

Committee Report

Item 7A

Reference: DC/20/03362

Case Officer: Jasmine Whyard

Ward: Assington.

Ward Member/s: Cllr Lee Parker.

RECOMMENDATION – REFUSE PLANNING PERMISSION

Description of Development

Full Planning Application - Erection of Nursery School (Yorley Barn Nursery relocation from Yorley Barn, Upper Road, Little Cornard) (Class D1) with ancillary parking and construction of vehicular access to The Street.

Location

Land South Of, Access Road from C733 to the Church, Assington, Suffolk

Expiry Date: 30/10/2020

Application Type: FUL - Full Planning Application

Development Type: Minor All Other

Applicant: Yorley Barn Nursery School

Agent: Mr Nick Peasland

Parish: Assington

Site Area: 0.70 hectares

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: Yes

PART ONE – REASON FOR REFERENCE TO COMMITTEE

The application is referred to committee for the following reason:

- i) The Chief Planning Officer considers the application to be of a controversial nature having regard to significant local concerns and heritage objections to this development proposal. There are economic development considerations here and these will require to be carefully assessed in the planning balance given the formal weight they attract under the NPPF and having regard to the present economic climate. Arguably a decision either way will provoke public response and reaction.

With these considerations in mind this application is controversial and should be reported to Planning Committee for determination.

PART TWO – POLICIES AND CONSULTATION SUMMARY

Summary of Policies

The Development Plan

The following policies are considered the most pertinent to the determination of this proposal. The policies are all contained within the adopted development plan for Babergh District which is comprised of: Babergh Core Strategy (2014) and Babergh Local Plan Alteration No.2 (2006), specifically the live list of 'saved policies' (2016). All Policies, save for CS2, are afforded full weight in the determination process as they are considered wholly consistent with the aims of the NPPF under paragraph 213 of that document.

- Babergh Core Strategy (2014)

CS01 - Applying the presumption in Favour of Sustainable Development in Babergh

CS02 - Settlement Pattern Policy

CS03 - Strategy for Growth and Development

CS11 - Core and Hinterland Villages

CS13 - Renewable / Low Carbon Energy

CS15 - Implementing Sustainable Development

CS17 - The Rural Economy

- 'Saved policies' (2016) of Babergh Local Plan Alteration No.2 (2006)

EN22 - Light Pollution - Outdoor Lighting

CR04 - Special Landscape Areas

CR07 - Landscaping Schemes

CR08 - Hedgerows

CN01 - Design Standards

CN06 - Listed Buildings - Alteration/Ext/COU

TP15 - Parking Standards - New Development

NPPF - National Planning Policy Framework

NPPG-National Planning Policy Guidance

Emerging Joint Local Plan Policies

- The emerging Joint Local Plan is a relevant consideration to the development; however, members are reminded that it holds limited weight.

SP03- Settlement Hierarchy

LP18- Landscape

The National Planning Policy Framework

The National Planning Policy Framework (NPPF) 2019 contains the Government's planning policies for England and sets out how these are expected to be applied. Planning law continues to require that applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise. The policies contained within the NPPF are a material consideration and should be taken into account for decision-taking purposes.

Particularly relevant elements of the NPPF include:

Section 2: Achieving Sustainable Development
Section 4: Decision Making
Section 6: Building a Strong, Competitive Economy
Section 8: Promoting Healthy and Safe Communities
Section 9: Promoting Sustainable Transport
Section 12: Achieving Well-Designed Places
Section 15: Conserving and Enhancing the Natural Environment
Section 16: Conserving and Enhancing the Historic Environment

Other Considerations

Suffolk County Council- Suffolk's Guidance for Parking (2014 most recently updated in 2019)

The National Planning Practice Guidance (NPPG) provides guidance and advice on procedure rather than explicit policy; however, it has been taken into account in reaching the recommendation made on this application.

Neighbourhood Plan Status

This application site is / is not within a Neighbourhood Plan Area.

The Neighbourhood Plan is currently at-

Stage 4: Independent Examination of a neighbourhood plan (Regulation 17). The plan is imminently going to the examination stage. Accordingly, the Neighbourhood Plan is attributed due weight, in this case this equates to limited weight.

Particularly relevant elements of the Assington Neighbourhood Plan include:

ASSN1: Spatial Strategy
ASSN12: Area of Local Landscape Sensitivity

ASSN13: Protected Views
ASSN16: Biodiversity
ASSN17: Heritage Assets
ASSN18: Special Character Area
ASSN19: Design Considerations
ASSN20: Sustainable Construction Practices

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)

- **Assington Parish Council**

Strongly object on the following grounds:

- No regard given to the emerging Neighbourhood Plan
- No identified need demonstrated
- No attempt made to relocate the premises within the settlement boundary
- Landscape Sensitivity
- Detrimental Impact on undisrupted views
- Impact on highway- dangerous access, many accidents in area, increased traffic, danger to children
- Other buildings nearby which are for sale/ rent that could be used instead

National Consultee (Appendix 4)

- **Historic England**

No comment.

