

Committee Report

Item 7A

Reference: DC/19/01876

Case Officer: John Pateman-Gee

Ward: Elmswell & Woolpit.

Ward Member/s: Cllr Helen Geake. Cllr Sarah Mansel.

RECOMMENDATION – GRANT PLANNING PERMISSION WITH CONDITIONS

Description of Development

Outline Planning Application - Erection of 2no. detached single storey dwellings and vehicular access.

Location

Hedgerows, Grove Lane, Elmswell, Bury St Edmunds Suffolk IP30 9HN

Expiry Date: 12/06/2019

Application Type: OUT - Outline Planning Application

Development Type: Minor Dwellings

Applicant: L Cragg & the Trustees of the Will

Agent: Evolution Town Planning Ltd

Parish: Elmswell

Site Area: 0.24

Density of Development:

Gross Density (Total Site): 8.33 dwellings per ha

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 was originally determined by officers under delegated powers who granted planning permission. However, due to a technical administrative error an immediate neighbour to the site challenged the grant of planning permission by way of an application for judicial review on a number of grounds. The Council submitted to judgment on one ground only – the accepted technical administrative error – and it has been agreed to present this to committee for redetermination as a result of a judicial review on the case. It is important to emphasise that the judicial review was in respect of the planning decision-making process and has no bearing on the merits of the proposal or judgement that members may now take. The neighbour argued that, as a result of the admitted error, he was deprived of the opportunity to have his objections taken into consideration before the original decision was made. This report, therefore, addresses the points made in the neighbour's written objections.

For information only, the previous judicial review was also made on the following grounds and the council submitted to judgement only on point 1 as described above. Representation received consider the members should be aware of all grounds and in the interest of customer service these are copied below, but please be aware points 2 to 5 were not taken forward.

1. Procedural unfairness, lack of public consultation and substantial prejudice;
2. Failure to determine the application in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004 and failure to determine whether the application complies with the development plan as a whole and the extent of any breach;
3. Failure to take into account material considerations;
4. Errors of Fact;
5. Inadequate reasons.

PART TWO – POLICIES AND CONSULTATION SUMMARY

Summary of Policies

GP01 - Design and layout of development
H03 - Housing development in villages
H13 - Design and layout of housing development
H15 - Development to reflect local characteristics
H16 - Protecting existing residential amenity
H17 - Keeping residential development away from pollution
T09 - Parking Standards
T10 - Highway Considerations in Development
CS01 - Settlement Hierarchy
CS02 - Development in the Countryside & Countryside Villages
CS05 - Mid Suffolk's Environment
FC01 - Presumption In Favour Of Sustainable Development
FC01_1 - Mid Suffolk Approach To Delivering Sustainable Development
NPPF - National Planning Policy Framework
NPPG-National Planning Policy Guidance
Elmswell Neighbourhood Plan
Further policies may be referenced as part of the report below

Neighbourhood Plan Status

This application site is within a Neighbourhood Plan Area.

The Neighbourhood Plan is currently at Stage 2:-

Stage 1: Designated neighbourhood area

Stage 2: Preparing a draft neighbourhood plan

Stage 3: Pre-submission publicity and consultation

Stage 4: Submission of a neighbourhood plan

Stage 5: Independent Examination

Stage 6: Referendum

Stage 7: Adoption by LPA

Accordingly, the Neighbourhood Plan has Limited weight,

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 (Appendix 3)

Elmswell Parish Council (Full)

Elmswell Parish Council objects to this application and urges refusal on the following grounds:
The site is in the countryside outside of the Settlement Boundary within which new development will properly take place. With regard to the strong policy imperatives aimed at protecting the existing character and appearance of the countryside, this proposal offers no justification for exceptional treatment and does not present a case for special consideration under categories identified and defined in the Local Plan, the Core Strategy or the National Planning Policy Framework.

The extant Permission under DC/18/02553 for 2 bungalows within the same holding and in immediate proximity to the host dwelling, Hedgerows, has not yet resulted in any application for Reserved Matters, leaving in doubt the ultimate outcome of the proposal for, in effect, a development of 4 dwellings. This Application seeks to add an inappropriate extension to that development to the rear of Hedgerows and well beyond the building line of both Hedgerows and of Half Acre, adjacent, presenting a clear and unwelcome incursion into the immediate rural setting.

The use of the existing access, now seeking to serve 5 dwellings, proposes an unsafe result, and Councillors have sympathy with the existing heavy haulage operators using Grove Lane as their sole access that it is a single-track country lane unsuited to the extra traffic loading resulting from this proposal. In reaching these conclusions, Councillors had reference to Local Plan policies SB1, H7 & T10, Core Strategy Policies CS1 & CS2 and National Planning Policy Framework para. 55.

(Officer Note: Since the consultation response NPPF has been replaced and para 55 is essentially replaced with Para 79. Furthermore Local Plan policy SB1 was superseded by CS1 and 2.)

National Consultee (Appendix 4)

None to report

County Council Responses (Appendix 5)

SCC Highways (Summary)

Recommends conditions as follows:-

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

Reason: In the interests of highway safety to ensure that the layout of the access is properly designed, constructed and provided before the development is commenced.

Officer Note: This condition is recommendation and appears to be achievable given the details provided and both the site area and other land owned by the applicant.

Condition: Gates shall be set back a minimum distance of 5 metres from the edge of the carriageway and shall open only into the site and not over any area of the highway.

Reason: In the interests of road safety.

Officer Note: Given the status of the access being an existing, there is a potential argument to say this condition is not necessary or reasonable. It is also not known if any gates are proposed to be installed. On the basis that permitted development rights removal is proposed, it is not proposed to include this condition as recommended.

Condition: Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) any means of frontage enclosure shall be set back 2.4 metres from the edge of the carriageway of the adjacent highway and tapered accordingly to provide visibility splays of x=2.4m by y=90m.

