

Consultee Comments for Planning Application DC/19/05956

Application Summary

Application Number: DC/19/05956

Address: Land Off Postmill Lane, Fressingfield

Proposal: Outline planning application (all matters reserved) - Erection of up to 18No dwellings and associated new roads, infrastructure and open space.

Case Officer: Vincent Pearce

Consultee Details

Name: Mr Andy Parris

Address: The Stooks, New Street, Fressingfield Eye, Suffolk IP21 5PG

Email: Not Available

On Behalf Of: Fressingfield Parish Clerk

Comments

Fressingfield Parish Council opposes this application.

Councillors were surprised and concerned that the report from the principal planning officer recommending that the planning committee accept this application was circulated in advance of the consultation period having been completed. We are perplexed that after statements made by him at previous public meetings stating that the development was inappropriate, he has made a complete volte-face and is now supporting the application.

The officers report contains factual errors. These concern Fressingfield parish councillors as the errors could distort the planning committees views of the impact of this application on the parish. e.g. The population and number of homes are those for the district council ward of Fressingfield. This ward includes the parishes of Weybread, Syleham, Metfield and Mendham, as well as Fressingfield. The last census recorded the population of Fressingfield as 1021 with the number of homes as 444. A recent population estimate on the Suffolk Observatory website is 1122; the weekly bus service for the village ended over a year ago. Therefore, the impact will be greater than set out in the report.

The council is shocked that the principal planning officer should apportion such little weight to the Fressingfield Neighbourhood Development Plan. Two years in writing, the district council made this plan in March 2020. Its aim for the development of 60 homes is closely in line with the number stated in MSDCs existing and draft Local Plans. This figure was not randomly plucked from the air but is an integral part of a plan, constructed with democratic involvement at each stage. This is a process with which you will be familiar as you are drawing up the new strategic plan for MSDC. These plans are not just bureaucratic exercises undertaken to tick boxes and gain additional CIL moneys. They are a fusion of public preference and need written in a clear way as a statement of direction for future development. In the first test of its value, the district council should not allow the

figures agreed in the parish to be overridden. The additional 18 homes in this application, with the 51 already having planning permission, would mean that Fressingfields planned 60 was increased by 15% within 8 months of the neighbourhood development plan being made.

Regarding the wider impact of this development, councillors are concerned about highway safety, particularly in New Street. This is the road into which the development flows.

In its report, Suffolk Highways Authority (SHA) claims that in its previous report, the site was reviewed with 2 other sites within Fressingfield to consider the cumulative impacts from all three developments on the highway. This was not the case. In this earlier report, the transport policy and development manager confirmed that, following the example of recent cases from the Planning Inspectorate, he had viewed the Post Mill Lane site as unique and that the absence of a history of crashes should be balanced against observed road safety issues when deciding if there is an unacceptable impact on highway safety.

That November 2018 report was made after simple observations of traffic and pedestrians negotiating their ways along New Street and around Jubilee Corner. The report was clear. The development of more houses on Post Mill Lane would result in an unacceptable impact on highway safety particularly for vulnerable pedestrians.

In the latest report, Suffolk Highways Authority recommends approval of the application. The parish council believes that SHA presents not enough evidence or reasons to overturn the first recommendation. The stated reasons for changing its view are not sufficient for you to change yours:

The only new proposal for road safety, noted in the recent SHA report is a drop pavement at the junction of New Street and Priory Road.

The accident figures quoted in this report to support its change of view, do not refer to incidents of conflict between pedestrians and motorist. This should be a key factor in judging how safe pedestrians are on a road without pathways.

The footpath to the school referred by SHA as a reason for approving the application is not new. It was there when the first report was written.

Seeking a 20mph speed limit on New Street is just an idea. It has been advised against in the past by SHA because the median speed of traffic on New Street is likely to be above 24mph. (This is the guide that SHA works to when considering applying a 20mph speed limit.)

Therefore, the parish council believes MSDC Planning Committee should question if there are any valid reasons for Suffolk Highways Authority to change its advice from that given in November 2018.

Regarding the impact of the development on the sewerage system within Fressingfield, it is 10 months since the parish councils last comments on the application, and nothing has changed. Any periods of prolonged rain continue to bring raw sewage into the streets. The reasons are clearer, but the solutions seem no closer.

Anglian Water states that technically the pumping station on Harleston Hill and the treatment plant in Weybread can deal with the extra sewage from the proposed new estate. Its report makes no comment on the fact that the system leading to the pumping station cannot deal with the current

level of waste at times of steady rain. This is because an unknown amount of surface water ends up in the sewerage system and that system cannot cope. The egress of raw sewage into the street occurs before the Harleston Hill pumping station.

The parish council is firmly of the view that no new homes should be added to the system until this problem has been solved.

The council feels that it is unclear how proposed section 106 money for school transport, and speed reduction measures could be used. There is lack of clarity which means that their impact as mitigating measures is extremely limited.

The council is of the opinion that the planning authority should resist any over-reaction to recent government consultations on planning. With such an uncertain future, they should not try to second guess what the government will decide. MSDC already has a substantial landbank and does not need to urbanise a rural community. The parish council is concerned that local democracy is being undermined by promoting the expansion of homes where patently they are not required.

Overall, the small changes introduced by the developers do not convince the parish council that this is an application worth supporting. No substantial factors have changed to make this application a positive and welcome addition to the village.

Strength of feeling against this application is very strong in the parish. The number of responses opposing this application confirm this.

Fressingfield Parish Council requests that the district council refuse the application.

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Case Officer: Vincent Pearce

Consultee Details

Name: Mr Andy Parris

Address: The Stooks, New Street, Fressingfield Eye, Suffolk IP21 5PG

Email: clerk.fresspc@gmail.com

On Behalf Of: Fressingfield Parish Clerk

Comments

Fressingfield Parish Council recommends refusal of this application.

This is a truncated version of an application made in 2017 (1648/17) which the district council refused. The planning inspectorate dismissed an appeal. This application removes from that original application 6 houses which would have been built behind Ladymeade Cottage, a Grade II listed building.

In his assessment, the inspector confirmed that the existent LDP (1998), the Core Strategy (2008) and the Core Strategy Focused Review (2012) do carry weight when making decisions. This is in part due to their resonance with the NPPF.

Using these documents, the inspector concluded that the site in that application was not suitable for new housing. He felt that it conflicted with CS1 and CS2 (Core Strategy and CS Focused Review) and that it did not meet the aims of para 170 of the NPPF, in terms of recognising the intrinsic character and beauty of the countryside.

The site for this proposed development (DC/19/05956) is within the boundaries of that previous application. The site is outside the settlement boundary but does not meet the requirements of paragraph 79 of the NPPF 2019.

At the time of his assessment, the inspector did not feel that Fressingfields Neighbourhood Development Plan was sufficiently advanced to affect his judgements. However, it has now been assessed by an external examiner, had a few minor modifications and will go to a village referendum in late January/early February. Therefore, it should be given material consideration even though at the time of writing this comment, it does not carry statutory weight.

The section of the NDP on housing states that 60 homes could be built during the lifetime of the plan to support its vision of Fressingfield being a good place to live with a welcoming, friendly and cohesive community. It will be a village with a robust and sustainable infrastructure.

The NDP anticipates that the 60 will be made up of homes already given planning permission (51); small windfall sites, not yet identified, within the settlement boundary; and conversions and new development opportunities outside the settlement boundary in accordance with paragraph 79 of the NPPF 2019

60 is 7% more than the minimum figure in BMSDCs draft Local Plan in which Fressingfield is designated a hinterland village.

When the district council considered the previous application, councillors were appalled to hear of how raw sewage would periodically overflow from Fressingfields sewerage system into the street and a local watercourse. This problem has still not been solved: it is getting worse. Steady or heavy rain seems to be the catalyst. (Details are in the SAFE response.) A working group and closer connections with Anglian Water, Suffolk Highways and Suffolk Flood Management have been established.

However, the full causes of the problem, which is a health hazard and a 21st century disgrace, have not yet been identified. Only when that is done can solutions be designed and implemented. Any proposals that try to avoid exacerbating the problem are currently based on incomplete knowledge of the causes. Fressingfield Parish Council believes that only when these problems have been solved should new housing applications be seriously considered.

Put simply, it is not right to expect residents to live in an expanding village where the content of their loo ends up in the street and the local watercourse.

Other key points from the councils planning committee meeting:

The traffic survey submitted with this application was conducted in February which is not a month representative of traffic flow in a village surrounded by agricultural land.

The pedestrian route assessment document makes several subjective judgements about the flow of traffic (low levels of traffic, very light traffic, very light traffic flow). This is based on making an average of a days count over 24 hours which seems unreasonable. Obviously, there will periods of the day/night when there is almost no traffic.

Using these judgement-laden descriptions imply that pedestrians can safely walk along this narrow street (between 4m and 5m wide). This not the case.

The level of traffic flow should be compared to similar situations i.e. hinterland villages.

The route assessments were made according to AWARs guidance which takes no account of the personal safety of children travelling alone and it is presumed that all road users will behave reasonably and responsibly.

The fact that there are no reported road traffic injuries would appear to confirm New Street is a safe route to walk. However, even with current levels of traffic and even when most vehicles

respect the speed limit, it is a threatening journey for most pedestrians. AWARs guidance for assessing pedestrian routes takes no account of the emotional harm caused by a 300m walk on a 4/5m wide street with no pathways and being faced by cars, lorries, tractors with trailers, vans and motorbikes travelling in both directions.

In its report to the district council at the last application (1648/17), Suffolk Highways confirmed that accidents did not need to have occurred to identify a route as dangerous, but ... that weight should be given to observed conflicts between pedestrians and vehicles... (NPPF para 110)

Although measures were proposed to mitigate the dangers likely to occur with an increase in vehicular and pedestrian traffic on routes at the core of the village, the report stated, The measures proposed are the best solution available within the existing constraints (but) they fall short of making the highway safe for pedestrians.

Steve Merry, Transport Policy and Development Manager Growth, Highways and Infrastructure concluded, It is the Highway Authorities opinion that further traffic passing along New Street and/or through Jubilee Corner would result in an unacceptable impact on highway safety particularly for vulnerable pedestrians.

There are no public transport links to and from the village.

The claim that 18 houses is a modest number ignores the fact that it effectively doubles the size of the estate.

The only entrance to this estate is close to the busy entrance to the medical centre. The pedestrian access to the medical centre is already difficult due to the lack of footpaths.

Planning permission already exists for 51 houses in the village.

If permission is granted for this new development, it would mean that planning permission had been given to 23% more than the minimum required in BMSDC draft Local Plan.

There are 2 other development applications currently on the table. These would add a further 48 homes to the village. The figure of 117 (51+18+48) is more than double that in the draft Local Plan. The plan has another 16 years to run.

As permission has been granted for 51 houses already the medium-term sustainability of the school is not an issue.

Benefits would accrue to the parish via a CIL allocation.

Speed restriction plans for New Street would be welcome.

BMSDC Planning Area Team Yellow

From: SM-NE-Consultations (NE) <consultations@naturalengland.org.uk>
Sent: 07 January 2020 11:54
To: BMSDC Planning Area Team Yellow
Subject: Consultation DC/19/05956 NE Response

Categories: Katherine

Dear Ms Bunbury,

Application ref: DC/19/05956
Our ref: 304650

Natural England has no comments to make on this application.

Natural England has not assessed this application for impacts on protected species. Natural England has published [Standing Advice](#) which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

Natural England and the Forestry Commission have also published standing advice on [ancient woodland and veteran trees](#) which you can use to assess any impacts on ancient woodland.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on [Magic](#) and as a downloadable [dataset](#)) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>

Yours sincerely,
Heather Ivinson

Heather Ivinson
Operations Delivery
Consultations Team
Natural England
Hornbeam House, Electra Way
Crewe, Cheshire, CW1 6GJ
Tel: 0300 060 0475

www.gov.uk/natural-england

We are here to secure a healthy natural environment for people to enjoy, where wildlife is protected and England's traditional landscapes are safeguarded for future generations.

In an effort to reduce Natural England's carbon footprint, I will, wherever possible, avoid travelling to meetings and attend via audio, video or web conferencing.



Planning Applications – Suggested Informative Statements and Conditions Report

If you would like to discuss any of the points in this document please contact us on 03456 066087, Option 1 or email planningliaison@anglianwater.co.uk

AW Site Reference: 155211/1/0107546

Local Planning Authority: Mid Suffolk District

Site: Land Off Postmill Lane, Fressingfield

Proposal: Outline planning application (all matters reserved) - Erection of up to 18No dwellings and associated new roads, infrastructure and open space.

Planning application: DC/19/05956

Prepared by: Pre-Development Team

Date: 11 November 2020

ASSETS

Section 1 - Assets Affected

There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water would ask that the following text be included within your Notice should permission be granted.

Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

The development site is within 15 metres of a sewage pumping station. This asset requires access for maintenance and will have sewerage infrastructure leading to it. For practical reasons therefore it cannot be easily relocated.

Anglian Water consider that dwellings located within 15 metres of the pumping station would place them at risk of nuisance in the form of noise, odour or the general disruption from maintenance work caused by the normal operation of the pumping station.

The site layout should take this into account and accommodate this infrastructure type through a necessary cordon sanitaire, through public space or highway infrastructure to ensure that no development within 15 metres from the boundary of a sewage pumping station if the development is potentially sensitive to noise or other disturbance or to ensure future amenity issues are not created.

WASTEWATER SERVICES

Section 2 - Wastewater Treatment

The foul drainage from this development is in the catchment of Weybread Water Recycling Centre that will have available capacity for these flows

Section 3 - Used Water Network

This response has been based on the following submitted documents: Proposed Site Plan Showing Surface Water Drainage revision C dated November 2019 The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection. (1) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. (2) INFORMATIVE - Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water. (3) INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087. (4) INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements

Section 4 - Surface Water Disposal

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.

From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments in the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented.



Planning Applications – Suggested Informative Statements and Conditions Report

If you would like to discuss any of the points in this document please contact us on 03456 066087, Option 1 or email planningliaison@anglianwater.co.uk

AW Site Reference: 155211/1/0076073

Local Planning Authority: Mid Suffolk District

Site: Land Off Postmill Lane, Fressingfield

Proposal: Outline planning application (all matters reserved) - Erection of up to 18No dwellings and associated new roads, infrastructure and open space

Planning application: DC/19/05956

Prepared by: Pre-Development Team

Date: 27 January 2020

ASSETS

Section 1 - Assets Affected

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WASTEWATER SERVICES

Section 2 - Wastewater Treatment

The foul drainage from this development is in the catchment of Weybread Water Recycling Centre that will have available capacity for these flows

Section 3 - Used Water Network

This response has been based on the following submitted documents: Flood risk assessment, surface water and foul water drainage strategy The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection. (1) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. (2) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. (3) INFORMATIVE - Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water. (4) INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087. (5) INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

Section 4 - Surface Water Disposal

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.

From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented.

Your ref: DC/19/05956/OUT
Our ref: Fressingfield, Land Off Post Mill
Lane IP21 5PJ Matter No: 60009
Date: 18 November 2020
Enquiries to: Ruby Shepperson
Tel: 01473 265063
Email: Ruby.shepperson@suffolk.gov.uk



By e-mail only:

planningyellow@baberghmidsuffolk.gov.uk

Sian.bunbury@baberghmidsuffolk.gov.uk

Dear Sian,

Fressingfield: Land Off Post Mill Lane, IP21 5PJ. – developer contributions.