- **Natural England**

Holding objection as the site has the potential to affect the Arger Fen SSSI, this is further discussed in section 7 of this report.

County Council Responses (Appendix 5)

- **SCC - Travel Plan Co-ordinator**

No comment as the proposal does not trigger the threshold for the submission of a travel plan.

- **SCC - Highways**

No objection, subject to conditions.

Internal Consultee Responses (Appendix 6)

- **Economic Development & Tourism**

Supports the application through the provision of childcare, which is crucial to supporting the rural economy, through the possibility of job creation, assisting in local recruitment and supporting working families.

- **Arboricultural Officer**

Objected, as proposed use and design could conflict and undermine the trees protected by TPOs on site.

- **Public Realm**

No comment.

- **Environmental Health - Noise/Odour/Light/Smoke**

No objection, subject to conditions.

- **Environmental Health - Land Contamination**

No objection.

- **Heritage Team**

Object based on harm to the setting of listed buildings. This is discussed further in section 9 of this report.

Other Consultee Responses

- **Ecology - Place Services**

Holding objection based on insufficient information on foul water drainage which could affect the Arger Fen SSSI. This is discussed in section 7 of this report.

- **Suffolk Preservation Society**

Object based on the impact on heritage assets and important views.

- **Landscape- Place Services**

Object as the extent of change to the local landscape character and setting and the sites location outside the built-up area boundary would detrimentally affect the landscape.

B: Representations

At the time of writing this report, 31 representations of objection were received (all from within Assington Village) summarised as follows:

- Increased traffic, especially at rush hour (25)
- No regard to Assington Neighbourhood Plan (23)
- Increased risk of accidents (17)
- Inadequate and dangerous access (16)
- Out of character (14)
- Landscape impact (13)
- Air pollution (13)
- Noise pollution (13)

- Light pollution (12)
- Health and safety (11)
- Unsuitable location in regard to noise and pollution for children (9)
- Unnecessary location when better ones are available (9)
- Loss of open space (9)
- Inappropriate prominent location at entry to village (8)
- Affects ecology and wildlife (8)
- Character of undeveloped rural greenfield agricultural land lost (7)
- Dominating/ overbearing (7)
- Loss of outlook (7)
- Creates precedence for housing later (7)
- Dangerous road with limited footpath (7)
- Ugly design (6)
- Harm listed buildings (6)
- Strain on existing community facilities (6)
- Conflicts with Local Plan (6)
- Sustainability (6)
- Supporting comments not from residents in village (6)
- Inadequate public transport (5)
- Drainage (5)
- Overdevelopment (5)
- The standard of education the existing nursery provides is not planning related (5)
- Conflicts with NPPF (4)
- Trees (4)
- Increased flood risk (3)
- Inappropriate in a Conservation Area (3)
- Inadequately publicised (3)
- Loss of privacy (3)
- Inadequate infrastructure in Assington to support further development (3)
- No local need (3)
- Development too high (2)
- Loss of public right of way (2)
- Inadequate parking provision (2)
- Could increase in size in future years increasing pressure on landscape (2)
- SCC Highways have not scrutinised submitted data (2)
- Scale (2)
- No shortage in nursery school places (2)
- It is nursery not school and therefore benefits should not have the same weight (2)
- High winds raise risk of falling wood in area- dangerous to children
- Fencing the TPOS would be ineffective from falling debris
- Blocking views to Church on entry to village
- Outside of settlement boundary
- Boundary issues
- Loss of agricultural land
- New business to locality not existing one

- Permissive pathway is useless
- Fear of crime
- Increased anti-social behaviour
- Overlooking
- Health concerns of pylons
- Building work
- Fencing is required to stop children entering highway

1 supporting comment was received from within Assington

35 supporting comments were received outside of Assington but within 10 miles of the site.

4 Supporting comments were received within 20 miles of the site.

6 supporting comments were received more than 20 miles away from the site.

These comments are all summarised as follows:

- Ideal environment for children and their early development years (20)
- Allow expansion of the business, including increasing nursery places (20)
- Established, successful business, great reputation including Outstanding Ofsted rating (19)
- Serves community and children they care for and teach (15)
- Quality education (13)
- Increased places to relieve waiting list (10)
- Great Staff (10)
- Remove traffic from rural lanes (8)
- Requires the rural location for outdoor activity (8)
- Positive outcome for local and surrounding areas (7)
- Generate local jobs and training (7)
- Safer road access (7)
- Easy and convenient location (6)
- Support rural economy (3)
- Safe environment
- Happy children
- Expansion and more space allows a range of activities
- Barn is in keeping with rural architecture
- Good rural education rather than nurseries in city locations like London
- Offers places on the government's 2-year-old scheme supporting deprived children
- Helping working parents
- Facilitates expansion in housing
- Skilled employment opportunities
- Communities should grow and change over time
- Not an application for profit unlike the ones within Assington

(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

There is no planning history relevant or otherwise on site.