Reason: In the interests of highway safety, to avoid obstruction of the highway, maximise visibility splays and provide a refuge for pedestrians.

Officer Note: This duplicates the first highway recommend condition and so is not considered necessary.

Condition: Before the development is commenced details of the areas to be provided for the manoeuvring and parking of vehicles including secure cycle storage shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter and used for no other purpose.

Reason: To ensure the provision and long term maintenance of adequate on-site space for the parking and manoeuvring of vehicles, where on-street parking and manoeuvring would be detrimental to highway safety.

Officer Note: This condition is unnecessary as said areas is unknown until reserved matters stage and can be imposed as may be necessary at that point to ensure those areas are retained.

Condition: Before the development is commenced details of the areas to be provided for storage and presentation of Refuse/Recycling bins shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter for no other purpose.

Reason: To ensure that refuse recycling bins are not stored on the highway causing obstruction and dangers for other users.

Officer Note: The requirements of this condition could be determined at reserved matters stage, however it is recommended subject to a change for details to be submitted concurrent with reserved matter stage.

SCC - Archaeological Service (Summary)

No objections as see no significant impact.

Internal Consultee Responses (Appendix 6)

Environmental Health - Land Contamination (Summary)

No objection. Recommends a condition on unexpected contamination. (Officer Note: This is not recommended as being unexpected and unknown it would be unreasonable to impose said condition and would fail the tests of condition. Private legal controls and environmental powers are available to deal with unexpected contamination between relevant parties should this occur).

B: Representations

At the time of writing this report at least 3 letters/emails/online comments have been received. It is the officer opinion that this represents 2 objections. One of those objections comprised a detailed written objection submitted by a chartered town planner on behalf of the neighbour who had judicially reviewed the earlier determination. A verbal update shall be provided as necessary.

Views (both prior and after the JR) are summarised below:-

- Questions current status of land – the objector argues that the land has an agricultural status
- Reference to various guidance and policy considerations although it acknowledges that some policies that restrict development in the countryside are deemed to be out of date
- No housing need as there exists a 5 year housing land supply
- Poor access to services in terms of distance and quality of routes available.
- Landscape harm
- Landscape heritage harm (including Button Haugh Green)
- Fails to protect or enhance biodiversity
- Contrary to CS5 and NPPF including the environmental objective
- Affects/harm open/undeveloped countryside
- Development is outside settlement boundary (with policy references)
- Not sustainable development
- Distances from services provides and consideration of routes of travel to services to be inappropriate
- May affect toad population who migrate from other side of road.
- Cumulative impacts should be considered
- Judgements on public benefit as well as social, economic and environment matters.
- Reference of other planning cases.

(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: DC/18/02553	Outline Planning Application (some matters reserved) - Erection of 2No detached bungalows and vehicular access.	DECISION: GTD 20.08.2018
REF: 1668/12	Continued use and occupation of dwelling without compliance with condition 5 of permission ref B/66/657/TW/4219 (agricultural occupancy condition).	DECISION: GTD 13.07.2012
REF: 2019/11	Use and occupation of dwelling without any controlling condition of agricultural occupancy (Condition 5 of planning permission B/66/657/TW/4219) being enforceable.	DECISION: WDN 03.08.2011
REF: 3012/11	Use and occupation of dwelling in breach of agricultural occupancy condition (condition 5 of planning permission B/66/657/TW/4219).	DECISION: LU 01.11.2011
REF: 0175/81/OL	Erection of bungalow and garage and use of existing access	DECISION: REF 09.12.1981
REF: 0810/76	Erection of extension to form extra living room area and dining room	DECISION: GTD 14.01.1977

PART THREE – ASSESSMENT OF APPLICATION

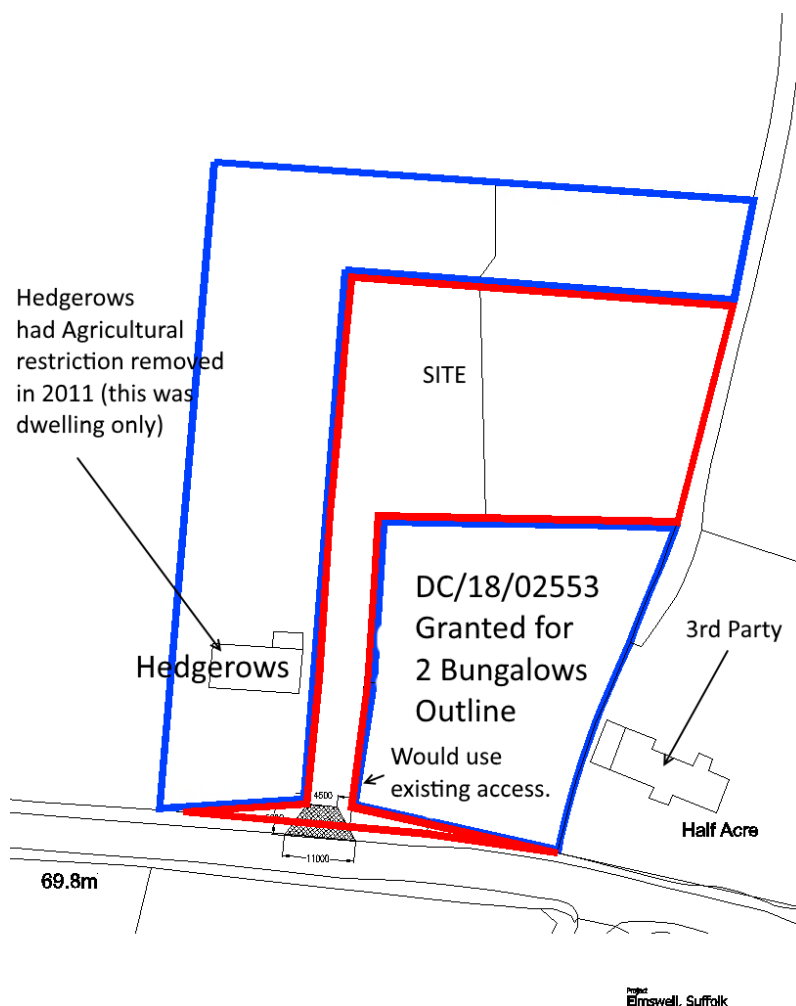
1. The Site and Surroundings

1.1. The application site is to the side and rear of a detached single storey dwelling (Hedgerows) with an access road to Grove Lane. The site has mature planting to all boundaries.