I refer to the proposal: Outline Planning Application (all matters reserved) – Erection of up to 18No dwellings and associated new roads, infrastructure and open space. (8No 2 bed, 8No 3 bed and 2No 4 bed houses).

This letter provides an update in respect of infrastructure requirements set out in my letter dated 3 January 2020 which was time-limited to six months.

Updated summary of infrastructure requirements:

CIL	Education	Capital Contribution
	- Primary @ £17,268 per place	£86,340
	- Secondary @ £23,775 per place	£71,325
	- Sixth form @ £23,775 per place	£23,775
CIL	Libraries improvements	£3,888
CIL	Waste	£918
S106	Education	
	- Secondary school transport @ £1,205 per place	£18,075
S106	Highways	Tbc
S106	Monitoring fee (per trigger point)	£412

1. Education.

The most recent scorecard is 2019 and the national average school expansion build cost per pupil for primary schools is £17,268 (March 2020). The regional weighting for the East of England based on BCIS indices, which includes Suffolk, is 1. When applied to the national expansion build cost (£17,268 / 1.00) produces a total of £17,268 per pupil for permanent expansion of primary schools.

The most recent scorecard is 2019 and the national average school expansion build cost per pupil for secondary schools is £23,775 (March 2020). The regional weighting for the East of England based on BCIS indices, which includes Suffolk, is 1. When applied to the national expansion build cost (£23,775 / 1) produces a total of £23,775 per pupil for permanent expansion of secondary schools. The DfE guidance in paragraph 16 says, *“further education places provided within secondary school sixth forms will cost broadly the same as a secondary school place”*.

The school transport costs for pupils were updated in May 2020. The average annual transport cost per pupil is £1,205 for a minimum of 5 years for secondary age pupils in mainstream provision.

2. The above information is time-limited for 6 months only from the date of this letter.

Yours sincerely,

Ruby Shepperson
Planning Officer
Growth, Highways & Infrastructure Directorate

cc Carol Barber, SCC (education)

Your ref: DC/19/05956/OUT
Our ref: Fressingfield, Land Off Post Mill Lane IP21 5PJ. Matter No: 60009
Date: 3 January 2020
Enquiries to: Ruby Shepperson
Tel: 01473 265063
Email: ruby.shepperson@suffolk.gov.uk



By e-mail only:

planningyellow@baberghmidsuffolk.gov.uk

Dear Sian,

Fressingfield: Land Off Post Mill Lane, IP21 5PJ.

I refer to the proposal: Outline Planning Application (all matters reserved) – Erection of up to 18No dwellings and associated new roads, infrastructure and open space. (8No 2 bed, 8No 3 bed and 2No 4 bed houses).

I set out below Suffolk County Council's position, which provides our infrastructure requirements associated with the development proposed.

Summary of infrastructure requirements:

CIL	Education	Capital Contribution
	- Primary	£82,980.00
	- Secondary	£68,214.00
	- Sixth form	£22,738.00
CIL	Libraries improvements	£3,888.00
CIL	Waste	£918.00
S106	Education	
	- Secondary school transport	£14,400.00
S106	Highways	tbc
Total Contribution: £193,138.00		

This letter sets out the infrastructure requirements which arise, most of which will be covered by the district's CIL funding apart a school transport contribution to be secured by S106.

Paragraph 56 of the National Planning Policy Framework (NPPF) 2018 sets out the requirements of planning obligations, which are that they must be:

- a) Necessary to make the development acceptable in planning terms;
- b) Directly related to the development; and,
- c) Fairly and reasonably related in scale and kind to the development.

The County and District Councils have a shared approach to calculating infrastructure needs, in the adopted [Section 106 Developers Guide to Infrastructure Contributions in Suffolk](#).

Mid Suffolk District Council adopted their Core Strategy in September 2008 and Focused Review in December 2012. The Core Strategy includes the following objectives and policies relevant to providing infrastructure:

- Objective 6 seeks to ensure provision of adequate infrastructure to support new development; this is implemented through Policy CS6: Services and Infrastructure.
- Policy FC1 and FC1.1 apply the presumption in favour of sustainable development in Mid Suffolk.

Community Infrastructure Levy

Mid Suffolk District Council adopted a CIL Charging Schedule On 21st January 2016 and started charging CIL on planning permissions granted from 11th April 2016.

New CIL Regulations were laid before Parliament on 4 June 2019. These Regulations (Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019) came into force on 1 September 2019 (“the commencement date”). Regulation 11 removes regulation 123 (pooling restriction and the CIL 123 List in respect of ‘relevant infrastructure’).

Site specific mitigation will be covered by a planning obligation and/or planning conditions.

The details of specific contribution requirements related to the proposed scheme are set out below:

- 1. Education.** Paragraph 94 of the NPPF states: ‘It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:
 - a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and
 - b) work with schools promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.’

Furthermore, the NPPF at paragraph 104 states: ‘Planning policies should:

- a) support an appropriate mix of uses across an area, and within larger scale sites, to minimise the number and length of journeys needed for employment, shopping, leisure, education and other activities;’

The Department for Education (DfE) publication ‘Securing developer contributions for education’ (April 2019), which should be read in conjunction with the Planning Practice Guidance (PPG) advice on planning obligations

[revised September 2019]. Paragraph 19 of the DfE guidance states, “We advise local authorities with education responsibilities to work jointly with relevant local planning authorities as plans are prepared and planning applications determined, to ensure that all education needs are properly addressed, including both temporary and permanent education needs where relevant, such as school transport costs and temporary school provision before a permanent new school opens within a development site”.

In paragraph 15 of the DfE guidance ‘Securing developer contributions for education’ it says, “We advise that you base the assumed cost of mainstream school places on national average costs published annually in the DfE school place scorecards. This allows you to differentiate between the average per pupil costs of a new school, permanent expansion or temporary expansion, ensuring developer contributions are fairly and reasonably related in scale and kind to the development. You should adjust the national average to reflect the costs in your region, using BCIS location factors”.

The most recent scorecard is 2018 and the national average school expansion build cost per pupil for primary schools is £16,596. The most recent (March 2019) BCIS location factor for the East of England, which includes Suffolk, is 100. When applied to the national expansion build cost (£16,596 x 1.00) produces a total of £16,596 per pupil for permanent expansion of primary schools.

The most recent scorecard is 2018 and the national average school expansion build cost per pupil for secondary schools is £22,738. The most recent (March 2019) BCIS location factor for the East of England, which includes Suffolk, is 100. When applied to the national expansion build cost (£22,738 x 1.00) produces a total of £22,738 per pupil for permanent expansion of secondary schools. The DfE guidance in paragraph 16 says, “further education places provided within secondary school sixth forms will cost broadly the same as a secondary school place”.

School level	Minimum pupil yield:	Required:	Cost per place £ (2016/17):
Primary school age range, 5-11:	5	5	£16,596
High school age range, 11-16:	3	3	£22,738
Sixth school age range, 16+:	1	1	£22,738

Total education CIL contributions:	£173,932.00
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The local catchment schools are Fressingfield Church of England Primary School, Stradbroke High School and Thomas Mills High School.

The proposal will increase the demand for extra capacity, in order to meet anticipated future needs arising from both latent population and housing growth.

The catchment primary school is Fressingfield. Due to this proposal, local plans, and potential approvals the school is expected to exceed capacity. On this basis, a CIL contribution of (5 pupils x £16,596) = £82,980 is sought to improve and enhance provision.

The catchment secondary school is Stradbroke High School. The forecast pupil numbers for Stradbroke High School are expected to increase annually and, in time, exceed capacity due to Local Plans and other potential approvals. On this basis, a CIL contribution of (3 pupils x £22,738) = £68,214 is sought to improve and enhance provision. Land for future expansion is proposed through the emerging Joint Local Plan, under reference LA083.

Thomas Mills High School is the catchment sixth form. It is unable to accommodate potential over-surplus from Stradbroke High School as it is currently exceeding capacity, with no surplus places available for the 1 pupil arising from the development. The forecast shows this situation to worsen in future years, thus overspill from the Stradbroke into Thomas Mills is unsustainable and a CIL contribution of (1 pupil x £22,738) = £22,738 is sought for expansion to the current site.

- a) **School transport contribution** – 3 secondary-age pupils are forecast to arise from the proposed development. Developer s.106 contributions are sought to fund school transport provision for a minimum of five years for secondary-age pupils. Annual school transport cost per pupil is £960. Therefore, contribution is £960 x 3 pupils x 5 years = £14,400 increased by RPI.

School transport S106 contribution:	£14,400.00
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2. **Pre-school provision.** Provision for early years should be considered as part of addressing the requirements of the NPPF Section 8: 'Promoting healthy and safe communities'

The Childcare Act 2006 places a range of duties on local authorities regarding the provision of sufficient, sustainable and flexible childcare that is responsive to parents' needs. Local authorities are required to take a lead role in facilitating the childcare market within the broader framework of shaping children's services in partnership with the private, voluntary and independent sector. Section 7 of the Act sets out a duty to secure funded early years provision of the equivalent of 15 hours funded education per week for 38 weeks of the year for children from the term after their third birthday until they are of compulsory school age. The

Education Act 2011 places a statutory duty on local authorities to ensure the provision of early education for every disadvantaged 2-year-old the equivalent of 15 hours funded education per week for 38 weeks. The Childcare Act 2016 places a duty on local authorities to secure the equivalent of 30 hours funded childcare for 38 weeks of the year for qualifying children from September 2017 – this entitlement only applies to 3 and 4 years old of working parents.

This matter is in the Fressingfield Ward where there is a surplus of FTEs. This proposal will generate an additional 2 FTEs, but no contribution is sought.

3. Play space provision. This should be considered as part of addressing the requirements of the NPPF Section 8: 'Promoting healthy and safe communities.' A further key document is the 'Quality in Play' document fifth edition published in 2016 by Play England.

4. Transport issues. Refer to the NPPF Section 9 'Promoting sustainable transport'. A comprehensive assessment of highways and transport issues will be required as part of a planning application. This will include travel plan, pedestrian and cycle provision, public transport, rights of way, air quality and highway provision (both on-site and off-site). Requirements will be dealt with via planning conditions and Section 106 agreements as appropriate, and infrastructure delivered to adoptable standards via Section 38 and Section 278.

Suffolk County Council, in its role as a local Highway Authority, has worked with the local planning authorities to develop county-wide technical guidance on parking which replaces the preceding Suffolk Advisory Parking Standards (2002) in light of new national policy and local research. It has been subject to public consultation and was adopted by Suffolk County Council in November 2014 (updated 2019).

Suffolk County Council FAO Sam Harvey will coordinate a response.

5. Libraries. Refer to the NPPF Section 8: 'Promoting healthy and safe communities'.

The libraries and archive infrastructure provision topic paper sets out the detailed approach to how contributions are calculated. A CIL contribution of £216 per dwelling is sought i.e. £3,888 which will be spent on improving services and outreach at Stradbroke Library. A minimum standard of 30 square metres of new library space per 1,000 populations is required. Construction and initial fit out cost of £3,000 per square metre for libraries (based on RICS Building Cost Information Service data but excluding land costs). This gives a cost of (3 x £3,000) = £90,000 per 1,000 people or £90 per person for library space. Assumes average of 2.4 persons per dwelling.

Libraries CIL contribution:	£3,888.00
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6. Waste. All local planning authorities should have regard to both the Waste

Management Plan for England and the National Planning Policy for Waste when discharging their responsibilities to the extent that they are appropriate to waste management. The Waste Management Plan for England sets out the Government's ambition to work towards a more sustainable and efficient approach to resource use and management.

Paragraph 8 of the National Planning Policy for Waste states that when determining planning applications for non-waste development, local planning authorities should, to the extent appropriate to their responsibilities, ensure that:

- *New, non-waste development makes sufficient provision for waste management and promotes good design to secure the integration of waste management facilities with the rest of the development and, in less developed areas, with the local landscape. This includes providing adequate storage facilities at residential premises, for example by ensuring that there is sufficient and discrete provision for bins, to facilitate a high quality, comprehensive and frequent household collection service.*

SCC requests that waste bins and garden composting bins should be provided before occupation of each dwelling and this will be secured by way of a planning condition. SCC would also encourage the installation of water butts connected to gutter down-pipes to harvest rainwater for use by occupants in their gardens.

A future CIL funding bid of £918 (£51 per dwelling) will be made to improve Leiston Recycling Centre facilities serving the proposed development.

Waste CIL Contribution:	£918.00
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- 7. Supported Housing.** Section 5 of the NPPF seeks to deliver a wide choice of high quality homes. Supported Housing provision, including Extra Care/Very Sheltered Housing providing accommodation for those in need of care, including the elderly and people with learning disabilities, needs to be considered in accordance with paragraphs 61 to 64 of the NPPF.

Following the replacement of the Lifetime Homes standard, designing homes to Building Regulations Part M 'Category M4(2)' standard offers a useful way of meeting this requirement, with a proportion of dwellings being built to 'Category M4(3)' standard. In addition, we would expect a proportion of the housing and/or land use to be allocated for housing with care for older people e.g. Care Home and/or specialised housing needs, based on further discussion with the LPAs housing team to identify local housing needs.

- 8. Sustainable Drainage Systems.** SCC, as Lead Local Flood Authority, responded on 2 January 2020, see comments by Jason Skilton.
- 9. Fire Service.** Any fire hydrant issues will need to be covered by appropriate planning conditions. SCC would strongly recommend the installation of automatic

fire sprinklers. The Suffolk Fire and Rescue Service requests that early consideration is given during the design stage of the development for both access for fire vehicles and the provisions of water for firefighting which will allow SCC to make final consultations at the planning stage.

10. Superfast broadband. This should be considered as part of the requirements of the NPPF Section 10 'Supporting high quality communication'. SCC would recommend that all development is equipped with high speed broadband (fibre optic). This facilitates home working which has associated benefits for the transport network and also contributes to social inclusion; it also impacts educational attainment and social wellbeing, as well as improving property prices and saleability.

As a minimum, access line speeds should be greater than 30Mbps, using a fibre based broadband solution, rather than exchange-based ADSL, ADSL2+ or exchange only connections. The strong recommendation from SCC is that a full fibre provision should be made, bringing fibre cables to each premise within the development (FTTP/FTTH). This will provide a network infrastructure which is fit for the future and will enable faster broadband.

11. Legal costs. SCC will require an undertaking for the reimbursement of its own legal costs, whether or not the matter proceeds to completion.

12. Monitoring Fee. The new CIL Regs allow for charging of monitoring fees. In this respect the county council charges £412 for each trigger point in a planning obligation, payable upon commencement.

13. Time Limits. The above information is time-limited for 6 months only from the date of this letter.

This development will mitigate its impact by contributing via both s106 and CIL as per the summary table on page 1. Site-specific matters identified by SCC services directly will also need to be secured by way of a planning obligation or planning conditions.

I would be grateful if the above information can be provided to the decision-taker in respect of this planning application and infrastructure mitigation reported fully in the committee report.