PART THREE – ASSESSMENT OF APPLICATION

1.0. The Site and Surroundings

- 1.1. The site is located north east of the Built-Up Area Boundary for Assington (483 metres away). The site is located immediately adjacent to and south of the A134, separated by hedgerow and trees. The site is accessed on the road (C733) to the south of the A134, leading into Assington. The site is fairly level.
- 1.2. There is a public right of way located south west of the site, 200 metres away and a permissive footpath which starts at the bottom south west hand corner of the site and connects to the public right of way. There is another public right of way located west of the site which starts on the opposite side of the road.
- 1.3. The site is rural in character, with agricultural land surrounding the site. There is a row of trees (three oak and one lime) running along the western boundary of the site and two oak trees to the north, which are protected by Tree Preservation Orders (TPOs). The site extends 0.7 hectares and is located in the north west corner of a grade 2 agricultural field (very good quality land with few limitations). The Stour Valley Special Landscape Area (SLA) surrounds the site north west, south west and south. The SLA starts directly opposite the site on the adjacent side of the road around Assington Park.
- 1.4. There are two listed buildings located close to the site which share a historic association, these are the Grade I listed St Edmund's Church located 238 metres west and the Grade II listed Glebe House located 214 metres east. Slightly further away from the site are the Grade II listed Hill Farm is located 436 metres south west and the Grade II listed Coach House 337 metres west. The site lies in an area of archaeological potential recorded on the County Historic Environment Record.
- 1.5. The nearest dwellings are located 214 metres to the east (Glebe House), 320 metres to the west (Assington Hall) and 432 metres south west (Church Hill Barn). The site is not within or close to a Conservation Area.
- 1.6. The site falls wholly within Flood Zone 1, where there is a very low probability (less than 1 in 1000 annually) of river or sea (fluvial) flooding. The agricultural use of the site and existing records show that presently it is considered to be at low risk of surface water (pluvial) flooding.
- 1.7. The site is not located within any designated landscape area including any Area of Outstanding Natural Beauty (AONB), Air Quality Management Area, Local Green Space, or Area of Visual/Recreational Amenity. However, it is important to note that the site is located outside of a Site of Special Scientific Interest (SSSI), but in an area which has been identified by Natural England as an impact risk zone for potential impact on the Arger Fen SSSI located south of the site (1.6 miles away).

2.0. The Proposal

- 2.1 The proposal seeks full planning permission for the erection of a single-storey building for use as a forest outdoor nursery school (Use Class D1) with ancillary parking provision and access.
- 2.2 For context, the existing business (Yorley Barn Nursery School), is currently located at Yorley Farm, Upper Road, Little Cornard, but the business is being evicted from their existing premises and need to find alternative suitable premises within the locality in order to continue operating. The nursery school provides childcare for ages 1 to 5.

3.0. The Principle Of Development

- 3.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, then that determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 3.2. Core Strategy policy CS1 and paragraph 11 of the NPPF state that the decision-making process should be done in accordance with the most relevant policies of the Local Development Plan where they are considered up-to-date in relation to their consistency with the NPPF. All policies identified in this report, except CS2, hold full weight in the determination process as they are considered compliant with the aims of the NPPF as distinguished under paragraph 213 of that document. Policy CS2 is afforded limited weight given its prescriptive blanket approach to development, it nonetheless provides direction and distinguishes the most suitable areas for development.
- 3.3. Policies CS11 and CS15 work inter alia in assessing proposals for Hinterland Villages. As the proposal is neither located adjacent to, nor is well related to the existing settlement boundary, it is not considered to engage with the assessment criteria under CS11. Instead the proposal and site are primarily assessed against their suitability and sustainability in the location using policies CS2, CS15 and paragraph 8 of the NPPF. The proposal is outside of the settlement boundary and is therefore contrary to policy CS2. The proposal is also outside of the emerging settlement boundary for Assington under policy SP03 under the emerging Joint Local Plan.
- 3.4. Core Strategy policy CS17 is also pertinent to assessing the proposed development. CS17 and paragraph 83 of the NPPF seek to support the rural economy, including through newly-designed buildings and development of accessible local services. Paragraph 84 of the NPPF stresses that the opportunity to enable rural services and businesses may result in development in areas outside of existing settlement boundaries. However, in these instances the development must be sensitive and responsive to its surroundings. Furthermore, in consideration of the site's existing use as grade 2 agricultural land; whilst 0.7 hectares would be lost, it would be concentrated in one corner of the field and would not undermine the ability of the field to be used for agricultural purposes.

- 3.5. With regard to the above policy positions, the site location is assessed against the three pillars of sustainability (economic, social and environmental), specifically with regard to Core Strategy policy CS15 for implementing sustainable development and paragraph 8 of the NPPF in achieving sustainable development.