The formal status of the site is unclear without a certificate of lawful use to prove officially, but for the purpose of this assessment and application submitted it is considered to be agricultural land only and as such not previously developed land in accordance with the NPPF definition.

Hedgerows itself was an agricultural tied dwelling and in 2011 the planning condition (the tie) was removed from the dwelling. However, there has been no associated change of use of the land to domestic garden use to serve Hedgerows itself.

The site is to the rear of another site granted for 2 bungalows under DC/18/02553 and if this application was approved, there would result in a total of 4 dwellings and share the access shown.



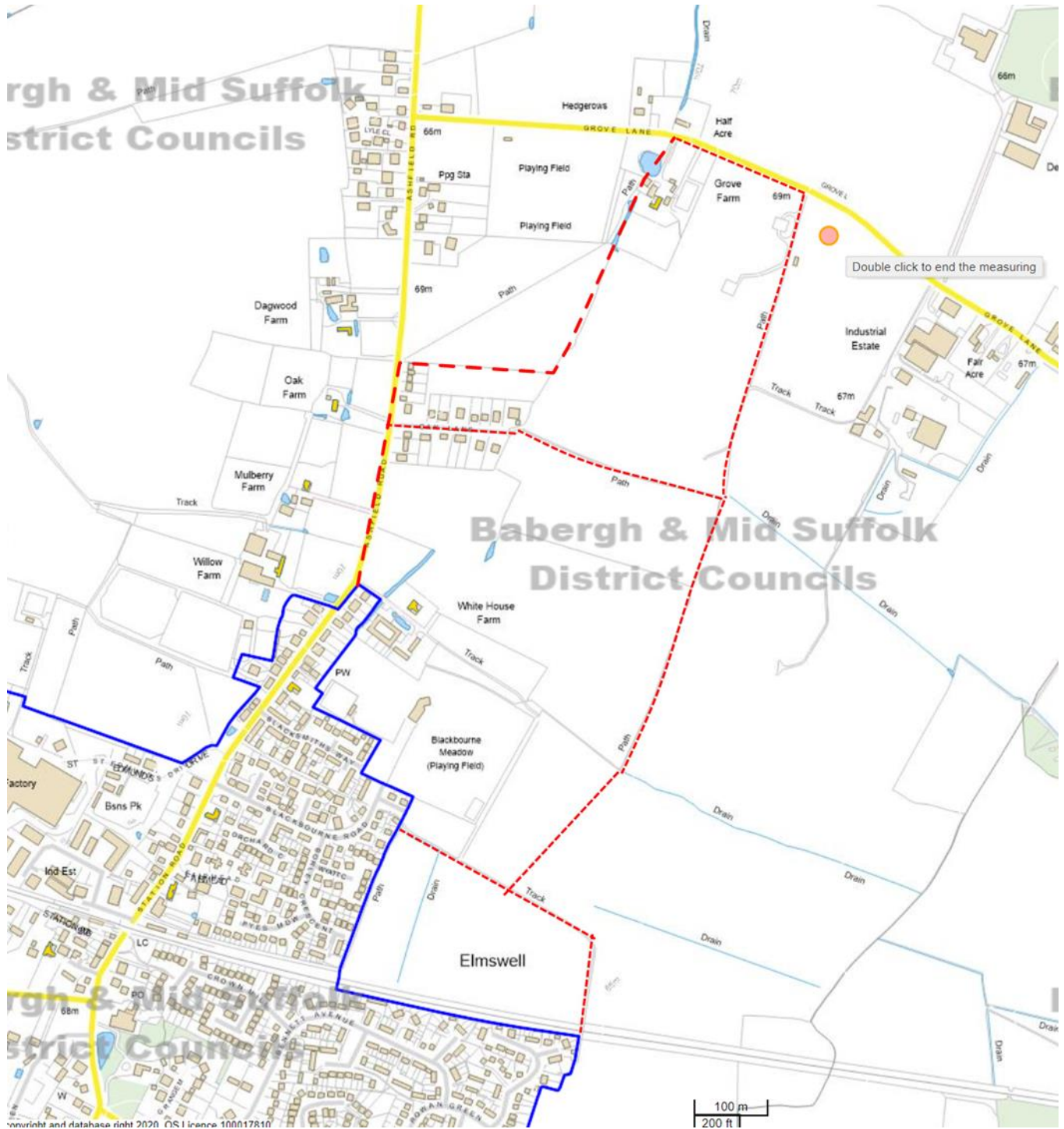
See map following this paragraph: The site is within the countryside with Elmswell (as a Key Service Centre) just over 1 km following the road or slightly less if you follow the public right of way or historic path opposite the site. However, going off road will likely result in walking on uneven ground and would not be suitable for all users. Following the right of way means you can reach Elmswell without the need to go onto the road as there are wide cut verges that front properties near Oak Lane and then a formal footpath shortly follows that leads into Elmswell. This area will also be further developed adjacent to Oak Lane and just north of the Blackbourne Centre (see 0210/17).