Yours sincerely,

Ruby Shepperson
Planning Officer
Growth, Highways & Infrastructure Directorate – Strategic Development

cc Carol Barber, Suffolk CC
Jason Skilton, Suffolk CC
Sam Harvey, Suffolk CC

From: GHI Floods Planning <floods.planning@suffolk.gov.uk>
Sent: 05 November 2020 09:33
To: BMSDC Planning Area Team Yellow <planningyellow@babberghmidsuffolk.gov.uk>
Cc: Vincent Pearce <Vincent.Pearce@babberghmidsuffolk.gov.uk>
Subject: 2020-11-05 JS reply Land Off Postmill Lane, Fressingfield Ref DC/19/05956

Dear Vincent Pearce,

Subject: Land Off Postmill Lane, Fressingfield, Ref DC/19/05956

Suffolk County Council, Flood and Water Management have reviewed application ref DC/19/05956.

The following submitted documents have been reviewed and we recommend a **maintaining a holding objection** at this time:

- Site Location Plan 3325-TD-LW-XX-DRG-AR-1004-A
- Site Indicative Site Plan 3325-TD-LW-XX-DRG-AR-1003-A
- Further Additional information requested by Lead Local Flood Authority in respect of application 1648/17/OUT
- Flood Risk Assessment and Surface Water and Foul Water Drainage Strategy Ref 21647a Rev 0
- Flood Risk Assessment and Surface Water and Foul Water Drainage Strategy Ref 21647a Addendum
- Suds Viability Options Review dated August 2020

The reason why we are recommending a maintaining a holding objection is because whilst the applicant has answer most of the points highlight by the LLFA, one point from the January 2020 consultation reply have not been addressed.

1. Resubmit the drainage strategy to include reference to the Drinking Water Safeguard Zones (Surface Water) that covers the parish.

Kind Regards

Jason Skilton
Flood & Water Engineer
Suffolk County Council
Growth, Highway & Infrastructure
Endeavour House, 8 Russell Rd, Ipswich , Suffolk IP1 2BX

BMSDC Planning Area Team Yellow

Subject: 2020-01-14 JS reply Land Off Postmill Lane, Fressingfield, Ref DC/19/05956

From: RM Floods Planning <floods.planning@suffolk.gov.uk>

Sent: 14 January 2020 09:23

To: BMSDC Planning Area Team Yellow <planningyellow@babberghmidsuffolk.gov.uk>

Cc: Sian Bunbury <Sian.Bunbury@babberghmidsuffolk.gov.uk>

Subject: 2020-01-14 JS reply Land Off Postmill Lane, Fressingfield, Ref DC/19/05956

Dear Sian Bunbury,

Subject: Land Off Postmill Lane, Fressingfield, Ref DC/19/05956

Suffolk County Council, Flood and Water Management have reviewed application ref DC/19/05965.

The following submitted documents have been reviewed and we recommend a **holding objection** at this time:

- Site Location Plan 3325-TD-LW-XX-DRG-AR-1004-A
- Site Indicative Site Plan 3325-TD-LW-XX-DRG-AR-1003-A
- Further Additional information requested by Lead Local Flood Authority in respect of application 1648/17/OUT
- Flood Risk Assessment and Surface Water and Foul Water Drainage Strategy Ref 21647a Rev 0

The reason why we are recommending a holding objection is because whilst the applicant has evaluated the predicted surface water flood risk, they have not referenced the historical flooding that effects the parish, which is both surface water and foul water flooding. They applicant has provided a viable method for the disposal of surface water. However, the applicant is looking to utilise a hybrid SuDs system that does not meet the requirement of national and local policy/guidance.

1. Resubmit the flood risk assessment referencing historical flooding of both surface water and foul water within the parish
2. Resubmit the drainage strategy to include reference to the Drinking Water Safeguard Zones (Surface Water) that covers the parish
3. Resubmit the drainage strategy to include reference a indicative layout that shall include a full above ground SuDs system rather than a hybrid system. You shall also demonstrating that there is sufficient space on the site based on Suffolk CC design standards
 - a. unless there is clear evidence that this would be inappropriate
4. Resubmit the drainage strategy to include only one discharge point for the surface water discharge rate no greater than Qbar or 2l/s/ha
5. Resubmit the drainage strategy to include at least two surface water treatment stages as Fressingfield is within a Drinking Water Safeguard Zones (Surface Water)

Kind Regards

Jason Skilton
Flood & Water Engineer
Flood & Water Management
Growth, Highways & Infrastructure

Suffolk County Council | Endeavour House, 8 Russell Road, Ipswich, Suffolk, IP1 2BX

T: 01473 260411 | <https://www.suffolk.gov.uk/planning-waste-and-environment/flooding-and-drainage/>

Appendix A to the Suffolk Flood Risk Management Strategy has been updated! If you're involved in the planning, design and construction of new developments this may be of interest to you. You will be expected to comply with this new local guidance. More information can be found here; <https://www.suffolk.gov.uk/roads-and-transport/flooding-and-drainage/guidance-on-development-and-flood-risk/>

-----Original Message-----

From: planningyellow@baberghmidsuffolk.gov.uk <planningyellow@baberghmidsuffolk.gov.uk>

Sent: 08 January 2020 10:17

To: RM Floods Planning <floods.planning@suffolk.gov.uk>

Subject: MSDC Planning Re-consultation Request - DC/19/05956

Please find attached planning re-consultation request letter relating to planning application - DC/19/05956 - Land Off Postmill Lane, Fressingfield, , ,

Kind Regards

Planning Support Team

Emails sent to and from this organisation will be monitored in accordance with the law to ensure compliance with policies and to minimize any security risks. The information contained in this email or any of its attachments may be privileged or confidential and is intended for the exclusive use of the addressee. Any unauthorised use may be unlawful. If you receive this email by mistake, please advise the sender immediately by using the reply facility in your email software. Opinions, conclusions and other information in this email that do not relate to the official business of Babergh District Council and/or Mid Suffolk District Council shall be understood as neither given nor endorsed by Babergh District Council and/or Mid Suffolk District Council.

Babergh District Council and Mid Suffolk District Council (BMSDC) will be Data Controllers of the information you are providing. As required by the Data Protection Act 2018 the information will be kept safe, secure, processed and only shared for those purposes or where it is allowed by law. In some circumstances however we may need to disclose your personal details to a third party so that they can provide a service you have requested, or fulfil a request for information. Any information about you that we pass to a third party will be held securely by that party, in accordance with the Data Protection Act 2018 and used only to provide the services or information you have requested.

For more information on how we do this and your rights in regards to your personal information and how to access it, visit our website.

From: RM Floods Planning <floods.planning@suffolk.gov.uk>
Sent: 02 January 2020 07:52
To: BMSDC Planning Area Team Yellow <planningyellow@babberghmidsuffolk.gov.uk>
Cc: Sian Bunbury <Sian.Bunbury@babberghmidsuffolk.gov.uk>
Subject: 2020-01-02 JS Reply Land Off Postmill Lane, Fressingfield Ref DC/19/05956

Dear Sian Bunbury,

Subject: Land Off Postmill Lane, Fressingfield Ref DC/19/05956

Suffolk County Council, Flood and Water Management have reviewed application ref DC/19/05965

The following submitted document[s] have been reviewed and we recommend a **holding objection** at this time:

- Site Location Plan 3325-TD-LW-XX-DRG-AR-1004-A
- Site Indicative Site Plan 3325-TD-LW-XX-DRG-AR-1003-A
- Addendum A to Flood Risk Assessment, Surface and Foul Water Drainage ref SVH/MJH/21647
- Further Additional information requested by Lead Local Flood Authority in respect of application 1648/17/OUT

The reason why we are recommending a holding objection is because the applicant has not submitted a site specific flood risk assessment or a strategy for the disposal of surface water in line with current national and local policy/guidance.

The points below detail the action required in order to overcome our current objection:-

1. Submit a updated site specific flood risk assessment
2. Submit a strategy for the disposal of surface water in line with national and local policy and guidance

Kind Regards

Jason Skilton
Flood & Water Engineer
Flood & Water Management
Growth, Highways & Infrastructure

Suffolk County Council | Endeavour House, 8 Russell Road, Ipswich, Suffolk, IP1 2BX
T: 01473 260411 | <https://www.suffolk.gov.uk/planning-waste-and-environment/flooding-and-drainage/>

Your Ref:DC/19/05956
Our Ref: SCC/CON/5409/19
Date: 14 January 2020



All planning enquiries should be sent to the Local Planning Authority.

Email: planning@baberghmidsuffolk.gov.uk

The Planning Department
MidSuffolk District Council
Planning Section
1st Floor, Endeavour House
8 Russell Road
Ipswich
Suffolk
IP1 2BX

For the attention of: Sian Bunbury

Dear Sian

**TOWN AND COUNTRY PLANNING ACT 1990
CONSULTATION RETURN: DC/19/05956**

PROPOSAL: Outline planning application (all matters reserved) - Erection of up to 18No dwellings and associated new roads, infrastructure and open space.

LOCATION: Land Off Postmill Lane, Fressingfield

Notice is hereby given that the County Council as Highway Authority make the following comments:

The previous application for this site was reviewed with 2 other sites within Fressingfield to consider the cumulative impacts from all three developments on the highway. It was considered that the developments proposals would cumulatively give rise to a number of significant road safety concerns which taken in the round, add up to a severe impact in road safety terms:

- The footway network in the core of the village, where most pedestrian trips would need to pass to access the key services in the village, are below acceptable width standards, resulting in pedestrians needing to walk in the road to pass obstructions and opposing pedestrians.
- Some pedestrian crossing points have poor visibility and while traffic speeds are generally quite low, the increase in traffic flow resulting from the cumulative impact of developments in the village, would give rise to an unacceptable increase in risk of conflicts, as some of these would have the potential to result in injury collisions.

In recent appeal for the site, the inspector determined the proposal would not have a harmful effect on highway and pedestrian safety within the village. The report acknowledged the concerns raised with regard to pedestrian safety, however, with low number in accidents in the area, it was considered there is little substantive evidence to demonstrate that the proposal would result in pedestrian and highway safety concerns.

We have reviewed the documentation supplied with this application, the summary of our findings are as follows:

- The estimated total vehicle trips for this application in the AM peak hour is 11 vehicles (average 1 vehicle every 5 minutes) therefore the additional vehicles from the development will not have a severe impact on the surrounding road and junctions.
- There is one slight and injury accident recorded on Laxfield Road/New Street junction.

- There is not a footway linking the site to the centre of the village but there is a footway to Priory Walk which links the back of primary school. The applicant is proposing footway improvements which includes a dropped crossing point at Priory Walk junction.
- This application is proposing a 20mph zone on New Street.

Taking all the above into account, it is our opinion that this development would not have a severe impact (NPPF para 109) therefore we do not object to the proposal.

NOTE - Prior to determination, a speed survey will be required to determine the average speed (20mph zones are only considered if they mean speeds are below 24mph). Also, a traffic and pedestrian survey will be required.

CONDITIONS

Should the Planning Authority be minded to grant planning approval the Highway Authority in Suffolk would recommend they include the following conditions and obligations:

HW 2 - Condition: Before any dwelling is first occupied, the developer shall deliver the footway and highway improvements on New Street in accordance with the approved details except with the written agreement of the Local Planning Authority.

ER 1 - Condition: Prior to commencement of any works, (save for site clearance and technical investigations) details of the estate roads and footpaths, (including layout, levels, gradients, surfacing and means of surface water drainage), shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that roads/footways are constructed to an acceptable standard.

ER 2 - Condition: No dwelling shall be occupied until the carriageways and footways serving that dwelling have been constructed to at least Binder course level or better in accordance with the approved details except with the written agreement of the Local Planning Authority in consultation with Local Highway Authority.

Reason: To ensure that satisfactory access is provided for the safety of residents and the public.

P 2 - Condition: Before the development is commenced details of the areas to be provided for the [LOADING, UNLOADING,] manoeuvring and parking of vehicles including electric vehicle charging units and 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 enable vehicles to enter and exit the public highway in forward gear in the interests of highway safety.

B 2 - 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.

HGV CONSTRUCTION - Condition: Before the development hereby permitted is commenced a Construction Management Plan shall have been submitted to and approved in writing by the Local Planning Authority. Construction of the development shall not be carried out other than in accordance with the approved plan. The Construction Management Plan shall include the following matters:

- haul routes for construction traffic on the highway network and monitoring and review mechanisms.
- provision of boundary hoarding and lighting
- details of proposed means of dust suppression
- details of measures to prevent mud from vehicles leaving the site during construction
- details of deliveries times to the site during construction phase
- details of provision to ensure pedestrian and cycle safety
- programme of works (including measures for traffic management and operating hours)

- parking and turning for vehicles of site personnel, operatives and visitors
- loading and unloading of plant and materials
- storage of plant and materials
- maintain a register of complaints and record of actions taken to deal with such complaints at the site office as specified in the Plan throughout the period of occupation of the site.

Reason: In the interest of highway safety to avoid the hazard caused by mud on the highway and to ensure minimal adverse impact on the public highway during the construction phase.

NOTES

The Local Planning Authority recommends that developers of housing estates should enter into formal agreement with the Highway Authority under Section 38 of the Highways Act 1980 relating to the construction and subsequent adoption of Estate Roads.

The works within the public highway will be required to be designed and constructed in accordance with the County Council's specification. The applicant will also be required to enter into a legal agreement under the provisions of Section 278 of the Highways Act 1980 relating to the construction and subsequent adoption of the highway improvements. Amongst other things the Agreement will cover the specification of the highway works, safety audit procedures, construction and supervision and inspection of the works, bonding arrangements, indemnity of the County Council regarding noise insulation and land compensation claims, commuted sums, and changes to the existing street lighting and signing.

Yours sincerely,

Samantha Harvey

Senior Development Management Engineer

Growth, Highways and Infrastructure

Mid Suffolk District Council
Planning Department
Endeavour House
Russell Road
Ipswich
IP1 2BX

Fire Business Support Team
Floor 3, Block 2
Endeavour House
8 Russell Road
Ipswich, Suffolk
IP1 2BX

Your Ref:
Our Ref: FS/F180893
Enquiries to: Water Officer
Direct Line: 01473 260588
E-mail: Fire.BusinessSupport@suffolk.gov.uk
Web Address: <http://www.suffolk.gov.uk>

Date: 09/01/2020

Dear Sirs

Land off Post Mill Lane, Fressingfield IP21 5PJ
Planning Application No: DC/19/05956/OUT
Hydrants are required for this development
(see our required conditions)

I refer to the above application.

The plans have been inspected by the Water Officer who has the following comments to make.

Access and Fire Fighting Facilities

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

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

Water Supplies

Suffolk Fire and Rescue Service recommends that fire hydrants be installed within this development on a suitable route for laying hose, i.e. avoiding obstructions. However, it is not possible, at this time, to determine the number of fire hydrants required for fire fighting purposes. The requirement will be determined at the water planning stage when site plans have been submitted by the water companies.

Sprinklers Advised

Suffolk Fire and Rescue Service recommends that proper consideration be given to the potential life safety, economic, environmental and social benefits derived from the provision of an automatic fire sprinkler system. (Please see sprinkler information enclosed with this letter).

Consultation should be made with the Water Authorities to determine flow rates in all cases.