Economically, in the long-term the proposal offers the opportunity to continue to support the existing twelve jobs, with the possibility of increasing this through the creation of four additional jobs and creation of two apprenticeships. Furthermore, in accordance with Core Strategy policy CR17, directly the proposal would support the rural economy through maintaining existing jobs with the possibility of expansion, indirectly the proposal would provide a childcare facility for working parents who may be employed locally or further afield. At a smaller and short-term scale, the proposal would generate a benefit for local trade before and during the construction period.

Socially, Assington would benefit from the addition of another facility. Whilst it is of a lesser likelihood, given the site's location significantly outside of Assington, it is wholly possible that local services and facilities within Assington could benefit from quick stopovers and trade from parents travelling to and from the nursery, thus further supporting the vitality of the rural economy.

Environmentally, whilst there are some footpath connections and public rights of way near to the site which would connect it to Assington, it is not considered that the site is strictly environmentally friendly, contrary to policy CS15 criterion xviii, which seeks to encourage active travel in the first instance to avoid car usage. However, this is not considered to sway the planning balance towards the conclusion that the site is unsustainably located. The proposal is for a childcare facility and as such it is unrealistic to assume that parents would regularly and predominantly access the site via walking and it is far more likely that the nursery would be accessed by parents travelling to and from work during rush hour periods via car. The site in this respect is suitably located adjacent to the A134, this would discourage and prevent travelling significant distances away from the A134, which connects the locality to numerous other places and thus employment sites. The site would be suitably located as an effective drop off point for commuting parents. Furthermore, with regard to paragraph 103 of the NPPF, it is acknowledged that opportunities to maximise sustainable transport will also vary between urban and rural areas.

Both Core Strategy policies CS2 and CS11, emerging Joint Local Plan policy SP03 and emerging Assington Neighbourhood Plan policy ASSN1 identify areas for accommodating growth and assessment criteria for those developments that fall outside of these areas, although it is acknowledged that all of these policies have varying degrees of limited weight. Whilst the site falls outside of any existing or proposed settlement boundary and is not adjacent or well-related to Assington; in view of the material considerations identified above, based on the type of development, which requires a more isolated rural setting, and its primary service to provide childcare facilities, it is considered that the location is sustainable for its end use.

4.0. Nearby Services and Connections Assessment of Proposal

- 4.1. The site is adjacent to the A134, the main road running through and connecting the area.

- 4.2. There is a permissive footpath running west starting from the southern edge of the site. The permissive footpath connects the bottom of the site to the existing public right of way.
- 4.3. Within Assington there are several services and facilities including: public house, village hall, a handful of small independent shops and Assington Barns. There is no existing nursery school.

5.0. Site Access, Parking and Highway Safety Considerations

- 5.1. Policies TP15, CS15 criterion xviii and paragraphs 103, 108, 109 and 110 of the NPPF seek to ensure that there is adequate parking provision, sustainable transport options are explored and that appropriate access and layout are provided to ensure there is no adverse impact on the highway network.
- 5.2. The access would be located to the north west corner of the site, 74 metres away from the junction with the A134, along the C733. Parking provision would be to the front, accommodating 18 public spaces and another 16 spaces for staff. This would meet the requirements of Suffolk Parking Guidance (2019).
- 5.3. SCC Highways raised no objection to the proposal from the perspective of access, visibility, traffic generation and parking provision, stating that, in accordance with paragraph 109 of the NPPF, the development would not result in an 'unacceptable impact on highway safety'. Therefore, in accordance with paragraph 109 the highway impact from the development would not warrant refusal. In consideration of paragraphs 108 and 110 of the NPPF, SCC Highways, however, acknowledged that the site is not accessible by sustainable means. However, as identified above, the type of childcare development means it is desirable for the site to accommodate efficient drop-offs and short visits for working parents. Therefore, it is wholly unrealistic to expect that even with sustainable transport options available that there would be any significant meaningful uptake of this, cars would be the most prolific form of transport.
- 5.4. As there are 14 employees (with a possible additional four), the proposal does not reach the adopted threshold to warrant the submission of or condition for a travel plan.
- 5.5. SCC highways recommended that conditions for visibility splays, access and parking provision should be provided prior to first use and a construction management plan should be submitted prior to commencement. These conditions would all be considered appropriate in the event of an approval.

6.0. Design and Layout

- 6.1. Local Plan policies CN01 and CN06 and paragraph 127 of the NPPF seek to secure sympathetic and responsive design for a development's surroundings. The following shows that the overall design is acceptable, however the overall principle of a building on site is unacceptable from a heritage perspective (See section 9).