The site is 1.09km by road to the settlement boundaries and then various distances to get to services within the settlement itself, but most under 2km. The shortest distance to the settlement is around 910metres and using the public right of way around 958 metres at most (allowing for the scaling of the

plans available). It is likely that occupiers will need a car, but other the site is not so rural to removal alternatives.



Looking at the wider view, the site is close to a network of public rights of way, some are shown on the map below in dashed red.



2. Background and The Proposal

2.1. The proposal is for 2 No. dwellings. While an outline application, it has been specifically detailed that these would be single storey only and includes access. All other matters are reserved. The density would be 8.33 dwellings per ha based on a site area of 0.24ha.

2.2. This application was initially determined by officers under delegated powers who issued as an approval, but it was subsequently found that the consultation period had not expired before the decision notice was issued due to a second site notice having been displayed. Accordingly, the decision was quashed by consent and as part of that process it was agreed that the application would be redetermined

by members consideration. On this basis the application has been reviewed and this new report created. Members should be aware that the challenge to the previous decision succeeded on a procedural ground, but it was accepted in the Court Order that the claimant could raise the other grounds of challenge in any subsequent legal challenge. Therefore, the application must be treated and debated afresh, and members must not be influenced by the previous quashed decision. Members must consider it on its individual planning merits. It is important that this redetermination is, and is seen to be, a genuine re-determination of the application.

3. The Principle Of Development

3.1. The starting point for determination of any planning application 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. However, a recent Court of Appeal decision has emphasised that the statutory duty is to determine whether the development accords with the development plan when viewed as a whole – *R (Corbett) v Cornwall Council* [2020] EWCA Civ 508. It has long been recognised by the courts that it is not unusual for development plan policies to pull in different directions and that the decision maker must therefore make a judgment as to whether a proposal is in accordance with the plan as a whole and bearing in mind the relative importance of the policies which are complied with or infringed and the extent of the compliance or breach. In addition, the statutory duty also requires the decision maker to take into account all material considerations. One key material consideration regarding the principle of development is the policy set out in the National Planning Policy Framework (NPPF). The NPPF identifies in paragraph 213 that the weight attributed to policies should be according to their degree of consistency with the NPPF. The closer the aims of the policy are to the NPPF the greater the weight that can be attributed to them.

3.2. The NPPF also identifies that planning decisions should apply the presumption in favour of sustainable development (paragraph 11):

“For decision-taking this means: c) approving development proposals that accord with an up-to-date development plan without delay; or d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

Out of Date Policy Position

3.3. A key aspect of the presumption in favour of sustainable development is the existence of up-to-date development plan policies. Footnote 7 of the NPPF is relevant as it identifies “out-of-date” policies as including (but not limited to) the situation where the local planning authority cannot demonstrate a five year supply of deliverable housing sites or where the Housing Delivery Test indicates that the delivery of housing was less than 75% of the housing requirement over the previous three years. In this instance it is important that the Council is able to demonstrate a five year housing land supply, but this should not be taken as a cap on housing provision or growth.

3.4. Notwithstanding the Council’s current 5-year housing land supply, for Mid Suffolk many of the development plan policies most important for determining residential applications are considered to be “out-of-date” on the basis of not being entirely consistent with the policies of the NPPF. Therefore, those policies (housing supply) are accorded less weight and the extent of consistency and/or conflict needs to be explored on a case by case basis with appropriate assessment of the planning balance and weight to be given. To be clear, the NPPF does not overrule the Development Plan, but is a material consideration to be accounted for in the consideration and use of development plan policies.

3.5. The position of Mid Suffolk policies being “out of date” has been settled by a number of recent appeal decisions in Mid-Suffolk. Relevant appeal decisions are material considerations and the Council has to take those into account. Accordingly, in this case Policy CS1 of the Core Strategy sets out the settlement hierarchy. However, it includes the words “the rest of Mid-Suffolk, including settlements not listed in the above (hierarchy) will be designated as countryside ... renewable energy”. In a September 2018 appeal decision in relation to a site at Woolpit, the inspector ruled that, by virtue of this latter requirement of policy CS1 it offends the NPPF. It perpetuates the theme of protection of the open countryside for its own sake and its limitations are inimical to the balanced approach which the NPPF exhorts. It is one of the most important policies and it is out-of-date. The inspector’s approach was subsequently followed in another appeal decision on a site in Ipswich in March 2019 and endorsed by the inspector determining an appeal at Eye in March 2020.

As the proposed development is in open countryside, it also offends the requirements of Policy CS2. Policy CS2 is a most important policy but the inspector at Woolpit (and endorsed in the other appeal decisions) also ruled that this policy is out-of-date. The NPPF does not exhort a restrictive approach to development outside settlements as this policy requires (and including H7 Local Plan). The NPPF does not protect the countryside for its own sake or prescribe the types of development that might be acceptable. The policy as worded obviates a balancing exercise and precludes otherwise sustainable development by default and thereby defeats the presumption in its favour. Therefore it is concluded that paragraph 11 of the NPPF and tilted balance is engaged because the most important development plan policies for determining this application are out of date and the development should only be refused where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

3.6. As established, having regard to the advanced age of the Mid Suffolk settlement boundaries and the absence of a balanced approach as favoured by the NPPF, the statutory weight to be attached to the above policies is reduced. The fact that the site is outside the settlement boundary is therefore not a determinative factor upon which the application turns. The presumption in favour of sustainable development and the need for a balanced approach to decision making are key threads to Policy FC01 and FC01_1 of the Core Strategy, and are also the most up-to-date elements of the Mid Suffolk development plan, adopted in 2012. These policies are otherwise consistent with the NPPF, carry full statutory weight and provide the principal assessment framework as it applies to the subject application.