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

Yours faithfully

Water Officer

Suffolk Fire and Rescue Service

Enc: Hydrant requirement letter

Copy: Fergus.bootman@larondewright.co.uk

Enc: Sprinkler information

Mid Suffolk District Council
Planning Department
Endeavour House
Russell Road
Ipswich
IP1 2BX

Fire Business Support Team
Floor 3, Block 2
Endeavour House
8 Russell Road
Ipswich, Suffolk
IP1 2BX

Your Ref:
Our Ref: ENG/AK
Enquiries to: Mrs A Kempen
Direct Line: 01473 260486
E-mail: Angela.Kempen@suffolk.gov.uk
Web Address: www.suffolk.gov.uk

Date: 9 January 2019

Planning Ref: DC/19/05956/OUT

Dear Sirs

RE: PROVISION OF WATER FOR FIRE FIGHTING
ADDRESS: Land off Post Mill Lane, Fressingfield IP21 5PJ
DESCRIPTION: 18 Dwellings
HYDRANTS REQUIRED

If the Planning Authority is minded to grant approval, the Fire Authority require adequate provision is made for fire hydrants, by the imposition of a suitable planning condition at the planning application stage.

If the Fire Authority is not consulted at the planning stage, or consulted and the conditions not applied, the Fire Authority will require that fire hydrants be installed retrospectively by the developer if the Planning Authority has not submitted a reason for the non-implementation of the required condition in the first instance.

The planning condition will carry a life term for the said development and the initiating agent/developer applying for planning approval and must be transferred to new ownership through land transfer or sale should this take place.

Fire hydrant provision will be agreed upon when the water authorities submit water plans to the Water Officer for Suffolk Fire and Rescue Service.

Where a planning condition has been imposed, the provision of fire hydrants will be fully funded by the developer and invoiced accordingly by Suffolk County Council.

Until Suffolk Fire and Rescue Service receive confirmation from the water authority that the installation of the fire hydrant has taken place, the planning condition will not be discharged.

Continued/

OFFICIAL

Should you require any further information or assistance I will be pleased to help.

Yours faithfully

Water Officer

Suffolk Fire and Rescue Service

OFFICIAL

Created: September 2015

Enquiries to: Fire Business Support Team

Tel: 01473 260588

Email: Fire.BusinessSupport@suffolk.gov.uk



Dear Sir/Madam

Suffolk Fire and Rescue Service – Automatic Fire Sprinklers in your Building Development

We understand from local Council planning you are considering undertaking building work.

The purpose of this letter is to encourage you to consider the benefits of installing automatic fire sprinklers in your house or commercial premises.

In the event of a fire in your premises an automatic fire sprinkler system is proven to save lives, help you to recover from the effects of a fire sooner and help get businesses back on their feet faster.

Many different features can be included within building design to enhance safety and security and promote business continuity. Too often consideration to incorporate such features is too late to for them to be easily incorporated into building work.

Dispelling the Myths of Automatic Fire Sprinklers

- Automatic fire sprinklers are relatively inexpensive to install, accounting for approximately 1-3% of the cost of a new build.
- Fire sprinkler heads will only operate in the vicinity of a fire, they do not all operate at once.
- An automatic fire sprinkler head discharges between 40-60 litres of water per minute and will cause considerably less water damage than would be necessary for Firefighters tackling a fully developed fire.
- Statistics show that the likelihood of automatic fire sprinklers activating accidentally is negligible – they operate differently to smoke alarms.

Promoting the Benefits of Automatic Fire Sprinklers

- They detect a fire in its incipient stage – this will potentially save lives in your premises.
- Sprinklers will control if not extinguish a fire reducing building damage.
- Automatic sprinklers protect the environment; reducing water damage and airborne pollution from smoke and toxic fumes.
- They potentially allow design freedoms in building plans, such as increased compartment size and travel distances.
- They may reduce insurance premiums.
- Automatic fire sprinklers enhance Firefighter safety.

- Domestic sprinkler heads are recessed into ceilings and pipe work concealed so you won't even know they're there.
- They support business continuity – insurers report 80% of businesses experiencing a fire will not recover.
- Properly installed and maintained automatic fire sprinklers can provide the safest of environments for you, your family or your employees.
- A desirable safety feature, they may enhance the value of your property and provide an additional sales feature.

The Next Step

Suffolk Fire and Rescue Service is working to make Suffolk a safer place to live. Part of this ambition is as champion for the increased installation of automatic fire sprinklers in commercial and domestic premises.

Any information you require to assist you to decide can be found on the following web pages:

Suffolk Fire and Rescue Service

<http://www.suffolk.gov.uk/emergency-and-rescue/>

Residential Sprinkler Association

<http://www.firesprinklers.info/>

British Automatic Fire Sprinkler Association

<http://www.bafsa.org.uk/>

Fire Protection Association

<http://www.thefpa.co.uk/>

Business Sprinkler Alliance

<http://www.business-sprinkler-alliance.org/>

I hope adopting automatic fire sprinklers in your build can help our aim of making 'Suffolk a safer place to live'.

Yours faithfully

Mark Hardingham

Chief Fire Officer

Suffolk Fire and Rescue Service

Resource Management
Bury Resource Centre
Hollow Road
Bury St Edmunds
Suffolk
IP32 7AY

Philip Isbell
Corporate Manager - Development Manager
Planning Services
Mid Suffolk District Council
Endeavour House
8 Russell Road
Ipswich
Suffolk IP1 2BX

Enquiries to: Gemma Stewart
Direct Line: 01284 741242
Email: Gemma.Stewart@suffolk.gov.uk
Web: <http://www.suffolk.gov.uk>

Our Ref: 2019_05956
Date: 9th January 2020

For the Attention of Vincent Pearce

Dear Mr Isbell

Planning Application DC/19/05956 - Land Off Postmill Lane, Fressingfield: Archaeology

This application lies in an area of archaeological interest recorded in the County Historic Environment Record, with medieval finds located within and adjacent to the proposed development area (FSF 081). The site is also situated to the rear of a street fronted by listed post medieval buildings. As a result, there is potential for the discovery of below-ground heritage assets of archaeological interest at this location and groundworks associated with this proposal will damage or destroy any archaeological deposits that exist.

We have commented on this in recent years. We would recommend that the same archaeological standard condition is placed on the development as was for prior application (1648/17) within the same bounds, that is:

There are no grounds to consider refusal of permission in order to achieve preservation *in situ* of any important heritage assets. However, in accordance with the *National Planning Policy Framework* (Paragraph 199), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

In this case the following two conditions would be appropriate:

1. No development shall take place within the area indicated [the whole site] until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority.

The scheme of investigation shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording
- b. The programme for post investigation assessment
- c. Provision to be made for analysis of the site investigation and recording
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation
- e. Provision to be made for archive deposition of the analysis and records of the site investigation
- f. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- g. The site investigation shall be completed prior to development, or in such other phased arrangement, as agreed and approved in writing by the Local Planning Authority.

2. No building shall be occupied until the site investigation and post investigation assessment has been completed, submitted to and approved in writing by the Local Planning Authority, in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 1 and the provision made for analysis, publication and dissemination of results and archive deposition.

REASON:

To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance with Core Strategy Objective SO 4 of Mid Suffolk District Council Core Strategy Development Plan Document (2008) and the National Planning Policy Framework (2018).

INFORMATIVE:

The submitted scheme of archaeological investigation shall be in accordance with a brief procured beforehand by the developer from Suffolk County Council Archaeological Service, Conservation Team.

I would be pleased to offer guidance on the archaeological work required and, in our role as advisor to Mid Suffolk District Council, the Conservation Team of SCC Archaeological Service will, on request of the applicant, provide a specification for the archaeological mitigation. In this case, an archaeological evaluation will be required to establish the potential of the site and decisions on the need for any further investigation (excavation before any groundworks commence and/or monitoring during groundworks) will be made on the basis of the results of the evaluation.

Further details on our advisory services and charges can be found on our website: <http://www.suffolk.gov.uk/archaeology/>

Please do get in touch if there is anything that you would like to discuss or you require any further information.

Yours sincerely,

Gemma Stewart

Senior Archaeological Officer
Conservation Team

BMSDC Planning Area Team Yellow

From: Paul Harrison
Sent: 16 January 2020 16:28
To: Vincent Pearce; BMSDC Planning Area Team Yellow
Subject: DC 19 05956 Fressingfield

Vincent

The application follows refusal of 1648/17 and dismissal at appeal. I advised on that proposal that loss of the immediate relationship of the listed Ladymeade Cottage with its rural surroundings was harmful. The Inspector essentially supported this assessment.

In the present application, the site is reduced by omission of land to the rear of the listed building Ladymeade Cottage. This revision in effect removes development to the rear of Ladymeade, overcoming the harmful impact of the previous scheme. In my view the proposal now poses no harm to the setting or significance of the listed building.

I recommend imposing a condition requiring details of landscaping on any permission so that the site's eastern boundary will present a 'soft' edge of rural character. We would defer to the landscape expert on the details of any scheme put forward.

Please treat this email as the Heritage consultation response.

Paul

Paul Harrison

Heritage and Design Officer

T 01449 724677 | 07798 781360

E paul.harrison@baberghmidsuffolk.gov.uk

E heritage@baberghmidsuffolk.gov.uk

W www.babergh.gov.uk | www.midsuffolk.gov.uk



From: Nathan Pittam <Nathan.Pittam@babberghmidsuffolk.gov.uk>
Sent: 14 January 2020 12:44
To: Sian Bunbury <Sian.Bunbury@babberghmidsuffolk.gov.uk>
Cc: BMSDC Planning Area Team Yellow <planningyellow@babberghmidsuffolk.gov.uk>
Subject: DC/19/05956. Land Contamination.

Dear Sian

EP Reference : 270827
DC/19/05956. Land Contamination.
Land at, Post Mill Lane, Fressingfield, EYE, Suffolk.
Outline planning application (all matters reserved) - Erection of up to 18No dwellings and associated new roads, infrastructure and open space.

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

Kind regards

Nathan

Nathan Pittam BSc. (Hons.) PhD
Senior Environmental Management Officer

Babergh and Mid Suffolk District Councils – Working Together

Email: Nathan.pittam@babberghmidsuffolk.gov.uk
Work: 07769 566988 / 01449 724715
websites: www.babergh.gov.uk www.midsuffolk.gov.uk



Minimum requirements for dealing with unexpected ground conditions being encountered during construction.

1. *All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.*
2. *A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.*
3. *The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which contaminated materials are present.*
4. *The unexpected contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.*
5. *The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.*
6. *Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.*
7. *Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.*
8. *Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.*
9. *Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.*
10. *A photographic record will be made of relevant observations.*
11. *The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions. After consultation with the Local Authority, materials should either be: • re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or • treatment of material on site to meet compliance targets so it can be re-used; or • removal from site to a suitably licensed landfill or permitted treatment facility.*
12. *A Verification Report will be produced for the work.*



09 January 2020

Sian Bunbury
Mid Suffolk District Council
Endeavour House
8 Russell Road
Ipswich IP1 2BX

By email only

Thank you for requesting advice on this application from Place Services' ecological advice service. This service provides advice to planning officers to inform Mid Suffolk District Council planning decisions with regard to potential ecological impacts from development. Any additional information, queries or comments on this advice that the applicant or other interested parties may have, must be directed to the Planning Officer who will seek further advice from us where appropriate and necessary.

Application: DC/19/05956
Location: Land Off Postmill Lane, Fressingfield
Proposal: Outline planning application (all matters reserved) - Erection of up to 18No dwellings and associated new roads, infrastructure and open space.

Dear Sian,

Thank you for consulting Place Services on the above application.

No objection subject to securing biodiversity mitigation and enhancement measures

Summary

We have reviewed the Preliminary Ecological Appraisal and Impact Assessment (Eco Check Consultancy Ltd, October 2019), The Non-Licensed Great Crested Newt Mitigation Method Statement (Eco Check Consultancy Ltd, November 2017) and Reptile Survey (Eco Check Consultancy Ltd, May 2017) relating to the likely impacts of development on designated sites, Protected Species and Priority Species & Habitats.

We are satisfied that there is sufficient ecological information available for determination. This provides certainty for the LPA of the likely impacts on protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

The mitigation measures identified in the Preliminary Ecological Appraisal and Impact Assessment (Eco Check Consultancy Ltd, October 2019), The Non-Licensed Great Crested Newt Mitigation Method Statement (Eco Check Consultancy Ltd, November 2017) and Reptile Survey (Eco Check Consultancy Ltd, May 2017) should be secured and implemented in full, via the provision of a Construction Environmental Management Plan – Biodiversity. This is necessary to conserve and enhance protected and Priority Species.



In addition, we recommended that a Wildlife Sensitive Lighting Scheme should be secured, as a condition of any consent, to avoid impacts to potential roosting, foraging and commuting bats. This should follow the [Guidance Note 8 Bats and artificial lighting](#) (The Institute of Lighting Professionals & Bat Conservation Trust, 2018) and should follow the recommendations within the Preliminary Ecological Appraisal and Impact Assessment. This must demonstrate that provision of warm-white LED lights, which should be a minimum of <3000k. This is necessary as lighting which emits an ultraviolet component or that have a blue spectral content will impact some bat species directly, as well as having a high attraction effects on insects, which may lead in a reduction in prey availability to light sensitive bat species.

We also support the proposed reasonable biodiversity enhancements, which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 170d of the National Planning Policy Framework 2019. The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured as a condition of any consent, prior to slab level.

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

Impacts will be minimised such that the proposal is acceptable subject to the conditions below based on BS42020:2013.

Submission for approval and implementation of the details below should be a condition of any planning consent.

Recommended conditions:

1. PRIOR TO COMMENCEMENT: CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

“A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority, following the details provided within the Preliminary Ecological Appraisal and Impact Assessment (Eco Check Consultancy Ltd, October 2019), The Non-Licensed Great Crested Newt Mitigation Method Statement (Eco Check Consultancy Ltd, November 2017) and Reptile Survey (Eco Check Consultancy Ltd, May 2017).

The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.*
- b) Identification of “biodiversity protection zones”.*
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).*
- d) The location and timing of sensitive works to avoid harm to biodiversity features.*
- e) The times during construction when specialist ecologists need to be present on site to oversee works.*
- f) Responsible persons and lines of communication.*
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.*



h) *Use of protective fences, exclusion barriers and warning signs.*

i)

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority”

Reason: To conserve Protected and Priority species and allow the LPA to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

2. PRIOR TO SLAB LEVEL: BIODIVERSITY ENHANCEMENT STRATEGY

“A Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;*
- b) detailed designs to achieve stated objectives;*
- c) locations of proposed enhancement measures by appropriate maps and plans;*
- d) persons responsible for implementing the enhancement measures;*
- e) details of initial aftercare and long-term maintenance (where relevant).*

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.”

Reason: To enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

3. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

“A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.”

Reason: To allow the LPA to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species)



Please contact us with any queries.

Yours sincerely,

Hamish Jackson GradCIEEM BSc (Hons)

Ecological Consultant

Hamish.Jackson@essex.gov.uk

Place Services provide ecological advice on behalf of Mid Suffolk District Council

Please note: This letter is advisory and should only be considered as the opinion formed by specialist staff in relation to this particular matter.

MID SUFFOLK DISTRICT COUNCIL

TO: Sian Bunbury – Planning Officer

From: Julie Abbey-Taylor

Date: 06.01.2020

SUBJECT: DC/19/05956

Location: Land at Postmill Lane, Fressingfield.

Proposal: Proposal – Outline Planning Application- all matters reserved for residential development and associated roads, infrastructure, and open space. Site size is 0.9 ha proposed layout for 18 dwellings.

Consultation Response on Affordable Housing Requirement

Key Points

1. Background Information

- Previous Outline Planning Permission sought for 24 dwellings, refused by MSDC and appeal dismissed in 2019.
- Triggers the obligation under policy H4 for affordable housing and the council will be seeking 35% of the total provision of housing which is for 6 affordable dwellings.