- 6.2. The layout would consist of parking to the frontage of the site, a single-storey nursery building, and the rear would be the outside nursery area. From the adjacent roads the proposal would appear minimalistic and rural in character.
- 6.3. There would be a covered porch area, covered way, two store areas, one open store/ cycle store and covered outside play area which would be attached to the main building. The main building would provide a kitchen, staff room, main toilet area) utility, entrance lobby, admin and two office rooms and three nursery rooms (two of which have toilets and one with a sleep room).
- 6.4. The main nursery building would provide 252 sqm in floor space. Overall, the whole structure including covered areas would measure 2.4m to the eaves, 6.4m to the ridge, 32.7m in length and 10.7m in depth. The covered outside play area would be 2.4m in height with a slightly sloping roof.
- 6.5. The building would have a pitched roof and be constructed from box profile steel sheet composite insulated roof cladding in grey and black weatherboarded elevations. Combined, the materials and overall form, would result in the building adopting an agricultural vernacular, mimicking traditional agricultural barns which contribute to the wider character of Suffolk.
- 6.6. There would be three sets of bifold doors and one window on the south west elevation, a side access door on both sides, six windows and a main entrance door on the north east elevation. The storage area to the western side would have two sets of double doors facing eastwards and a small window on the north-east elevation.

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

- 7.1. Core Strategy policy CS15, Local Plan policies CR04, CR07 and CR08 and paragraphs 127 c), and 170, of the NPPF seek to recognise the importance of the character and contribution of the landscape and ecology to the locality, especially in achieving well-designed places. Whilst it holds limited weight emerging Joint Local Plan policy LP18 continues to place emphasis on the importance of the landscape. The site is adjacent to the Stour Valley SLA which is located to the south-west. There is a row of TPOs along the western boundary and some within the northern boundary.
- 7.2. The proposal's landscaping scheme includes: retention of existing trees along western boundary, planting trees within the outside area of the site, planting native shrubs along the eastern boundary and along the northern boundary adjacent to the A134, grassland and flower meadow margins. An agricultural style steel 5-bar gate would be erected at the entrance of the site, set back from the highway. The car park would be hardstanding (bodpave) and an area around the rear of the site would be comprised of a sandpit and concrete paving. A 1.2-metre-high timber post and rail fence would enclose the site and a 1.5-metre-high gabion wall around the car park area.
- 7.3. Place Services Landscaping reviewed the submitted Landscape and Visual Impact Assessment and raised objection to the proposed landscape impact as the development would adversely impact on the special landscape qualities of the area through altering the

character and appearance of the open undisrupted agricultural landscape, which sets the scene for the Grade I listed St Edmund's church. Whilst the neighbourhood plan holds limited weight, policies ASSN12 and ASSN13 are considered of importance in understanding the overall importance of the site in relation to the wider landscape. The policies are in support of the Place Services Landscape findings. ASSN13 identifies protected views, this includes protected view 4 between Glebe House and St Edmund's Church. Landscaping concluded that the proposed development would adversely impact on the open countryside views currently available from this location. This includes impact on the agricultural setting of Hill Farmhouse, south-west of the site. It is further noted that the site sits on a slightly higher level compared to the majority of Assington, making it appear more prominent within the open landscape. It is acknowledged that mitigation is proposed on-site to soften the landscape impact; however, the built form of the development would inherently alter the existing undisrupted views, which has implications on both the Stour Valley SLA and emerging area of local landscape sensitivity and protected views. Furthermore, the proposed mitigation is not considered to reduce the impacts on the landscape setting and character, it is inevitable that irreparable landscape harm would be caused.

- 7.4. Whilst the arboricultural report confirms that the built form would not detrimentally affect the TPO's roots, due to the age of the trees and the location of the proposed open space for young children's use, the Council's Arboricultural Officer raised concerns that the trees are likely to have some falling dead wood and other material which could seriously injure a child. The applicant proposes the erection of fencing around the trees to deter occupation of risk areas; however, concerns remain that these may not be practical, especially with younger children. Preventative pruning of the TPOs is also not supported as it would impact upon their value, contribution to the landscape and potentially their health. Whilst the development is not directly opposed, the current design is not considered to sufficiently address concerns over the potential conflicts on the site between a children's nursery and mature trees with a high chance of falling dead wood. Whilst it is acknowledged that it is the site operator's responsibility to ensure children's safety on site, any falling branches could potentially undermine the TPOs in the future through calls to fell them because of their safety risk. The site in this regard is, therefore, considered unsuitable for the proposed end use.
- 7.5. Natural England identified the site to be within the 3km Impact Risk Zone which shows that there could be an adverse impact on the Arger Fen SSSI (designated wetland site) through discharge of foul water to ground or surface water. Insufficient information has been submitted relating to the method of foul water drainage, which is likely to be a package treatment plant as no mains sewer connection can be made. Whilst it may be unlikely to have an impact, as no information has been submitted, it cannot be determined with certainty that there would be no impact. Paragraph 175 d) of the NPPF states that any development which may have an impact on an SSSI should not normally be approved. Paragraph 177 of the NPPF furthers this stating that where an impact is identified, the presumption in favour of sustainable development does not apply. Whilst Place Services Ecology raised no objection to the submitted ecological appraisal in regard to the site and its immediate surroundings, in taking account of Natural England's response they raised a holding objection due to insufficient information in relation to the designated site Arger Fen SSSI.