3.7. The provision of up to 2 dwellings will give rise to limited employment during the construction phase of the development owing to the scale of development proposed. Future occupiers of the development will use local services and facilities in Elmswell given their accessibility, offering reasonable benefits to the local economy. The development will give strong and direct support to the vitality of the town. The New Anglia ‘Strategic Economic Plan’ (April, 2014) acknowledges that house building is a powerful stimulus for growth and supports around 1.5 jobs directly and 2.4 additional jobs in the wider economy for every home built. The proposal will result in job creation and will have positive regional economy benefits.

3.8. None of the infrastructure authorities have objected to the scheme, concluding that CIL contributions are to be used to manage future infrastructure demand. Being a small scheme there is limited social benefit provided with the proposal itself, but some weight may be given to the proposal being for bungalows and serving perhaps a particular housing need in this regard.

3.9. The site is located in the countryside in policy terms, however the site has a strong functional relationship to the village with direct footway and road links and is not considered isolated in a functional sense given adjacent development. Elmswell is served by a range of local services and facilities, as expected for a settlement designated as a Key Service Centre. The local services on offer are within a short walking distance of the site, making walking and cycling a convenient and sustainable way of accessing facilities. There is a food store within walking distance as well as a butchers, place of worship / cemetery, takeaway, public house, post office, allotments and school. Blackbourne Community Centre near to the site and both Elmswell library and Elmswell Community Primary School are also within walking distance.

3.10. The Elmswell railway station is within walking distance and is served by the Greater Anglia Line which operates trains across East Anglia. Local bus routes provide wider connections to Bury St Edmunds and Thurston in the west, Woolpit to the south and Stowmarket, Stowupland, Mendlesham and Otley to the east. In conclusion, the site exhibits extremely high sustainability credentials. It is a sustainable location for housing development.

3.11. The site itself is taken to be an agricultural paddock and is enclosed by mature landscaping and both existing and material approved (not yet commenced) development. The site forms part of this very small cluster of development and an area that represents a different place to the wider open countryside that surrounds the site, especially to the north. Given the single storey proposal and existing landscaping, development is considered to be achievable through reserved matters without detrimental impact on the wider environment in principle.

In conclusion, it is considered that there is sustainable merit for this location to be considered acceptable in principle while noting it is contrary to the development plan. Mid Suffolk does have a 5-year housing supply and in itself this development does not represent a significant development to fulfil housing need, but being single storey is welcome as on the whole this housing type in the district is not supplied as often. It is noted that there are limited social, economic and environment benefit and burden/costs and overall it is considered the benefit on balance outweighs the cost and there is not significant demonstrable adverse harm. Furthermore, the housing supply figure is not a cap on development levels for any location, and this position has been upheld at appeal, and the development is considered on all merits.

4. Site Access, Parking And Highway Safety Considerations

4.1. The access forms part of this application and has not been objected to by the Highways Authority in their assessment. The access also forms part of the adjacent development approved. As outline details on layout and parking are not available to assess.

5. Design And Layout

5.1. The proposed dwellings will be single storey, but what form this may take is unknown at this stage. In general terms the site is reasonable and will allow for a very low density development set back from the road frontage. Given the location, there are a wide range of options for good quality design to be considered at reserved matters stage and there is no reason for refusal on principle in respect of design and layout.

5.2. Representations have referred to the need to refer to Policy H13 and H15 of the Local Plan.

Policy H13

Policy H13 refers to the design and layout of housing development. However, this is an outline application and so many of these aspects that the policy refers to will be a matter of reserved matters as detailed below.

"DESIGN AND LAYOUT OF HOUSING DEVELOPMENT - POLICY H13 STATES NEW HOUSING DEVELOPMENT WILL BE EXPECTED TO ACHIEVE A HIGH STANDARD OF DESIGN AND LAYOUT AND BE OF A SCALE AND DENSITY APPROPRIATE TO THE SITE AND ITS SURROUNDINGS. PROPOSALS FOR RESIDENTIAL DEVELOPMENT SHOULD TAKE ACCOUNT OF THE FOLLOWING:-

The density proposed is around 8 dwellings per ha. This is very low and in fact conflicts with policy CS9 of the core strategy that seeks to achieve at least 30 dwellings per ha. However, given the prevailing character and low density of this area it is not considered that the two dwellings proposed (with

consideration of the two dwellings approved adjacent to this site) would be of an inappropriate density. Scale would be a matter of reserved matters.

DESIGN AND LAYOUT SHOULD RESPECT THE CHARACTER OF THE PROPOSAL SITE AND THE RELATIONSHIP OF THE PROPOSED DEVELOPMENT TO ITS SURROUNDINGS;-

Given the low density of the proposal, it is considered likely that development can be achieved and would have sufficient space to respect the character of the area and being single storey would have reduce impact potentially compared to a two storey development. However, appearance and scale would be decided at reserved matters stage.

DESIGN SHOULD COMPLEMENT THE SCALE, FORM AND MATERIALS OF TRADITIONAL BUILDING IN THE AREA;-

Hedgerows itself is a bungalow. The neighbour Half Acre is a thatched cottage and opposite Grove Farm a two storey house. The approval for two dwellings is for single storey, but appearance is not known. Without knowing the proposed appearance of the proposed dwellings at reserved matters stage, a clear judgement on this policy point can not be made yet.

AMENITIES OF NEIGHBOURING RESIDENTS SHOULD NOT BE UNDULY AFFECTED BY REASON OF OVERLOOKING OR LOSS OF DAYLIGHT;-

Reserved matters in terms of scale, appearance and layout will allow judgement on this point to take place, but in principle given the very low density and single storey proposal it is not considered likely that amenities of neighbouring residents will be unduly affected.

DWELLINGS SHOULD HAVE ADEQUATE PRIVACY, SUFFICIENT DAYLIGHTING AND SUNLIGHTING AND BE PROVIDED WITH PRIVATE AMENITY SPACE OR GARDENS;-

This will be a matter for reserved matters, but given the low density and space available it is not considered unlikely that suitable amenity will not be available for the new dwellings.