2. Housing Need Information:

2.1 The Babergh and Mid Suffolk District Strategic Housing Market Assessment confirms a continuing need for housing across all tenures and a growing need for affordable housing. The most recent update of the Strategic Housing Market Assessment completed in 2019 confirms **a minimum need of 127 affordable homes per annum for the Mid Suffolk Area.**

2.2 The Council's Choice Based Lettings system currently has circa. **690** applicants registered for the Mid Suffolk area as of October 2019.

2.3 Our 2014 Housing Needs Survey shows that there is a need across all tenures for smaller units of accommodation, which includes accommodation suitable for older people, wishing to downsize from larger privately-owned family housing, into smaller privately-owned apartments, bungalows and houses.

2.4 Open Market Mix: -

- 2 x 2 bed semi-detached houses @ 70.5 sqm
- 1 x 3 bed semi-detached house @ 73.6 sqm
- 1 x 3 bed semi-detached house with garage @ 83.5 sqm
- 3 x 3 bed semi-detached houses @ 84.2 sqm
- 1 x 3 bed detached house with garage @ 102 sqm
- 1 x 3 bed detached house @ 106.6 sqm
- 1 x 4 bed detached house with garage @ 102 sqm
- 1 x 4 bed detached house with garage @ 116 sqm

The mix above equates to 58.3% of the open market homes to be 3 bed houses which compares to 29.3% which the 2019 SHMA recommends as new 3 bed supply within owner occupied tenure.

It would also be appropriate for any open market houses on the site to be designed and developed to meet Building Regs Part M (4) category 2, making these attractive and appropriate for older people.

There is evidence from the 2014 Housing Survey that there is a significant need for smaller homes to be built for first time buyers but also for those older residents seeking to downsize for their last time home. Hence, we would like to see the inclusion of some 2 and 3 bed bungalows or chalet bungalows in the open market offer, in this indicative proposal none are shown as part of the mix which is disappointing.

Other requirements

- **Standard trigger points for the delivery of the affordable housing – this will then be included automatically in the instruction from planning to shared legal services that it needs to be in the S106 agreement as a matter of course.**
 - **(a)** not Occupy or permit Occupation of more than fifty per cent (50%) (rounded up to the nearest whole Dwelling) Market Housing Units in each Phase until fifty per cent (50%) of the Affordable Housing Units for that Phase have been constructed and are ready for Occupation and have been transferred to the Registered Provider; and
 - **(b)** not Occupy or permit Occupation of more than eighty per cent (80%) (rounded up to the nearest whole Dwelling) Market Housing Units in each Phase until all of the Affordable Housing Units for that Phase have been constructed and are ready for Occupation and have been transferred to the Registered Provider
- The council is granted 100% nomination rights to all the affordable units for initial lets and a minimum of 75% on subsequent lets, unless the RP is the Council where 100% nominations will be retained on relets.
 - Adequate parking and secure cycle storage is provided for all affordable homes.
 - The Council will not support a bid for Homes England grant funding on the affordable homes delivered as part of an open market development. Therefore, the affordable units on that part of the site must be delivered grant free.

	<ul style="list-style-type: none">• The location and phasing of the affordable housing units must be agreed with the Council to ensure they are integrated within the proposed development according to current best practice.
	<ul style="list-style-type: none">• It is preferred that the affordable units are transferred to one of Mid Suffolk's partner Registered Providers – please see www.baberghmidsuffolk.gov.uk under Housing and affordable housing for full details. This could include the Council as an RP in its own right.

Julie Abbey-Taylor, Professional Lead – Strategic Housing

Consultee Comments for Planning Application DC/19/05956

Application Summary

Application Number: DC/19/05956

Address: Land Off Postmill Lane, Fressingfield

Proposal: Outline planning application (all matters reserved) - Erection of up to 18No dwellings and associated new roads, infrastructure and open space.

Case Officer: Vincent Pearce

Consultee Details

Name: Mr Tony Bass

Address: Endeavour House, Ipswich IP1 2BX

Email: tony.bass@baberghmidsuffolk.gov.uk

On Behalf Of: Communities (Major Development)

Comments

I concur with Public realms' response on 2/1/20

From: BMSDC Public Realm Consultation Mailbox <consultpublicrealm@baberghmidsuffolk.gov.uk>
Sent: 02 January 2020 15:02
To: BMSDC Planning Area Team Yellow <planningyellow@baberghmidsuffolk.gov.uk>
Subject: RE: MSDC Planning Consultation Request - DC/19/05956

Public Realm note that a similar application for this site was refused planning permission in 2018. Should a decision be made to grant permission for this application the Public Realm Team would required that an adequate level of public open space is achieved within this site.

Regards

Dave Hughes
Public Realm Team

SAFE Response to Application DC/19/05956- Post Mill Lane

SAFE strongly opposes this Application

This is an Application for 21 houses as an extension to the existing Post Mill development giving an urban housing estate of 39 houses. No Planning Gain is proposed.

Policy Background

Since November 2018 when the original Post Mill Application was heard a number of significant policy changes have come about.

*MSDC have now confirmed a minimum 5 year housing land supply. This is important as without this number a number of Planning Policies can be ignored.

*The Joint Draft Local Plan has been consulted upon and whilst not yet adopted it does carry some weight. The Plan has corrected the error of our being a " core " village . We are now correctly identified as an "Hinterland" village capable of sustaining limited development. Currently there is no timetable for the adoption of the Plan.

*The Neighbourhood Development Plan is due to go to referendum in late January/ early February 2020. Whilst not yet adopted it does carry some weight. The NDP does not identify Post Mill as a potential development site. To include this site would push the agreed housing ceiling, of 60 houses over the Plan period, well over target. To support this Application would undermine the validity of the NDP.

* The site is not within the Settlement Boundary. Policy CS2 does carry some weight and should be applicable to Post Mill..

*Any potential development in Weybread should be factored in as it is integral to the infrastructure in Fressingfield. This would impact on highways, the medical centre, the school and pollution.

Post Mill Appeal

In November 2018 the Post Mill Application for 24 houses was not approved by MSDC for the following reasons

1. Outside the Settlement Boundary.
2. Contrary to Local Planning Policy
3. Would result in localised flooding
4. Would impact on a listed building.

The decision was appealed by the Developer. The Appeal was overruled and costs were not awarded. The plank of Inspector's argument was the visual impact of the proposed development of Ladymeade Cottage, a listed building. In this Application the Developer has partially addressed this issue by removing all buildings directly behind Ladymeade and compressing 18 houses with very small gardens into a tight space. Whilst the development does not impede upon Ladymeade it does compromise the setting of both Ladymeade and an adjacent Listed Building.

The Inspector did not give weight to the flooding /sewerage issue because Anglian Water raised no objection. **Critically, since the time of the Inspector's Report Anglian have changed their position.** Whilst accepting that there is capacity within the sewerage for normal dry flows at the time of persistent rainfall the sewerage is flooded. The CEO of Anglian Water wrote on 14th November 2019 " Our foul sewer is being overwhelmed by other water sources." It is significant that the Applicant is reliant on Preplanning advice from Anglian Water on the original scheme (para7.4.2) this has not been updated. It is also significant that the developer for the John Shepherd and Stradbroke Road sites is proposing mitigation measures to reduce the capacity within the sewer at times of heavy rainfall to allow extra capacity for surface water. For the developer of Post Mill to ignore this and rely on an outdated Appeal decision is not sensible.

SAFE believe that this Application clearly runs contrary to paragraph 163 of the NPPF and will increase the risk of flooding elsewhere.

General

The majority of the supporting reports and data collection is seriously out of date and relates to the previous Application. Decisions cannot be reached on information which is no longer valid.

Highways

The cumulative impact of the this and the proposed two developments would increase the number of cars in the village by approximately 100 cars.

Whilst the Transport Study is dated March 2019 all of the data relates back to the previous scheme as do the drawings. The correspondence log between SCC highways and the developer ends abruptly on 13/11/18 - ten days before the initial hearing.

In attempting to present the development as being close to many local amenities numerous bus stops and a post box are cited. As there are no public buses the proximity to bus stops is a complete irrelevance.

The increased traffic will impact significantly on New Street as New Street is the only way in and out for the Post Mill residents. We have produced papers on congestion and pinch points as well as the large number of unreported and reported accidents

fressingfieldhousing.org New Street is of particular concern as it is at the centre of the village. The War Memorial is another worrying junction being a four way junction. It is just statistically untrue to state that the increase in the number of cars will not increase the number of accidents. If you have more cars statistically there will be more accidents. None of the proposals within the transport document meet the requirement for green and sustainable transport. Policy T 10 is of relevance .

Pedestrian safety

The highways report does not examine pedestrian trip rates either now or projected into the future. The Report does state that short sections of 4 pedestrian routes are " unsafe" then does proposes almost nothing in mitigation (para 2.6.4.)

On Road Parking

Throughout the area many roads have no walkways and on street parking is very common. The Medical Centre, shop, and Anglican Church all have insufficient "off road " parking. With an increase in population and increased use of these venues there will be more parking on very narrow streets. Parking for the Anglian Church is not limited to Sundays because of bell ringing , meetings and choir practice . There is permanent on street parking on Church Hill as very few houses have off street parking this is very narrow and there are no footways in this area .

The entrance to Post Mill is a particular problem as increasing numbers of cars park in this area as overflows from the Medical Centre

Local Employment

There 58 whole time equivalent posts in the village. (Total population 1021) Part time work is available at the shop and Fox and Goose. Full time posts are at the surgery and School, although most of these full time personnel choose to live outside the village. CP Davidson, the main employer is based outside the village. The vast majority of villagers leave the village by car to go to work in neighbouring towns. There are no cycle lanes and the roads are narrow and overcrowded. Some people commute to London, therefore driving to the station at Diss.

Medical Care

The small amount of spare capacity at the surgery will be taken up by the residents of the 51 new houses approved , but not yet built. Waiting times for consultations have already significantly increased and this will get worse. Parking at the surgery is already inadequate and more patients will result in more overflow parking in New Street. There is no space to expand the car park because of adjacent recent house building.

A new medical centre, providing a full range of services is professionally priced at £12 million. There is no funding available for either a rebuild or enlargement (which would be physically difficult). The only alternative would be funding by the developer.

Education

One of the major planks of the Applicants submission is the support from the School Governors in needing the Post Mill Development to support pupil numbers at the school. Whilst SCC have not commented on this Application in response to the proposed development at John Shepherd Suffolk County Council wrote on 20th December 2019 "The existing primary is at capacity and it is clear that the site proposal will add to challenges in terms of adding capacity." The viability of the school is therefore not an issue.

There is no local secondary school. School Buses or private cars are the only means of getting to the secondary school.

Affordable Housing

A perceived major advantage of the Application is the inclusion of 6 affordable homes. Currently there are 11 families on the local waiting list these can be accommodated in the affordable home provision within the developments approved, but not yet built. Further Affordable housing is surplus to need in the village.

Green Credentials

There will be more residents all with cars as realistically there is no alternative travel in Fressingfield. This will mean more pollution and certainly is contrary to all relevant Guidance

Heritage

The proposal is contrary to Policy HB1 of the adopted Local Plan (1998) which states that the Council places a high priority on protecting the character and appearance of buildings of architectural and historic interest and that attention will be given to protecting the settings of listed buildings. This site is designated as "countryside " and the proposed development will further erode the villages connection to that countryside. Whilst no longer impacting directly on Ladymeade .

The view from Harleston Hill will be compromised as the Post Mill housing estate of 39 houses will be visible in winter. This vista is protected under the NDP.

Flooding and Sewage Egress

Flooding and sewage egress are very serious issues in Fressingfield and of great concern to villagers. They affect the quality of life and create health issues., which have been brought to the attention of Public Health England by Suffolk's Director of Public Health.

There are two discrete, but linked issues. Firstly surface water flooding and secondly the egress of sewage onto the highways and into gardens.

Flooding

We believe that significant flooding is underreported. It occurs primarily in Low Road/Cratfield Road, but serious flooding has also occurred in other parts of the village. We know that it occurred four times in five months between 22 December 2017 and 24th April 2018 and twice in 2019 . It is a long standing problem and has occurred over a number of years. (see SAFE web site fressingfieldhousing.org "Low Road historic flooding" where there are representative photos at 20 year intervals) The problem does not only occur in Winter, but also occurs in Summer (12 July 2016) .Flooding is caused by 3 factors- the overtopping of the Beck, the sewer manholes being raised and the excessive surface water running down from the high point of the village to the low point, Low Road. Fressingfield is unique in being surrounded by hills , to the east (Buckingham) west (Harleston) north (Church Hill)and south (Canser) .The soil is heavy clay and impervious . The roads themselves act as conduits bringing water to the low point of the village, eventually entering the Beck . Increased water into the Beck increases the likelihood of overtopping.

With climate change this situation would be expected to worsen..

Sewage Egress

In Low Road, at times of heavy rainfall the sewerage manhole covers lift and raw sewage and sanitary products spill onto the road and into gardens. The contaminated water flows into the Beck to be dissipated further. The reason for this is that surface water is entering the closed foul sewer thereby reducing the functional capacity of the sewer.

This is a very long standing problem. There exists correspondence between the then MP Michael Lord and the CEO of Anglian Water, Peter Bray. The Chief Environmental Health Officer was also involved.

The problem is becoming more common and more severe. The contamination has been such that Anglian Water have had to provide teams to clean up the debris. Sewage egress has occurred 9 times in the last 2 years.

In May 2018 Dr. Abdul Razaq, the then Director of Public health wrote " I would agree that the situation relating to sewage leaks is not acceptable and unpleasant."

More foul sewage that is discharged into the sewerage the less space there is for surface water thereby increasing the risk of the manhole covers being elevated. This development will impact on the sewerage and result in off site flooding. It is significant that the Applicant for John Shepherd and Stradbroke Road recognises this serious issue and has chosen to

investigation possible mitigation. The Applicant for Post Mill ignores the problem and falls back on the Appeal Report which has now been superseded with Anglian Water recognising that under certain circumstances the sewerage does not have capacity.

This objection from SAFE gives many reasons why further significant development should not occur in Fressingfield, primarily because of lack of sustainability.

SAFE Pam Castro on behalf of SAFE - John Castro, John Kelsall , Tim Eastoe, Elizabeth Manero, Abi Maydon, Paul McCann, Michael Miles.

The Old Vicarage, Fressingfield IP21 5QL

18 November 2020

Cllr. Guthrie
Chair of Planning Committee B
Mid Suffolk District Council
Endeavour House, 8 Russell Rd,
Ipswich, IP1 2BX

kathie.guthrie@midsuffolk.gov.uk

Dear Cllr. Guthrie,

**Planning application ref: DC/19/05956 Outline planning application (all matters reserved) -
Erection of up to 18No dwellings and associated new roads, infrastructure and open space.**

Land off Post Mill Lane, Fressingfield

I am writing on behalf of the Suffolk Preservation Society (SPS) to raise concerns about the Officer's recommendation to approve the above application which is set to come before your Planning Committee on 25 November. I attach a copy of the Society's letter to the Planning Officer dated 10 January for your information, setting out reasons why we objected to the application.

From reading the Officer's report, together with representations from the parish council and the local campaign group SAFE, it is evident that there is a very strong feeling within the local community that this application should be resisted on sound planning grounds. The Society wishes to add its voice to those concerns and restate our belief that the planning balance in the Officer's report is not sound.