8.0. Land Contamination, Flood Risk, Drainage and Waste

- 8.1. Paragraph 170 of the NPPF seeks to ensure development is appropriately located in relation to contaminated land, any contamination should be appropriately remediated. From the perspective of land contamination, the Council's Environmental Protection Team was satisfied that the Phase I contamination report submitted with the application confirmed there were no land contamination issues as there was little evidence that there was any plausible contaminative link that existed on site.
- 8.2. Core Strategy policy CS15 criterion xi) and paragraph 155 of the NPPF seek to ensure that people and buildings are sequentially located to areas of lower flood risk. The site is located within Flood Zone 1 and has no recorded issues of surface water flooding. There would be limited hardstanding and built-form on site, retaining the majority as natural permeable surfaces, therefore there are no concerns that the development would increase any flood risk. As the site is under a hectare no Flood Risk Assessment was required either. The proposal therefore is located in accordance with CS15 and paragraph 155 of the NPPF.
- 8.3. Paragraph 170 of the NPPF seeks to ensure development is located away from pollution alongside mitigating against adversely affecting the surroundings through increasing forms of pollution. From the perspective of noise, odour, light and smoke Environmental Protection raised no objection. It was however noted that as there is no mains sewer serving the site a package sewage treatment plant would have to be used. Conditions were recommended to provide details of such plant alongside limiting operating hours.

9.0. Heritage Issues

- 9.1. The site lies in an area of archaeological potential recorded on the County Historic Environment Record. SCC Archaeology identified that the site lies in close proximity to the grade I listed Church of St Edmund, which is thought to be built on one the presumed locations of the Battle of Assundun, a battle fought in 1016 as a result of a Danish invasion of England. Further to this, the site is on the edge of a medieval green marked and named as 'Green' on Hodkinson's map of Suffolk dated 1783. As a result, there is high potential for the discovery of below-ground heritage assets of archaeological importance within this area, and groundworks associated with the development have the potential to damage or destroy any archaeological remains which exist. SCC Archaeology raised no objection to the build from the perspective of archaeology; however, in the event of approval, two conditions are recommended for investigative and post investigative works.
- 9.2. The Council's Heritage Team has assessed the proposal in accordance with Core Strategy policy CS15, Local Plan policy CN06 and paragraphs 127 c), 190, 192, 193 and 194 which seek to conserve and enhance the setting and significance of listed buildings, noting their importance in the landscape and history of the area. Specifically, paragraph 190 and 194 seek to identify and assess the significance of heritage assets, this explicitly includes any development within the setting of the heritage asset, any harm that results should be sufficiently and convincingly justified. This setting may extend outwards of the immediate curtilage of listed buildings and extend within the wider surroundings which have had

historical associations or provided views of significance both outwards from the listed building and looking into the listed building.

9.3. The Council's Heritage Team concluded that there were three different forms of harm to the surrounding listed buildings:

- A low to medium level of less than substantial harm to the undeveloped setting, important view and historic relationship from the Grade I listed St Edmund's Church to the Grade II listed The Glebe House.
- A low level of less than substantial harm by way of erosion of the historic relationship between The Glebe House and St Edmund's Church.
- A very low level of less than substantial harm by eroding the undeveloped agricultural setting of Grade II Hill Farmhouse, including the associated curtilage listed buildings of Hill Farmhouse.

9.4. The Council's Heritage Team provided its assessment for the conclusions above.

The heritage concern relates to the potential impact of the works on the significance of the following nearby heritage assets:

- *The Church of St Edmund, a Grade I listed C15 flint church with chancel and tower rebuilt in the C19, to the north west.*
- *The Glebe House, a Grade II Listed early C19 gault brick house, including potential curtilage listed structures, to the east.*
- *Hill Farmhouse, a Grade II Listed timber-framed and plastered farmhouse, with C17-C18 external features but with an earlier core, including its potentially curtilage listed historic barns, to the south west.*
- *The Stables and Coach House to the former Assington Hall, a Grade II Listed block of C18- C19 buildings to the north west. The historic Assington Hall burnt down in 1957.*
- *Assington Park, a landscaped park of 1750, to the north west. This is not designated but may meet the criteria to be considered a non-designated heritage asset depending upon extent of preservation and significance. A non-designated heritage asset has some level of architectural or historical interest and significance but not enough to be listed.*

The Heritage Statement equates setting only with intervisibility from fixed points and suggests that, if an asset cannot be seen to or from a site, then the site cannot contribute to significance. This is contrary to Historic England's The Setting of Heritage Assets guidance (2017), which states that "although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors, such as noise, dust and vibration...and by our understanding of the historic relationship between places." It also provides a checklist of ways that setting

contributes to significance (p.11), many of which would not necessarily be dependent upon intervisibility.

As previously outlined, some of the ways by which the proposed scheme would be harmful are not related to degree of visibility from fixed points. Nonetheless, visibility and views are also of a concern in this case, particularly in relation to views of the tower of the Church of St Edmund from the A134. The Heritage Statement argues that these views are restricted due to intervening vegetation. However, from carrying out a site visit, the tower appeared fairly noticeable. The Setting of Heritage Assets guidance (p.12) highlights the importance of considering seasonal changes resulting in differences of vegetation cover. Furthermore, it states (p.14) that “woodland and hedgerows” should be considered “ephemeral features...(that) may be removed or changed during the duration of the development.” The Heritage Team could not ensure that vegetation was retained. Therefore, no weight is given to the presence of existing vegetation in the assessment of the proposal in relation to the setting of listed buildings.