LANDSCAPE FEATURES, INCLUDING HEDGES AND TREES, SHOULD BE RETAINED UNLESS THIS IS IMPRACTICABLE OR UNNECESSARY;-

There is nothing to suggest hedges and trees will need to be removed to allow suitable layout for the proposal. Landscaping and layout is also reserved matters for later consideration.

HISTORICAL, ECOLOGICAL OR ARCHITECTURAL FEATURES OF A SITE SHOULD BE RETAINED UNLESS THIS IS IMPRACTICAL OR UNNECESSARY, AND WHERE POSSIBLE ENHANCED;-

There are no listed buildings or otherwise historic buildings on site. The former green that includes this land is addressed further in this report.

ROAD LAYOUTS SHOULD BE DESIGNED TO THE STANDARDS AND REQUIREMENTS OF THE COUNTY HIGHWAYS AUTHORITY;- ROAD LAYOUTS SHOULD REDUCE TRAFFIC SPEEDS IN RESIDENTIAL AREAS AND PROVIDE FOR THE SAFETY OF PEDESTRIANS AND CYCLISTS;-

In terms of both of these points, this will be a matter of reserved matters proportionate to the development proposal.

DWELLINGS SHOULD HAVE SATISFACTORY ACCESS TO THE ADJACENT HIGHWAY AND CAR PARKING PROVISION IN ACCORDANCE WITH THE APPROVED PARKING STANDARDS OF THE DISTRICT PLANNING AUTHORITY.

This is dealt with under the highways section of this report, but is concluded that the access arrangements are satisfactory.

WHEN GRANTING PLANNING PERMISSION THE DISTRICT PLANNING AUTHORITY MAY INCLUDE CONDITIONS TO SECURE THE SATISFACTORY PROVISION OF A LANDSCAPING SCHEMES AND ITS SUBSEQUENT MAINTENANCE FOR A PERIOD OF NOT LESS THAN 5 YEARS."

Landscaping is a reserved matters and the need for a condition to secure it can be applied at that alter stage.

Policy H15

"POLICY H15 (DEVELOPMENT TO REFLECT LOCAL CHARACTERISTICS)

PROPOSED NEW HOUSING SHOULD BE CONSISTENT WITH THE PATTERN AND FORM OF DEVELOPMENT IN THE NEIGHBOURING AREA, THE CHARACTER OF ITS SETTING, PARTICULAR SITE CONSTRAINTS SUCH AS ACCESS AND DRAINAGE AND THE CONFIGURATION OF THE SITE INCLUDING ITS NATURAL FEATURES. ON SITES ALLOCATED IN THE LOCAL PLAN FOR NEW HOUSING IN THE FORM OF ESTATE DEVELOPMENT, THE DISTRICT PLANNING AUTHORITY WILL GENERALLY ENCOURAGE NET DENSITIES IN THE RANGE 25 -37 DWELLINGS PER HECTARE (10-15 DWELLINGS PER ACRE)."

In terms of looking at the current property Hedgerows and acknowledging the single storey form of development approved adjacent, it is difficult to argue that a further single storey development would be inconsistent with the neighbouring form. Half Acre is the other neighbouring reference, and this also has a modest form, on this basis the appearance of the proposed development at reserve matters stage will need to reflect the prevailing form and character. It is acknowledged that a further two bungalows to the rear of that already approved will not be linear development as current Grove Lane developments front the road, but looking to the area as a whole there are similar cluster development close by along Ashfield Road. With consideration of potential harm that may be caused, it is not considered this would represent a significant reason to warrant refusal in itself. Representations received do not consider this to be a cluster, but it is officer opinion given the landscape features that clearly define the group in contrast to the open fields adjacent with the approved development that forms a material consideration. The description of the group as a cluster is appropriate, but it is appreciated that this is a subjective opinion.

Representations have also referenced Para 127 of the NPPF that provides criteria on design for development. In general terms this seeks to achieve good design principles, many of which will be a matter for reserved matters and as addressed above. Clearly a change from rural field to domestic dwelling and garden is a significant change, both the NPPF as a whole and in this paragraph (P127) accepts change should not be prevented if done in a sympathetic way. Given the space available, the enclosure of the site, mix of old and more modern development both existing and approved, it is considered sympathetic design can be achieved in principle and there are no reasons not to allow reserved matters to address the appropriate appearance, layout and scale matters to achieve compliance with the NPPF in this regard.

6. Landscape Impact, Trees, Ecology, Biodiversity And Protected Species

6.1. Policy CS5 of the Core Strategy seeks to protect and conserve landscape qualities taking into account the natural environment and the historical dimension of the landscape as a whole rather than concentrating solely on selected areas, protecting the District's most important components and encouraging development that is consistent with conserving its overall character. However, in a number of recent appeal decisions including at Woolpit and Stowmarket, the inspectors have also considered this policy to be out-of-date due to its inconsistency with the NPPF and it should be given less weight. The NPPF states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils.

6.2. Paragraphs 170 of the NPPF seeks that decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan).

This site is not identified in the development plan nor has statutory status. It is a small part of a former medieval green that is addressed later in this report.

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

This is not open countryside nor active agricultural land and the boundary landscape/ditches to the boundary are not indicated as likely to be removed by this proposal and can be considered within landscaping as part of reserved matters. There is no public access to the site and very limited views across it (likely to be less with the development already approved for two bungalows along the Grove Lane Frontage). The beauty of the countryside is recognised, but it is not considered that a proposal for development in this location would be significantly impact the intrinsic character and beauty given the location and all material considerations.

c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate.
This is not coastal.