The community, through the Neighbourhood Plan process, has clearly rejected this site for development whilst setting out alternative sites that are capable of contributing towards the housing need in the district. The emerging Joint Local Plan downgrades Fressingfield to a Hinterland village in recognition that it is a fundamentally unsustainable location. As you will be aware, S.70 of the Planning Act requires a local planning authority, when dealing with a planning application, to have regard to the development plan, a post-examination draft Neighbourhood Plan and any other material considerations. In the opinion of the Society the Officer has given undue weight to a single Inspector's decision at the expense of the emerging Local Plan and Neighbourhood Plan, both of which form part of the statutory development policy framework and should be afforded significant weight in the planning balance.

If this proposal were to be approved it would prejudice the policy making process by undermining the plan-led approach. Furthermore, granting planning permission would seriously undermine community confidence in the Neighbourhood Plan process, especially as the Fressingfield NP was successful at Referendum less than 8 months ago. To undermine such a recent plan would be a serious assault on the Neighbourhood Plan process. The SPS considers that it is vital that the planning committee recognise the importance of Neighbourhood Plans and the role they play in creating sustainable places which people are proud to call home.

Accordingly, we urge the planning committee to refuse the planning application and uphold the vision of the Neighbourhood Plan.

Yours sincerely,

Fiona Cairns RTPI IHBC
Director

Cc: Fressingfield Parish Council
Phil Butler, SPS Mid Suffolk District
David Burn, Portfolio Holder, Planning
John Castro, Chair SAFE
Vincent Pearce, Planning Officer

10 January 2020

Mr Vincent Pearce
Senior Planning Officer
Mid Suffolk District Council
Endeavour House, 8 Russell Rd,
Ipswich, IP1 2BX

Dear Mr Pearce,

**Planning application ref: DC/19/05956 Outline planning application (all matters reserved) -
Erection of up to 18No dwellings and associated new roads, infrastructure and open space.**

Land off Post Mill Lane, Fressingfield

I am writing on behalf of the Suffolk Preservation Society (SPS) to object the above outline planning application for the erection of up to 18 dwellings on a greenfield site on the western edge of the village. This is a revised application DC/17/01648 for 24 dwellings with associated infrastructure which was refused in November 2018 and later dismissed at appeal. SPS objected to the previous application due to the unsustainable location, the disproportionate scale of the development (taken together with other large scale housing schemes) and the impact on the setting of heritage assets.

We note the reasons for refusal and Inspector's decision with regard to the setting of Ladymeade Cottage, a grade II listed building. We welcome the revised proposals and acknowledge that they have had regard to the comments made by both council officers and the Planning Inspector in respect of heritage assets. However we are disappointed that there are now no affordable units included which limits the public benefit provided by the scheme. Notwithstanding the reduction in the scale of the proposed development and the revised layout the SPS continues to object on the following grounds.

Firstly, the emerging Joint Local Plan Preferred Options (July 2019) downgrades Fressingfield from a Primary to a Hinterland Village requiring a lesser quantum of development, recognising that it is fundamentally an unsustainable location which does not enjoy a high level of services or facilities necessary to support a substantial increase in housing growth. Accordingly the evolving policy position in the Joint Local Plan Preferred Options (July 2019) shows a minimum housing requirement for Fressingfield of 56 dwellings over the plan period.

Secondly, Mid Suffolk, as of 3.09.19 (Mid Suffolk District Council Housing Land Supply Position Statement 2019/20 – 2023/24) asserts that the council can demonstrate a 5 year housing

land supply. Therefore, the “tilted balance” presumption in favour of sustainable development does not apply and applications should be determined according to the development plan.

Finally, the Fressingfield Neighbourhood Plan (FNP) is at an advanced stage, having been through Examination and is about to go to Referendum in the coming weeks (January 2020). The FNP policy FNP1 allows for 60 dwellings, 51 of which have already been consented. The FNP does not allocate this site for development. The Examiner in her report, at paragraph 53 having considered the proposed site allocations stated that *“I do not consider it necessary for inclusion of additional sites”*. The Neighbourhood Plan has been carefully considered and independently assessed. The views of the parish have been clearly made. Therefore, the policies within the plan must be given considerable weight in the consideration of this case.

Conclusion

In summary, SPS welcomes the reduction in the scale of development to address the harm caused by the development to the setting of Ladymeade Cottage and acknowledges the contribution made by the proposal to housing need generally and the public benefit of no.6 affordable units. However, we remain concerned that the proposal remains disproportionate, relative to the level of growth allocated and planned for in the emerging Neighbourhood Plan. If this proposal were to be approved it would prejudice the policy making process by undermining the plan-led approach. Secondly, granting planning permission would undermine community confidence in the plan making process after successful Examination but in advance of a Referendum on that Plan.

The community, through the neighbourhood plan process, has clearly rejected this site for development whilst setting out alternative sites that are capable of contributing towards the housing need in the district. SPS considers that to approve this application would seriously undermine the neighbourhood planning process and we therefore urge that the proposals are yet again refused.

We trust that you will find these comments helpful in the consideration of this application.

Yours sincerely,

Fiona Cairns RTPI IHBC
Director

Cc: Fressingfield Parish Council
Phil Butler, SPS Mid Suffolk District
David Burn, Portfolio Holder, Planning
John Castro, Chair SAFE

MID SUFFOLK DISTRICT COUNCIL

Minutes of the meeting of the **DEVELOPMENT CONTROL COMMITTEE B** held in the Virtual Teams Video Meeting on Wednesday, 25 November 2020 -09:30

PRESENT:

Councillor: Kathie Guthrie (Chair)
Barry Humphreys MBE (Vice-Chair)

Councillors: James Caston Peter Gould
Andrew Mellen Mike Norris
Andrew Stringer Rowland Warboys

Ward Member(s):

Councillors: Cllr John Field
Cllr Lavinia Hardingham
Cllr Julie Flatman

In attendance:

Officers: Area Planning Manager (JPG)
Principal Planning Officer (VP)
Senior Planning Officer (DC)
Planning Lawyer (IDP)
Governance Officer (RC)

21 APOLOGIES FOR ABSENCE/SUBSTITUTIONS

There were no apologies for absence.

22 TO RECEIVE ANY DECLARATIONS OF PECUNIARY OR NON-PECUNIARY INTEREST BY MEMBERS

There were no declarations of interest declared.

23 DECLARATIONS OF LOBBYING

All Members declared that they had been lobbied on application DC/19/05956.

24 DECLARATIONS OF PERSONAL SITE VISITS

None declared.

25 SA/20/5 CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON 28 OCTOBER 2020

It was Resolved that the Minutes of the meeting held on 28 October 2020 were confirmed as a true record. The Minutes are to be signed at the next practicable opportunity.

26 TO RECEIVE NOTIFICATION OF PETITIONS IN ACCORDANCE WITH THE COUNCIL'S PETITION SCHEME

None received.

27 SA/20/6 SCHEDULE OF PLANNING APPLICATIONS

In accordance with the Council's procedure for public speaking on planning applications , representations were made as detailed below:

Application Number	Representations From
DC/20/03891	Nick Davey (Agent) Councillor John Field (Ward Member)
DC/20/01175	Nick Davey (Agent) Councillor John Field (Ward Member)
DC/20/05956	Diana Warne (Fressingfield Parish Council) Elizabeth Manero (Objector) Nicole Wright (Agent) Cllr Lavinia Hadingham (Ward Member)
DC/20/01697	Odile Wladon (Stradbroke Parish Council) Steven Bainbridge (Agent) Cllr Julie Flatman (Ward Member)

28 DC/20/03891 LAND AT BLACKACRE HILL, BRAMFORD ROAD, GREAT BLAKENHAM, SUFFOLK

28.1 Item A

Application Proposal	DC/20/03891 Application under Section 73 of the Town and Country Planning Act relating to Planning Permission 2351/6 previously varied by 1755/17 for the variation of Conditions 20 (Proposed access road details) and 26 (Off road cycle route improvements)
Site Location	GREAT BLAKENHAM – Land at Blackacre Hill, Bramford Road, Great Blakenham, Suffolk
Applicant	Curzon De Vere Ltd

28.2 The Case Officer presented the application to the Committee outlining the proposal before Members, the layout of the site, the permission granted under the previous application, the requested amendments to the existing conditions, and the officer recommendation of approval.

28.3 The Case Officer responded to Members' questions on issues including: the impact of Covid-19 on the work being undertaken at the site, implication of

any further delays to the implementation of the Highways Works, the timescales for the completion of the highways work, the alternative junction to be used by Heavy Goods Vehicles whilst the new junction is being created.

- 28.4 The Senior Development Engineer for Growth Highways and Infrastructure responded to Members' questions on wheel washing and debris on the highway.
- 28.5 Members considered the representation from Councillor John Field who spoke as a Ward member.
- 28.6 The Case Officer responded to Councillor Field's comments regarding the time limit relating to the works regarding the occupation of the proposed units and suggested a time limit of 12 months as opposed to 24.
- 28.7 A short break was taken between 10:29-10:34 to resolve a technical issue.
- 28.8 Members considered the representation from Nick Davey who spoke as the agent.
- 28.9 The Agent responded to Members' questions on issues including: the end user on site, whether temporary signage could be used to request vehicles not to turn left out of the site, and whether any bollards could be installed on the access road.
- 28.10 The Senior Development Growth Engineer for Growth Highways and Infrastructure commented on the impact the upcoming SnOasis development would have on the surrounding Highways infrastructure and the proposed footpaths linking into the site.
- 28.11 Members debated the application on the issues including: possible traffic congestion in the area, and weight restrictions on the access road.
- 28.12 Councillor Barry Humphreys MBE proposed that the application be approved with the additional conditions as follows:
- Time limit of 24 months be reduced to 12 months in respect of Condition 20 variation.
 - To secure temporary signage to avoid left turn of the junction to be agreed and this shall include a reminder of weight restriction in the local area.

28.14 Councillor Andrew Stringer seconded the motion.

28.15 By a unanimous vote

28.14 **RESOLVED**

[1] The application be deferred and that subject to an appropriate Deed of Variation being completed to the satisfaction of the Chief Planning Officer in respect of ensuring any new permission granted as a result of

this S73 application and/or the concurrent planning application is/are tied appropriately to the original S106 Agreement.

Then

[2] the Chief Planning Officer be authorised to GRANT planning permission for the amended conditions as described which will necessitate a new planning permission which shall itself include all previous conditions on the earlier relevant approval save for the use of the amended wording agreed in respect of conditions 20 and 26.

Additional conditions:

- Time limit of 24 months be reduced to 12 months in respect of Condition 20 variation.
- To secure temporary signage to avoid left turn of the junction to be agreed and this shall include a reminder of weight restriction in the local area.

29 DC/20/01175 LAND ADJ PORT ONE BUSINESS AND LOGISTICS PARK, BLACKACRE HILL, BRAMFORD ROAD, GREAT BLAKENHAM, SUFFOLK, IP6 0RL

29.1 A short break was taken between 11:04-11:14 after the completion of DC/20/03891 but before the commencement of DC/20/01175.

29.1 Item B

Application Proposal	DC/20/01175 Application for Outline Planning Permission. (Access to be considered) Extension to Port One Business and Logistics Park (as permitted under ref. 2351/16) and varied by ref. 1755/17), together with associated works including drainage lagoons, ecology mitigation and landscaping
Site Location	GREAT BLAKENHAM – Land Adj Port One Business and Logistics Park, Blackacre Hill, Bramford Road, Great Blakenham, Suffolk
Applicant	Curzon De Vere Ltd

29.2 The Case Officer presented the application to the Committee and outlined the additional information requested by Members at the meeting on 28 October 2020 when the application was deferred. The Case Officer outlined the application before Members and the officer recommendation of approval.

29.3 The Case Officer responded to Members' questions on issues including: the location of any security fencing on site, the proposed fuel for the shuttle bus to be used on site, the conditioning of fire hydrants on site, the loss of trees

on site, heating sources in the proposed units, and biodiversity issues concerning bats, newts and fauna.

29.4 The Senior Development Management Engineer Growth Highways and Infrastructure responded to questions regarding highways and traffic issues regarding the junction to the A14.

29.5 Members considered the representation from Nick Davey who spoke as the Agent.

29.6 The Agent responded to Members questions on issues including: the use of solar panels.

29.7 Members considered the representation from Councillor John Field who spoke as the Ward Member.

29.8 Members debated the application on issues including: traffic, the location of the site, biodiversity issues, the economic benefits of the proposal, and the lighting on the site.

29.9 Councillor Barry Humphreys MBE moved that the proposal be approved subject to the additional conditions as detailed below:

- Condition – The shuttle bus shall be electric unless other form of fuel/energy is agreed in writing by the LPA.
- Condition – Fire Hydrants condition as recommended by the SCC Fire and Rescue Service
- - Note – Lighting to be agreed shall need careful consideration to biodiversity interests.

29.10 Councillor Peter Gould seconded the motion.

29.11 By a unanimous vote

29.12 Resolved

30 DC/19/05956 LAND OFF POST MILL LANE, FRESSINGFIELD

30.1 Item C

Application Proposal	DC/19/05956 Outline planning application (all matters reserved) – Erection of up to 18 no. dwellings and associated new roads, infrastructure and open space.
Site Location	FRESSINGFIELD – Land Off Post Mill Lane, Fressingfield
Applicant	C.E. Davidson Ltd

- 30.2 The Case Officer presented the application to the Committee outlining the proposal before Members, the previous appeal decision and history of the site, the proposed revised layout of the site, the contents of the tabled papers, and the officer recommendation of approval.
- 30.3 The Case Officer responded to Members' questions on issues regarding the housing numbers in the Fressingfield Neighbourhood Plan, surface and foul water drainage systems, that the application was not deemed as being isolated as defined by the NPPF, the response from the Highways Authority.
- 30.4 The Planning Lawyer provided clarification regarding the flooding issues and the weight that it could carry for members when deciding the application.
- 30.5 The Case Officer responded to Members questions on issues including: that the proposal before Members would not add any further surface water drainage to the foul water system but that the proposed dwellings would be connected to the Foul Water system and add to the existing network that caused floods. The Senior Development Management Engineer advised Members that in the Planning Inspectors Appeal report they had determined that there were no highways issues within the village.
- 30.6 Following the comment from the Senior Development Management Engineer, the Planning Lawyer advised Members that Planning Inspectors decisions were not binding when considering a new application on a site but that due weight and consideration should be given to them.
- 30.7 The Case Officer advised Members that he had been in contact with the Area Planning Manager during the meeting and confirmed that Members could condition the use of a private foul water treatment system on site to address the concerns of causing additional flooding in Fressingfield.
- 30.8 The Case Officer responded to further questions from Members' on issues including: the Planning Inspectors appeal report and their comments on the neighbourhood plan, and the number of times that there had been floods in the village over the past year.
- 30.9 Members considered the representation from the Parish Council representative, Diana Warne, who spoke against the application.
- 30.10 The Parish Council representative responded to Members' questions on issues including: the impact of the development on the Neighbourhood Plan.
- 30.11 Members considered the representation from Elizabeth Manero who spoke against the application.
- 30.12 Members considered the representation from Nicole Wright who spoke as the agent.
- 30.13 The agent responded to Members questions on issues including: the material

considerations associated with the application, that there was sufficient capacity in the drainage system and that no storm water would be added to the foul drainage network.