The Heritage Statement also argues that the construction of the A134/realignment of the previous road has “severely disrupted” the ability to understand the historic relationship between Glebe House and the church. However, I am not convinced that the impact of the A134 is so great that the historic relationship is no longer readable. Furthermore, the presence of an existing negative element within the setting of a heritage asset is not considered justification for causing further harm to the setting. This was concluded by the Inspector in the appeal for application DC/18/04162 in Mid Suffolk, who states that “I am not of the view that previous negative changes to the setting of the listed building should be used to justify further harm to its significance; on the contrary, this demonstrates to me that a line needs to be drawn or similar development shall continue until all of its remaining setting has been harmed or lost.” The Heritage Statement further suggests that the church tower is not experienced from the A134 because the focus of all road users is on the road only, not the surroundings, this is yet again an unconvincing argument.

- 9.5. The emerging Assington Neighbourhood Plan (ASSN13) further supports the findings of the Council’s Heritage Team, identifying the protected views including protected view 4 which protects the link and undisrupted views between The Glebe House and St Edmund’s Church.
- 9.6. In accordance with paragraph 196 of the NPPF, the proposed development must be weighed against the public benefits of the proposal. These benefits must be of true value to the wider public and must be to such a degree to be considered to outweigh the harm.
- 9.7. In weighing the public benefits, the following are identified as the benefits of the scheme:
 - The continuation of fourteen jobs which already exist within the district
 - The possible creation of four additional jobs and two apprenticeships new to the district
 - A private childcare facility, which parents would pay for their children to attend, whilst they may be going to work in or outside of the area.

Paragraphs 82, 83 and 84 of the NPPF seek to support businesses in suitably accessible locations, including recognising that in rural areas this may be outside of the settlement boundary. Paragraph 83 a) specifically states that businesses in rural areas are supported in principle through conversion of existing buildings and new well-designed buildings. However, in taking the NPPF as a whole, chapter 16 seeks to protect the historic environment and draw a balance. None of these benefits are considered significant enough to outweigh the harm that the proposal would cause to the setting and significance of the three Grade I and Grade II designated heritage assets. It is noted that the agent made the argument that paragraph 94 of the NPPF seeks to ensure there are adequate school places made available. However, this is a private nursery and is not considered to be a school, rather a childcare facility. Unlike a school, there is no defined catchment area for a private nursery, as shown by the supporting comments which suggest the majority of parents are from surrounding areas. The nursery would be of limited localised benefit to Assington and would primarily serve surrounding villages. Whilst its benefit as a service and its outstanding Ofsted reputation are undisputed, the proposed location is wholly inappropriate. Furthermore, no justifiable reason has been given as to why the nursery should be located here other than the difficulty in sourcing an affordable site or premises within the area. The site is heavily constrained, including by the contributions it makes to the setting and significance of designated heritage assets.

- 9.8. The proposal and its resulting harm to listed buildings have been unconvincingly justified, and therefore do not satisfy the requirements under paragraph 194 of the NPPF. Whilst the proposal is not considered opposed in principle from a planning perspective, it should be located in a more suitable unconstrained location which does not detrimentally affect the district's heritage assets and preservation of history. Whilst it is acknowledged that the nature of the forest nursery requires a 'rural' setting it is considered that, as the district is primarily rural, there are more suitable places for such a facility.

10.0. Impact on Residential Amenity

- 10.1. By way of its isolated location there are no dwellings surrounding or close to the site whose residential amenity would be detrimentally impacted. There would be minimal noise generated from the operations on site, which would be during regular social hours and secured via condition. Furthermore, the predominant source of noise would continue to come from traffic along the A134.

11.0. Planning Obligations / CIL

- 11.1. Not applicable to this application.