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

Given the space available, the biodiversity networks in terms of the established boundaries are likely to have minimal impact and habitat provision is conditioned. It is subjective to the amount of impact and gain, but considered proportionate to the provision of two dwellings.

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans. And f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

No unacceptable risk has been identified, accepting domestic use (and any other use) will have increased levels of pollution compared to an undeveloped site.

6.3. The boundary of the site offers visual containment and serves as an effective landscaping screen and this will be effective given a single storey design proposal. The application is in outline form only and landscaping can be readily addressed at the reserved matters stage of the development process.

6.4. Policy CS5 of the Core Strategy requires development to protect, manage and enhance Mid Suffolk's biodiversity. Policy CL8 of the Local also refers to wildlife habitats and need to avoid significant loss/alteration. Given the size of the site, surrounding dwelling and approved development the loss as a rural field is not considered to be significant to warrant refusal and boundaries likely to provide the main habitats will likely remain. Regulation 9(5) of the Conservation of Habitats and Species Regulations 2010 (Implemented 1st April 2010) requires all 'competent authorities' (public bodies) to 'have regard to the Habitats Directive in the exercise of its functions.' For a Local Planning Authority to comply with regulation 9(5) it must 'engage' with the provisions of the Habitats Directive. In this case there are no known protected ecology interests and given the condition of the site and location of potential habitat it is not considered that this development would result in significant harm to warrant refusal. It follows that there is, in any event, no significant conflict with policy CS5.

7. Land Contamination, Flood Risk, Drainage and Waste

7.1. There are no known contamination, flood risk or drainage issues that in this would represent significant planning concern to warrant refusal.

8. Heritage Issues

8.1. The site is not located within a Conservation Area. The nearest Listed Building is Grove Farmhouse, but this is on the opposite side of the road and there are a number of buildings and different uses between that building and this site and materially it is also considered that the adjacent approval for two bungalows would be between this site and the Listed Building. In conclusion given the proposed scale of development in both number and single storey, given the distance, approved development in between and nature of the location and relationships, it is concluded that there would not be harm to the setting of any listed building or their significance. On this basis the Local Planning Authority considers it has identified and assess that no particular significance of any listed heritage asset will be affected by the proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise .

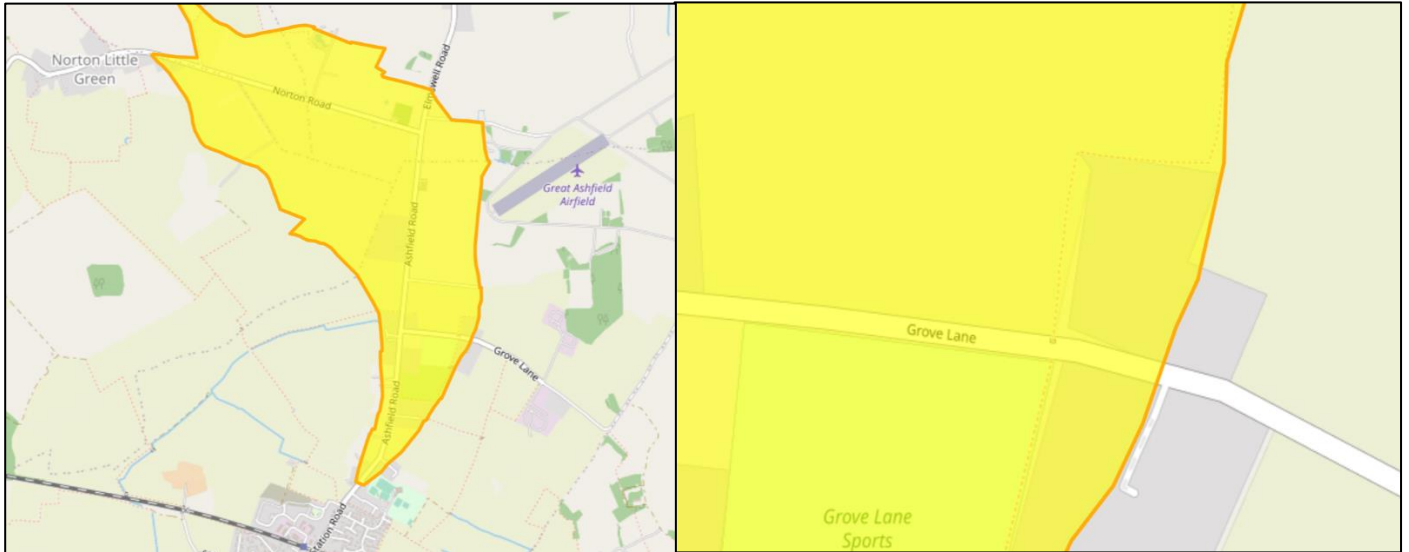
8.2. Non-designated heritage assets are buildings, monuments, sites, places, areas or landscapes identified by plan-making bodies as having a degree of heritage significance meriting consideration in planning decisions but which do not meet the criteria for designated heritage assets. A substantial majority of buildings have little or no heritage significance and thus do not constitute heritage assets. Only a minority have enough heritage significance to merit identification as non-designated heritage assets.

8.3. There are a number of processes through which non-designated heritage assets may be identified, including the local and neighbourhood plan-making processes and conservation area appraisals and reviews. Irrespective of how they are identified, it is important that the decisions to identify them as non-designated heritage assets are based on sound evidence. Government advice also provide that *“Plan-making bodies should make clear and up to date information on non-designated heritage assets accessible to the public to provide greater clarity and certainty for developers and decision-makers. This includes information on the criteria used to select non-designated heritage assets and information about the location of existing assets.”* Mid Suffolk district council does not currently have criteria to select non-designated heritage assets.

Furthermore, government advice provides that *“it is important that all non-designated heritage assets are clearly identified as such. In this context, it can be helpful if local planning authorities keep a local list of non-designated heritage assets, incorporating any such assets which are identified by neighbourhood planning bodies.”* Mid Suffolk district council does not current have any Local List and officers are not aware of any such assets identified by neighbourhood planning bodies.

