the Street and of the Conservation area.

By what stretch of the imagination can any of the above be described as ‘appropriate in layout and character’ to the historic, linear village (Policy CS11)? Equally, what part of the

above is respectful of the local context, character, listed buildings and conservation area (Policy CS15)?

At the very least, the fact that a development harms the heritage significance of numbers 1-6 and the Conservation Area must mean that the development does not 'respect' the heritage assets and is therefore in breach of Policy CS15.

Policies CS11 and CS15 are consistent with the NPPF and therefore attract full weight (OR para 62). The conflict between the Development and the locational and character requirements of these policies is self-evident. In this very sensitive location, these are significant policy breaches.

### **Harm to the Brett Valley Special Landscape Area**

Policy CR04 requires development to enhance the special landscape qualities of the area as identified in the relevant landscape assessment, and also harmonise with the landscape setting.

The relevant landscape assessment is the Joint Babergh and Mid-Suffolk DC Landscape Guidance 2015 (the Landscape Assessment). Kersey falls within two sub-character areas, the 'Ancient Rolling Farmlands' with 'picturesque villages' "nestled within the valley" (page 41) and 'Rolling Valley Farmlands' where "historic villages blend with the valley landscape, with the buildings complementing a landscape of the highest visual quality" (emphasis added). The repeated aims of the Landscape Character Assessment are that development should "retain, enhance and restore the distinctive landscape and settlement character" (at page 56).

In this assessment, the historic villages are part and parcel of the landscape. The landscape does not somehow stop at the field boundaries. Indeed, the same view is evident in the Linton House inspector's comments that the large gardens "protect the open setting to the village and its relationship with the countryside beyond".

The suggestion in the officer report that Policy CR04 applies only 'tangentially' because the site is an 'enclosed garden' conflicts with the assessment in the Landscape Assessment and is wrong and inconsistent with the Landscape Assessment.

The dense, urban, form of the development with large areas of hard standing is more typical of a town or city. The way that it pushes out beyond the existing building line to the very edge of the plot is unprecedented in Kersey. This is wholly inconsistent with the green character of the large gardens to the rear of the Street which transitions to the fields beyond, thereby protecting "the open setting to the village and its relationship with the countryside beyond". The development therefore clearly conflicts with Policy CR04.

### **Benefits**

As the committee report notes, the Council has a more than adequate 5-year housing land supply (OR para 5) and therefore the 'tilted balance' does not apply. Furthermore, the Government's statistics<sup>2</sup> show that Babergh has delivered 123% of its annual target for housing over the last three years.

In these circumstances, does the provision of additional housing really justify the harms outlined above? Historic England have stated in clear terms, that they do not think it does

<sup>2</sup> <https://www.gov.uk/government/publications/housing-delivery-test-2019-measurement>

(see quote above). Similarly, the Council gave only moderate weight to the recently proposed additional housing at Vale lane (DC/19/01834). There is no reason why the present proposal should attract greater weight.

If members are minded to give weight to the offer of affordable units, please note that that benefit comes at the cost of the additional harm from the market units. The benefit of affordable housing would be achieved equally well without the market units. The Applicant has not explained why it needs the additional three market units, which then necessitate this uncharacteristically dense urban form. Moreover 4 affordable units is a modest number.

As for the build quality, does an EPC rating of 'B' on 7 houses really justify the permanent harm to the significance of the listed 1-6 The Street, and to the Conservation Area as well as the other policy breaches? The benefit of that rating will be felt primarily by the private occupants of the buildings in lower bills. The number of units is simply too small for this to be a significant public benefit either to Kersey, or the Babergh area as a whole.

### **Conclusions**

This application proposes a dense Victorian/Edwardian-style urban development which would be more appropriate in a town or city. Instead, the Application is located within the heart of the Kersey Conservation Area, within the setting of a Grade II\* listed 15<sup>th</sup> – 17<sup>th</sup> century building and pushing built development well outside the existing building line.

Historic England have advised that the proposal will harm the significance of the listed buildings and the Conservation Area. As a matter of law, those two harms must be given significant weight.

The officer's recommendation to refuse on heritage grounds is correct and consistent with the impartial advice of Historic England and the Council's own conservation offer. However, the application also conflicts with adopted policies on design, character and setting (CS11, and CS15) and policy CR04 on development within the Special Landscape Area.

The harm caused by the development will be permanent. The vast majority of the benefits of the proposal are limited just to the occupants of the units. Nor is there any explanation of why the market units are required (which exacerbate the harm), rather than just the affordable units. The number of affordable units is modest.

Given the serial policy breaches, and the significant heritage harm, my clients urge Members to refuse the Application.

Thank you for your patience in reading this letter.

Yours sincerely,



Simon Kelly

**Richard Buxton Solicitors**

Encl: Applicant's Site Plan  
Applicant's Elevations