- 30.14 Members considered the representation from Councillor Lavinia Hadingham who spoke as the Ward Member who spoke against the application.
- 30.15 Members debated the application on issues including: local housing needs as identified in the Neighbourhood plan and sewage infrastructure issues.
- 30.16 The Area Planning Manager advised Members that the drainage issue and foul water system was a material consideration and advised that there was a solution of conditioning private sewage works for the dwellings or that a control mechanism be agreed.
- 30.17 Members continued to debate the application on the issues including: the recommendation from the Case Officer, the response from the Highways Department, the provisions within the adopted Neighbourhood Plan, the Planning Inspectors appeal report, the response from Anglian Water, the sustainability of the location.
- 30.18 The Area Planning Manager advised Members regarding the Council's policies being out of date and that the tilted balance within the NPPF was engaged.
- 30.19 Members continued to debate the application on issues including: the issues around sewage and flooding, the highways response, the material weight of the Neighbourhood Plan, and whether the application should be deferred to seek Counsel's advice.
- 30.20 Councillor Stringer proposed that the application be refused on the basis of the Fressingfield Neighbourhood Plan. Councillor Andrew Mellen seconded the proposal.
- 30.21 Members debated the motion on the issues including: whether a refusal at this time was appropriate or whether a deferral was more appropriate in order to seek Counsel's advice.
- 30.22 A short adjournment was taken between 15:00 – 15:10 for the Chair to receive legal advice from the Planning Lawyer only.
- 30.23 After the break the Planning Lawyer and Governance Officer advised Members on the option of the Planning Referrals Committee. Councillor Andrew Stringer raised a point of order regarding the application being sent to the Planning Referrals Committee which was noted by the Governance Officer and Planning Lawyer who amended their advice to the Chair.
- 30.24 Members debated the advice from officers. Following this, a vote was not taken on the proposal to refuse Councillor Stringer withdrew his proposal.

30.25 Councillor Humphreys proposed that the application be deferred for the reasons as follows:

To seek legal advice on the weight of a made Neighbourhood Plan and if the tilted balance that engages the Local Plan affects the Neighbourhood Plan the same way, despite its full weight. Particular review of Para 12 of the NPPF is sought in this instance as well as paragraph 11.d)ii NPPF

30.26 Councillor James Caston Seconded the motion.

30.27 By a unanimous vote

30.28 **RESOLVED**

That the application is deferred for the following reason:

To seek legal advice on the weight of a made Neighbourhood Plan and if the tilted balance that engages the Local Plan affects the Neighbourhood Plan the same way, despite its full weight. Particular review of Para 12 of the NPPF is sought in this instance as well as paragraph 11.d)ii NPPF

31 DC/20/01697 BARLEY BRIGG FARM, LAXFIELD ROAD, STRADBROKE, EYE, SUFFOLK, IP21 5NQ

After the completion of application DC/19/05956 but before the commencement of DC/20/01697 Councillors Barry Humphreys MBE, James Caston, and Peter Gould left the meeting at 15:27.

31.1 Item D

Application Proposal	DC/20/01697 Planning Application. Installation of underground "Ground Source Heat Array" and siting of heat exchange container.
Site Location	STRADBROKE - Barley Brigg Farm, Laxfield Road, Stradbroke, Eye, Suffolk, IP21 5NQ
Applicant	Rattlerow Farms Ltd

31.1 The Case Officer presented the application to the Committee outlining the proposal before Members, the layout of the site and the officer recommendation of approval.

31.2 The Case Officer responded to Members questions on issues including: the anaerobic digester currently on the site, that further vehicle movements to the site would have to be submitted in a separate application.

31.3 Councillor Andrew Stringer declared a Local Non-Pecuniary interest in the application as a Suffolk County Councillor.

31.4 The Case Officer responded to further questions from Members' on issues including: the ground source heat array, the vehicle movements, the current conditions on site covered by the Suffolk County Council permission.

31.5 Members considered the representation from Odile Wladon who spoke on behalf of Stradbroke Parish Council.

31.6 Members considered the representation from Steven Bainbridge who spoke as the agent.

31.7 The Agent responded to Members' questions on issues including: the use of the barn, whether there was any connection between the ground source heat array and the barn and what the heat array would be used for.

31.8 Members considered the representation from the Ward Member, Councillor Julie Flatman.

31.9 Members debated the application on the issues including: the workings of the proposal and the functionality of the heat array, that Members did not feel that they had enough information before them to make a decision on how the proposal linked up to other facilities on the site.

31.10 Councillor Andrew Stringer proposed that the application be deferred for the reasons below:

- For Officers to investigate and understand the intended energy use and what it would be applied to in terms of justification of the proposal in the countryside protected for essential use.

31.11 Councillor Mike Norris seconded the motion.

31.12 by a unanimous vote

31.13 **RESOLVED**

That the application is deferred for the following reason:

For Officers to investigate and understand the intended energy use and what it would be applied to in terms of justification of the proposal in the countryside protected for essential use.

32 SITE INSPECTION

The business of the meeting was concluded at 4.25 pm.

.....
Chair

RE: LAND AT POST MILL LANE FRESSINGFIELD

ADVICE

1. I am asked to advise Mid Suffolk District Council (‘the Council’) in relation to a matter concerning land at Post Mill Lane, Fressingfield. The matter is due to return to be considered by the Development Control Committee of the Council. My advice is sought in relation to the legal context for decision making in matters such as that before the committee. I do not address the specifics of the application before the committee, but rather address the broader decision making context.

Legal Context for Decision Making

2. The well know statutory test in s.38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA)¹ is as follows:

“(6) If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

¹ Note too that other legislation requires that regard be had to the development plan in determining planning applications (s.70(2) TCPA 1990)

3. For present purposes it is important to note that the ‘*development plan*’ includes made Neighbourhood Plans². It will also include relevant parts of the Mid Suffolk Local Plan 1998, the Mid Suffolk Core Strategy 2008 and the Mid Suffolk Focussed Review Core Strategy 2012³.
4. The requirement to make the determination “*in accordance with the plan unless material considerations indicate otherwise*” is often referred to as a presumption in favour of the development plan. It is one of the central statutory provisions in English planning law.

Case law on approach to decision making

5. In *Edinburgh City Council v Secretary of State for Scotland* [1997] 1 W.L.R. 1447, the House of Lords considered the effect of the Scottish equivalent to s.54A (s.18A of the Town and Country Planning (Scotland) Act 1972, enacted by s.58 of the Planning and Compensation Act 1991).
6. Lord Hope explained the purpose of the provision⁴, noting that:
 - (i) Its purpose was to “*enhance the status*” of the development plan in the exercise of the planning authority’s judgment⁵.
 - (ii) Nonetheless, the development plan does not have “*absolute authority*” and may be departed from⁶.

² See s 38 (3) PCPA. ‘*Neighbourhood Plans*’ are defined in s38A PCPA. In particular Section 38A(2) provides that “[a] “*neighbourhood development plan*” is a plan which sets out policies (however expressed) in relation to the development and use of land in the whole or any part of a particular neighbourhood area specified in the plan”.

³ Which are referred to in the report I have been provided with.

⁴ At pp.1449H–1450H

⁵ At p.1450A-B.

⁶ p.1450B-C.

- (iii) In particular, the development plan's "*provisions may become outdated as national policies change*" and in that case: "*the decision where the balance lies between its provisions on the one hand and other material considerations on the other which favour the development, or which may provide more up-to-date guidance as to the tests which must be satisfied, will continue, as before, to be a matter for the planning authority.*"⁷
- (iv) The presumption is, in essence, "*a presumption of fact*" and primary responsibility lies with the decision-taker. In that sense, it is unhelpful to regard the presumption in favour of the development plan as either "*governing or paramount*".⁸

7. In a well know passage, Lord Clyde explained that the presumption leaves the assessment of facts and the weighing of considerations in the hand of the decision-maker, including the development plan, noting that:

"In the practical application of [section 38(6)] it will obviously be necessary for the decision-maker to consider the development plan, identify any provisions in it which are relevant to the question before him and make a proper interpretation of them. His decision will be open to challenge if he fails to have regard to a policy in the development plan which is relevant to the application or fails properly to interpret it. He will also have to consider whether the development proposed in the application before him does or does not accord with the development plan. There may be some points in the plan which support the proposal but there may be some considerations pointing in the opposite direction. He will require to assess all of these and then decide whether in light of the whole plan the proposal does or does not accord with it. He will also have to identify all the other material considerations which are relevant to the application and to which he should have regard. He will then have to note which of them support the application and which of them do not, and he will have to assess the weight to be given to all of these considerations. He will have to decide whether there are considerations of such weight as to indicate that the development plan should not be accorded the priority which

⁷ p.1450D-E

⁸ p.1450F.

*the statute has given to it. And having weighed these considerations and determined these matters he will require to form his opinion on the disposal of the application. If he fails to take account of some material consideration or takes account of some consideration which is irrelevant to the application his decision will be open to challenge. But the assessment of the considerations can only be challenged on the ground that it is irrational or perverse.*⁹"

8. Subsequent cases have affirmed that approach. From such case law (which is extensive) I highlight, by way of summary, the following propositions of law most relevant to the current context:

- (i) The effect of s.38 (6) is to enhance the status of the development plan, or to give it “*priority*”. However while the development plan is under section 38(6) the starting-point for the decision-maker (and in that sense there is a “*presumption*” that it is to be followed), it is not the law that greater weight is to be attached to it than to other considerations¹⁰: For example, policy may overtake a development plan.
- (ii) It is up to the decision-maker how precisely to go about the task, but if he is to act within his powers and in particular to comply with the statutory duty to make the determination in accordance with the development plan unless material considerations indicate otherwise, he must as a general rule decide at some stage in the exercise whether the proposed development does or does not accord with the development plan: *R. (Hampton Bishop Parish Council) v Herefordshire Council* [2015] 1 W.L.R. 2367, per Richards LJ at [28]¹¹.
- (iii) That inevitably means that the decision maker has to identify and understand the relevant policies and has to establish whether the proposal accorded with the plan, read as a whole. A failure to understand the policies might be liable to be fatal to the

⁹ pp.1458B–1459A

¹⁰ See in particular Glidewell LJ’s dictum in *Loup v Secretary of State for the Environment* (1995) 71 P. & C.R. 175, 186 cited by Lord Clyde in *Edinburgh* and also *Secretary of State for Communities and Local Government v West Berkshire District Council* [2016] 1 W.L.R. 3923, Laws LJ at [20]

¹¹ See also *Medway Council v Secretary of State* [2018] EWHC 2083 (Admin) where the court pointed out that it was usually necessary to understand how the decision maker viewed compliance with the development plan in the overall balance

decision. However, as long as the decision-maker understands them, their application was a matter for his planning judgement with which a court will not readily interfere: a proposition reaffirmed recently by Lindblom LJ in *Canterbury City Council v Secretary of State for Communities and Local Government* [2019] EWCA Civ 669 at paragraphs 21-24¹². The important distinction highlighted in such case law is that between understanding/interpreting the meaning of policy (which is a matter of law) and then applying policy (which often involves the making of planning judgments). It is a distinction of relevance to some of the issues raised that I am asked to consider.

- (iv) Subject to the limits of rationality, it is for the decision-maker to judge the matters to be taken into account in applying planning policy (see the judgment of Lord Carnwath in *R. (on the application of Samuel Smith Old Brewery (Tadcaster)) v North Yorkshire County Council* [2020] P.T.S.R. 221, at paragraphs 30 to 32, and 39).
- (v) The weighing of the development plan, and other material considerations (including national policy) and the weight to be accorded to such matters is a matter for the decision-maker – the often referred to exercise of planning judgment.
- (vi) In particular, it is for the decision-maker to weigh any conflict with the development plan against “*other material considerations on the other which favour the development, or which may provide more up-to-date guidance as to the tests which must be satisfied*”.
- (vii) Material considerations which may suggest a different result to that led by the development plan may include whether the development plan has become outdated “*as national policies change*”, or might include emerging development plan policy and more up to date evidence as to housing need.

¹² See also *Tesco Stores Limited v Dundee City Council* [2012] UKSC 13: Lord Reed at [19] on the approach to Although a development plan has a legal status and legal effects, it is not analogous in its nature or purpose to a statute or a contract. As has often been observed, development plans are full of broad statements of policy, many of which may be mutually irreconcilable, so that in a particular case one must give way to another. In addition, many of the provisions of development plans are framed in language whose application to a given set of facts requires the exercise of judgment. See more recently *R. (on the application of Asda Stores Limited) v Leeds City Council, Commercial Development Projects Limited* [2021] EWCA Civ 32: Lindblom LJ at [35].

(viii) It is not at all unusual for development plan policies to pull in different directions. A proposed development may be in accord with development plan policies which, for example, encourage development for employment purposes, and yet be contrary to policies which seek to protect open countryside. In such cases there may be no clear cut answer to the question: “*is this proposal in accordance with the plan?*”. The local planning authority has to make a judgment bearing in mind such factors as the importance of the policies which are complied with or infringed, and the extent of compliance or breach. As was made clear by Sullivan J in *R. v Rochdale MBC Ex p. Milne (No.2)* [2001] Env. L.R. 22¹³:

“..Given the numerous conflicting interests that development plans seek to reconcile: the needs for more housing, more employment, more leisure and recreational facilities, for improved transport facilities, the protection of listed buildings and attractive land escapes etc., it would be difficult to find any project of any significance that was wholly in accord with every relevant policy in the development plan. Numerous applications would have to be referred to the Secretary of State as departures from the development plan because one or a few minor policies were infringed, even though the proposal was in accordance with the overall thrust of development plan policies.... For the purposes of section [38(6)] it is enough that the proposal accords with the development plan considered as a whole. It does not have to accord with each and every policy therein”.

9. In *R. (on the application of William Corbett) v The Cornwall Council v Stephen Tavener* [2020] EWCA Civ 508, the Court of Appeal re affirmed the correct approach where some policies were complied with and some were not as follows:

“Under section 38(6) the members' task was not to decide whether, on an individual assessment of the proposal's compliance with the relevant policies, it could be said to accord with each and every one of them. They had to establish whether the proposal was in accordance with the development plan as a whole. Once the relevant policies

¹³ Paragraphs 48-50

were correctly understood, which in my view they were, this was classically a matter of planning judgment for the council as planning decision maker.” (Lindblom LJ at para 45).

10. In that regard the comment by LJ Lindblom at the end of his judgment in *Corbett* is of note when he indicated:

“It is worth recalling what Baroness Hale of Richmond said about decision-making by local planning authorities in R. (on the application of Morge) v Hampshire County Council [2011] UKSC 2; [2011] 1 W.L.R. 268 (at paragraph 36): that “in this country planning decisions are taken by democratically elected councillors, responsible to, and sensitive to the concerns of, their local communities”, who “go about their decision-making in a different way from courts”, aided by “professional advisers who investigate and report to them”, and it is “their job, and not the court’s, to weigh the competing public and private interests involved”.

The NPPF (2019)

11. In the planning decision making context, the duty under section 38(6) is not displaced or modified by government policy in the NPPF. Such policy does not have the force of statute. Nor does it have the same status in the statutory scheme as the development plan. Under section 70(2) of the 1990 Act and section 38(6) of the 2004 Act, its relevance to a planning decision is as one of the other ‘*material considerations*’ to be weighed in the balance: *BDW Trading Ltd (t/a David Wilson Homes (Central, Mercia and West Midlands)) v Secretary of State* [2017] P.T.S.R. 1337 at [21] per Lindblom LJ.