8.4. However, *“In some cases, local planning authorities may also identify non-designated heritage assets as part of the decision-making process on planning applications...”* Representations have identified that the site is within an area known to be part of a former medieval green. This has various names including Pasturam de Buttehac 1156-80; Botenhagh 1286; Boten Haugh Green 1783 and Button Haugh Green.

8.5. The area the Green covered is shown on the yellow area on the map extracts



To help, we have in green also highlighted the general area this covers. The site is within this area and its east side is part of the area's border.



8.6. Is this area a non-designated asset? Dagwood Farm, Ashfield Road, Elmwell ref DC/19/00872 was refused in 2019 and is not far from this site. Importantly it was also with the same former green area and the green form part of the reason for refusal. On review, officers have looked at the refusal, heritage response and the significant material consideration appeal decision APP/W3520/W/19/3239171. The status of the Green as a non designated heritage asset was specifically addressed by the inspector at Appeal and a copy of this assessment is below.

“Button Haugh Green (BHG)

15. A case is made that the appeal site forms part of BHG, a medieval village green which it is argued should be treated as a non-designated heritage asset. Concern is raised that the proposal and subsequent loss of openness of the site would adversely affect the integrity of BHG, thereby harming its significance. In response, the appellant contends the site does not form part of the BHG and in any case its integrity has already been markedly harmed by development so that it no longer has any heritage significance.

16. To meet the Framework’s definition of a heritage asset, BHG needs to be identified as an area having a degree of significance because of its heritage interest. Planning Practice Guidance² states that non-designated assets can be identified through decision-making on planning applications, but identification should be based on sound evidence and assets should ideally be included on a local list.

17. I have not been informed that BHG is included on a local list and there is limited evidence before me that demonstrates its significance or heritage interest. The appeal site forms part of a stretch of undeveloped land running from the edge of Elmswell, but intervening hedgerows and development on the elsewhere along the road prevent the easy identification of the medieval green as a single entity. As such, there is insufficient justification to treat BHG as a non-designated heritage asset in the assessment of this appeal. However, my finding in this regard fails to address the identified harm to the setting, character and significance of the listed building, Dagwood Farmhouse.

18. For the above reasons, I conclude the proposal would not harm the significance of a non-designated heritage asset in terms of the integrity of BHG. In this regard, it would not be contrary to policy CS5 of the CS and the Framework, which seek to avoid harm to the significance of the historic environment, including non-designated heritage assets. LP policy HB1 and policies FC.1 and FC1.1 of the CSFR are referred to in the Council’s refusal reasons but contain no provisions that are specifically relevant to this main issue.”

8.7. In conclusion the Button Haugh Green was not found to be a non designated heritage asset and instead the issue upheld was in respect of the listed buildings involved with that appeal. On this basis the Local Planning Authority considers it has identified and assess that no particular significance of any heritage asset (both designated and non-designated) will be affected by the proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise

9. Impact On Residential Amenity

9.1. The NPPF and policies within the adopted development plan require, inter alia, that development does not materially or detrimentally affect the amenities of the occupiers of neighbouring properties. There are two existing properties to the road frontage and between these two more dwellings are already approved. This site would be to the rear of these properties and so it is likely that the connecting drive to the access will have impact on the amenity enjoyed by some of these properties, but it is not considered to likely be harmful to warrant refusal. The site is spacious and subject to design that can be considered at reserved matters stage, a suitable scheme is likely to be achievable to have minimum or avoid harm on any neighbouring amenity.

PART FOUR – CONCLUSION

12. Planning Balance and Conclusion

12.1. The scheme is contrary to the development plan when viewed as a whole, but the essential housing policies of the development plan which are the most important policies for the determination of this application are “out of date” and should be given less weight. However, the statutory priority given to the development plan does not dictate that an application should be refused simply because of conflict with policies within the development plan as section 38(6) requires the Council to assess the weight to be accorded to any policy conflict and to balance that against all the material considerations that outweigh any policy conflict as amply demonstrated by the inspectors determining the Woolpit, Ipswich and Stowmarket appeals. When taken in the round, the most important development plan policies for determining this application are out of date and so the “tilted balance” under policy FC1 and paragraph 11d) of the NPPF applies. This means granting planning permission unless the adverse impacts significantly and demonstrably outweigh the benefits. The engagement of the tilted balance as a consideration is a matter that has been afforded great weight. The proposal provides some benefits for the economy and can not be argued in the officer’s opinion as remote from services given the connections available. The site itself is enclosed and a development of the scale proposed is not considered likely to represent an intrusive development nor otherwise result in adverse planning harm to warrant refusal. Therefore, whilst the application is not in accordance with the development plan when viewed as a whole, the other material considerations outweigh any conflict and direct that planning permission should in fact be granted.

RECOMMENDATION

(1) That the Chief Planning Officer be authorised to Grant Outline Planning Permission subject to conditions as summarised below and those as may be deemed necessary by the Chief Planning Officer:

- Standard time limit (3yrs for implementation of scheme)
- Reserved matters
- Approved Plans (Plans submitted that form this application)
- Phasing Condition (To allow phasing of the development and allows spreading of payments under CIL as necessary)
- Swift/Owl boxes installation scheme to be agreed
- Hedgehog fencing scheme to be agreed
- Energy and renewal integration scheme to be agreed
- Rainwater harvesting to be agreed
- Construction Plan to be agreed.
- Level access to enable wheelchair access for all dwellings/buildings.
- Highways conditions as detailed in this report.

(2) And the following informative notes as summarised and those as may be deemed necessary:

- Pro active working statement
- SCC Highways notes

- Support for sustainable development principles