12.0. Parish Council Comments

- 12.1. The Parish Council raised several objections to the proposal, each of which will be addressed in turn.
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- 12.2. The Assington Neighbourhood Plan has just passed the consultation stage and is at Regulation 17 stage (independently examined) and therefore is afforded limited weight. The Parish Council discuss the policies the proposal conflicts with, these include: ASSN1, ASSN12, ASSN13 and ASSN24. In addition to conflicts with the neighbourhood plan, highway concerns were noted.
- 12.3. As the neighbourhood plan has limited weight it is not yet an adopted document and therefore cannot solely be relied upon in the determination process. Therefore, the policies with full weight (unless stated otherwise) are those within adopted documents and are those which primarily drive the determination of this application. The neighbourhood plan does, however, provide some direction and identify key aspects of the village which help to understand its overall character, setting and surroundings.
- 12.4. ASSN1 seeks to direct development within the existing settlement and for those outside of the settlement boundary provides assessment criteria. Whilst the proposal is contrary to these criteria, as the plan holds limited weight this is not the primary policy for determining the acceptability of the location. The locational suitability is considered in section 3.
- 12.5. ASSN12 relates to the area of local landscape sensitivity which seeks to protect the landscape character in any development proposals. Please see further discussion of conflict with this proposal in section 7.
- 12.6. ASSN13 identifies several viewpoints to be protected which contribute both immediately to their surroundings, history, landscape and sense of place and more widely to the overall character of the landscape. Please see further discussion of conflicts with this policy in sections 7 and 9.
- 12.7. ASSN24 relates to existing local businesses in their retention and intensification. As the proposal is not an existing business within the parish, this policy is not considered relevant.
- 12.8. Highways concerns were noted, including the submission of a crash map. When checking the crash map data for the last five years there was one slight accident at the junction involving two cars; however, this was on the A134 and not the C733. The highways concerns have been addressed by SCC Highways and in section 5.
- 12.9. It is further noted that the Parish Council in its response has offered to assist in helping the nursery find a more suitable alternative premises/ site.
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PART FOUR – CONCLUSION

13.0. Planning Balance and Conclusion

- 13.1. In making a planning balance, whilst the site's location may be considered sustainable for the type of development by way of its accessibility to the A134, it is not considered that the

constraints of the site in the form of TPOs, landscape character and designated heritage assets make it an appropriate site for the development. Whilst there are undeniably some public benefits, these are considered to be minimal and not significant community benefits. The public benefits of sustaining existing jobs within the district, only serving to benefit children of fee-paying parents in an unspecified catchment, which includes outside of the district, and supporting parents working or otherwise. These benefits are not considered of significant or wide enough public value to outweigh the heritage harm identified. The proposed use and current design of the site illustrates great disregard for the importance of the TPOs on the boundary which could be severely undermined by the proposal if approved, with the worst-case scenario being that they are removed. By way of the openness, rural and undeveloped agricultural nature of the site, the surrounding landscape would be detrimentally harmed, especially as the site sits higher in comparison to the main settlement area of Assington.

- 13.2. The proposal would undermine the aims of and would conflict with Core Strategy policy CS15, Local Plan policies CN06, CR04, CR07 and paragraphs 127, 170, 193, 194 and 196 of the NPPF. In summary, the proposal would detrimentally affect heritage assets without justification or sufficient public benefits, the character of the landscape would be significantly and detrimentally harmed and the proposed end use as a children's nursery has high potential to undermine the TPOs on site.

RECOMMENDATION

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

1. The proposal is contrary to Core Strategy policy CS15, Local Plan policy CN06 and paragraphs 190, 192, 193, 194 and 196 of the NPPF as the proposal would cause a range of harm on designated heritage assets ranging from a low-to-medium level of less than substantial harm to a very low level of less than substantial harm to the setting and significance of the Grade I listed St Edmund's Church, Grade II listed The Glebe House and Grade II listed Hill Farmhouse. The proposal would disrupt the existing setting and significance of the listed buildings. The reasoning given for the resultant harm arising from the proposal is not convincingly justified. In weighing the proposal against public benefits, it is not considered that the identified benefits from the erection of a private nursery school, with no identified catchment area, sustaining fourteen existing jobs with the unguaranteed creation of four additional jobs and two apprenticeships outweighs this harm. This site is therefore considered unsuitable for the proposed development which would detrimentally affect Assington's and Babergh's heritage assets and physical presence and understanding of history.
2. The proposal conflicts with Core Strategy policy CS15, Local Plan policy CR07 and paragraphs 127 and 170 of the NPPF through potential indirect impact on the four trees protected by tree preservation orders along the western boundary of the site. The proposed mitigation is not enough to offset and address concerns that the use of the site as children's nursery is unsuitable so close to mature trees which have a high potential to shed dead wood which could injure a child and could result in pruning or felling of the trees based on a conflict of uses.
3. The proposal conflicts with Core Strategy policy CS15, Local Plan policies CR04, CR07 and CR08 and paragraphs 127 and 170 of the NPPF. The nursery would be located amongst agricultural fields and existing vegetation, which currently serve as undisrupted views across the area. The site falls at the entrance of the village and is therefore prominently located, and its openness contributes to the overall rural character of Assington and its surrounding undeveloped land around the settlement boundary. The development would detrimentally alter the character and openness of the area.
4. There is insufficient information relating to the way that foul water shall be discharged from the site. Whilst it is acknowledged this will not be through a mains sewer, information on the necessary sewage treatment plant has not been submitted. As the site falls within the 3km impact risk zone of the Arger Fen SSSI (designated wetland) the Local Planning Authority cannot determine with certainty that the development would not result in any adverse impacts to the Arger Fen SSSI through the development's chosen method of foul

water drainage. The proposal is therefore in conflict with Core Strategy policy CS15 and paragraph 175 b) and 177 of the NPPF resulting in potential adverse impact on an SSSI.