12. Policies in the NPPF, including those relating to the ‘*presumption in favour of sustainable development*’¹⁴, do not modify the statutory framework for the making of decisions on applications for planning permission. As the Court of Appeal made clear

¹⁴ See further on this, albeit in the context of the previous NPPF, *East Staffordshire BC v Secretary of State* [2018] P.T.S.R. 88, Lindblom LJ at [35]

in *Secretary of State for Communities and Local Government v Hopkins Homes Ltd* [2016] P.T.S.R. 1315 at [42]¹⁵:

“It is for the decision-maker to decide what weight should be given to NPPF policies in so far as they are relevant to the proposal. Because this is government policy, it is likely always to merit significant weight. But the court will not intervene unless the weight given to it by the decision-maker can be said to be unreasonable in the Wednesbury sense..”

13. As Holgate J further explained in *Gladman Developments Ltd v Secretary of State for Housing, Communities and Local Government* [2020] EWHC518 (Admin)¹⁶:

“79. The purpose of the NPPF is to express general principles on which decision makers are to proceed in the pursuit of sustainable development. The Framework also contains more specific provisions which must be interpreted in the context of the document overall. Where the NPPF relates to decision-making on planning applications and appeals, it must be interpreted in the context of s.70(2) of TCPA 1990 and s.38(6) of PCPA 2004 to which it is subordinate. Subject to these statutory requirements, the Secretary of State may give guidance to decision makers, for example, where the planning system is failing to satisfy an unmet need, by highlighting material considerations to which greater or lesser weight may be given. Guidance in the NPPF is an "other material consideration" (Hopkins at [74] to [75]).

*80. Many of the key principles on the presumption in favour of sustainable development contained in the NPPF were helpfully drawn together in the judgment of Lindblom LJ in *East Staffordshire Borough Council v Secretary of State for Communities and Local Government* [2018] PTSR 88 at [10] to [23] and [34] to [35]. Where paragraph 11(d)(ii) of the NPPF 2019 is triggered because of a shortage of housing land, it is a matter for the decision-maker to decide how much weight should be given to the policies of the development plan. It is common ground between the parties that this also applies to the "most important policies" referred to in the*

¹⁵ The Supreme Court did not disagree or contradict this part of the judgment

¹⁶ His approach was upheld by the CA in *Gladman* [2021] EWCA Civ 104 (3.2.21)

Framework. But the presumption in favour of sustainable development is not irrebuttable and planning permission may still be refused. This is the territory of planning judgment into which the court may not go save to apply public law principles (approving Crane v Secretary of State for Communities and Local Government [2015] EWHC 425 (Admin) at [70] to [74]).”

14. In affirming the judgment of Holgate J , The CA observed in *Gladman* [2021] EWCA Civ 104 (3.2.21) as follows: (Lindlom LJ at [34]):

“.. the meaning of NPPF policy for the “presumption in favour of sustainable development” has already been the subject of ample case law. Although the terms of the policy have changed since it was introduced nine years ago in the first version of the NPPF, published in 2012, much of the judicial comment on that original form of the policy remains valid and relevant. Without trying to capture everything, I would take three main points from it:

1. The “presumption in favour of sustainable development”, now in paragraph 11 of the 2019 version of the NPPF, is not a statutory presumption. It is a presumption of national planning policy (see East Staffordshire Borough Council, at paragraph 35(1)).

2. The presumption itself is not irrebuttable, and is not automatically decisive of any particular outcome for an application for planning permission. The policy in paragraph 11c) and d) provides guidance on decision-making, under the statutory duties in section 70(2) of the 1990 Act and section 38(6) of the 2004 Act, in specified circumstances. It does not purport to be prescriptive (see East Staffordshire Borough Council, at paragraph 35(3)).

3. Beyond the statutory provisions governing the making of planning decisions , the decision-maker is left with a discretion to apply the policy faithfully to its

own terms, in a manner appropriate to the circumstances of the case in hand (see the speech of Lord Clyde in City of Edinburgh Council v Secretary of State for Scotland [1997] 1 W.L.R. 1447 at p.1459D to p.1460D, and Wynn-Williams v Secretary of State for Communities and Local Government [2014] EWHC 3374 (Admin) , at paragraphs 38 and 39).

15. The presumption in favour of sustainable development is now found in paragraph 11 of the NPPF. A series of recent cases¹⁷ have considered how that element of policy is now intended to operate. In footnote 17 I have summarised the approach to assessing whether or not a policy or policies are out of date or not as explained in the context of paragraph 11 of the NPPF - in particular by the *Wavendon* case. I return to that issue below. A number of the key cases that have considered the operation of paragraph 11 of the NPPF and which I cover in this advice have now been appealed to the Court of Appeal with hearings in November and December 2020 and judgments have been delivered in all of them affirming the positions at first instance¹⁸. In particular the CA has now delivered judgment in *Monkhill* [2021] EWCA Civ 74 (28.1.21), *Newman*

¹⁷ *Wavendon Properties Ltd v SSHCLG* [2019] EWHC 1524 (Admin) at para 56 Dove J noted re para 11 (d) “To answer the question posed by paragraph 11(d) it is necessary, having identified those policies which are most important for the determination of the application, to examine them individually and then consider whether taken in the round, bearing in mind some may be consistent and some in-consistent with the Framework, and some may have been overtaken by events and others not, whether the overall assessment is that the basket of policies is rightly to be considered out-of-date. That will, of course, be a planning judgment dependent upon the evaluation of the policies for consistency with the Framework (see paragraph 212 and 213) taken together with the relevant facts of the particular decision at the time it is being examined”....and “that having established which are the policies most important for determining the application, and having examined each of them in relation to the question of whether or not they are out of date applying the current Framework and the approach set out in the *Bloor* case, an overall judgment must be formed as to whether or not taken as a whole these policies are to regarded as out-of- date for the purpose of the decision. This approach is also consistent with the Framework’s emphasis (consonant with the statutory framework) that the decision- taking process should be plan-led, and the question of consistency with the development plan is to be determined against the policies of the development plan taken as a whole. A similar holistic approach to the consideration of whether the most important policies in relation to the decision are out-of-date is consistent with the purpose of the policy to put up-to-date plans and plan-led decision-taking at the heart of the development control process. The application of the tilted balance in cases where only one policy of several of those most important for the decision was out-of- date and, several others were up-to-date and did not support the grant of consent, would be inconsistent with that purpose.”.; *Monkhill v SSHCLG* [2019] EWHC 1993 – the CA judgment now at [2021] EWCA Civ 74 (28.1.21), ; *Paul Newman New Homes Ltd v SSHCLG* [2019] EWHC 2367 (Admin) at paras 32-43 especially (NB the case went on appeal to the CA, was heard in December 2020 and judgment now delivered at [2021] EWCA Civ 15; *Satnam Millenium Ltd v SSHCLG* [2019] EWHC 2631 (Admin); *Wokingham BC v SCLG* [2019] EWHC 3158 (Admin); *Gladman* [2021] EWCA Civ 104 (3.2.21)

¹⁸ *Monkhill*, Paul Newman

[2021] EWCA Civ 15 (12.1.21) and *Gladman* [2021] EWCA Civ 104 – all affirming the approaches taken by the judges below.

16. In the *Monkhill v SSHCLG* [2019] EWHC 1993 case (July 2019) Holgate J had explained the framework for decision making contained in paragraph 11(c) and (d) of the NPPF 2019 (see especially at paras 39 and 45). He put it as follows:

“1) The presumption in favour of sustainable development in paragraph 11 does not displace s.38(6) of the 2004 Act. A planning application or appeal should be determined in accordance with the relevant policies of the development plan unless material considerations indicate otherwise;

2) Subject to s.38(6), where a proposal accords with an up-to-date development plan, taken as a whole, then, unless other material considerations indicate otherwise planning permission should be granted without delay (paragraph 11(c));

3) Where a proposal does not accord with an up-to-date development plan, taken as a whole, planning permission should be refused unless material considerations indicate otherwise (see also paragraph 12);

4) Where there are no relevant development plan policies, planning permission should be granted unless either limb (i) or limb (ii) is satisfied;

5) Where there are relevant development plan policies, but the most important for determining the application are out-of-date, planning permission should be granted (subject to section 38(6)) unless either limb (i) or limb (ii) is satisfied;

6) Because paragraph 11(d) states that planning permission should be granted unless the requirements of either alternative is met, it follows that if either limb (i) or limb (ii) is satisfied, the presumption in favour of sustainable development ceases to apply. The application of each limb is essentially a matter of planning judgment for the decision-maker;

7) Where more than one "Footnote 6" policy is engaged, limb (i) is satisfied, and the presumption in favour of sustainable development overcome, where the individual or cumulative application of those policies produces a clear reason for refusal;

8) The object of expressing limbs (i) and (ii) as two alternative means by which the presumption in favour of granting permission is overcome (or disapplied) is that the

tilted balance in limb (ii) may not be relied upon to support the grant of permission where a proposal should be refused permission by the application of one or more "Footnote 6" policies. In this way paragraph 11(d) prioritises the application of "Footnote 6" policies for the protection of the relevant "areas or assets of particular importance";

9) It follows that where limb (i) is engaged, it should generally be applied first before going on to consider whether limb (ii) should be applied;

10) Under limb (i) the test is whether the application of one or more "Footnote 6 policies" provides a clear reason for refusing planning permission. The mere fact that such a policy is engaged is insufficient to satisfy limb (i). Whether or not limb (i) is met depends upon the outcome of applying the relevant "Footnote 6" policies (addressing the issue on paragraph 14 of NPPF 2012 which was left open in *R (Watermead Parish Council) v Aylesbury District Council* [2018] PTSR 43 at [45] and subsequently resolved in *East Staffordshire* at [22(2)]);

11) Limb (i) is applied by taking into account only those factors which fall within the ambit of the relevant "Footnote 6" policy. Development plan policies and other policies of the NPPF are not to be taken into account in the application of limb (i) (see Footnote 6). (I note that this is a narrower approach than under the corresponding limb in paragraph 14 of the NPPF 2012 - see eg. Lord Gill in *Hopkins* at [85]);

12) The application of some "Footnote 6" policies (e.g. Green Belt) requires all relevant planning considerations to be weighed in the balance. In those cases because the outcome of that assessment determines whether planning should be granted or refused, there is no justification for applying limb (ii) in addition to limb (i). The same applies where the application of a legal code for the protection of a particular area or asset determines the outcome of a planning application (see, for example, the Habitats Regulations in relation to European protected sites);

13) In other cases under limb (ii), the relevant "Footnote 6 policy" may not require all relevant considerations to be taken into account. For example, paragraph 196 of the NPPF requires the decision-maker to weigh only "the less than substantial harm" to a heritage asset against the "public benefits" of the proposal. Where the application of such a policy provides a clear reason for refusing planning permission, it is still necessary for the decision-maker to have regard to all other relevant considerations before determining the application or appeal (s. 70(2) of the 1990 Act and s. 38(6) of the 2004 Act). But that exercise must be carried out without applying the tilted balance

in limb (ii), because the presumption in favour of granting permission has already been disapplied by the outcome of applying limb (i). That is the consequence of the decision-making structure laid down in paragraph 11(d) of the NPPF;

14) There remains the situation where the application of limb (i) to a policy of the kind referred to in (13) does not provide a clear reason for refusal. The presumption in favour of sustainable development will not so far have been disapplied under limb (i) and it remains necessary to strike an overall planning balance (applying also s.38(6)). Because the presumption in favour of granting planning permission still remains in play, it is relevant, indeed necessary, to apply the alternative means of overcoming that presumption, namely limb (ii). This is one situation where the applicant for permission is entitled to rely upon the "tilted balance";

15) The other situation where the applicant has the benefit of the "tilted" balance is where no "Footnote 6" policies are engaged and therefore the decision-maker proceeds directly to limb (ii)."

17. In *Gladman Developments Ltd v Secretary of State for Housing, Communities and Local Government* [2020] EWHC518(Admin)¹⁹ Holgate J emphasised the importance of considering weight in the context of having found relevant policies are 'out of date' stating:

"82. When a decision-maker judges that development plan policies are out-of-date it is still necessary for him to consider the weight to be given to that conclusion and the relevant development plan policies bearing upon the proposal. Likewise, where policy 11(d)(ii) is triggered because a 5 year supply of housing land cannot be demonstrated, the decision-maker will still need to assess the weight to be given to development plan policies, including whether or not they are in substance out-of-date and if so for what reasons. In these circumstances the NPPF does not prescribe the weight which should be given to development plan policies. The decision maker may also take into account, for example, the nature and extent of any housing shortfall, the reasons therefor, and

¹⁹ This case is awaiting (as at 2.2.21) a judgment from the CA on appeal and was heard in the CA in November 2020

the prospects of that shortfall being reduced (see e.g. Crane v Secretary of State for Communities and Local Government [2015] EWHC 425 (Admin)).”

18. In the recent (September 2020) Court of Appeal case of *Peel Investments v S of S* [2020] EWCA Civ 1175 the Court affirmed²⁰ the general principle that:

“whether a policy becomes out-of-date and, if so, with what consequences are matters of pure planning judgment, not dependent on issues of legal interpretation.” (at paragraph 71 per Baker LJ).

19. In *Gladman Holgate J* also made it clear that paragraph 11(d)(ii) of the NPPF 2019 does not require any relevant development plan policies to be excluded from the tilted balance.

20. Finally, in terms of the overall approach to decision making and the relationship between statute and the NPPF *Holgate J* indicated in *Gladman* that:

“there is no legal justification for the court to prescribe that the tilted balance in paragraph 11(d)(ii) of the NPPF and the presumption in s.38(6) must be applied in two separate stages in sequence. There is nothing in the wording or effect of either provision which would justify the court acting in that way.

108. It is permissible for the decision-maker to assemble all the relevant material and to apply the two balances together or separately. For example, if a proposal accords with the development plan as a whole, but there is a shortfall in the 5 year supply of housing land, so that paragraph 11(d)(ii) applies, both of the balancing exercises are likely to point in favour of the grant of permission and plainly there would be no difficulty in applying them either in either one overall assessment or in two stages. If there is a shortfall in the 5 year supply of housing land or "important" policies are assessed as being out of date, and the proposal conflicts with the development plan as a whole, the two presumptions can still be considered together in an overall assessment, weighing all factors relating to the proposal, whether positive, negative or neutral. There is no incompatibility in the operation of the two presumptions which would require them to be applied separately in two stages. In substance

²⁰ See especially at paragraphs 64-72 per

effect is given to paragraph 11(d)(ii) by tilting the balance in favour of the grant of permission unless the benefits of the proposal are significantly and demonstrably outweighed by the adverse effects (Lord Carnwath in Hopkins at [54]), i.e. by giving more weight to those benefits. Whichever approach is taken, the amount of weight to be given to benefits, harm and the presumption in favour of sustainable development is a matter of judgment for the decision-maker.

109. It is important to recall the following statement of Lindblom LJ in the East

Staffordshire case at [50]: - "Planning decision-making is far from being a mechanical, or quasi-mathematical activity. It is essentially a flexible process not rigid or formulaic. It involves, largely, an exercise of planning judgment, in which the decision-maker must understand relevant national and local policy correctly and apply it lawfully to the particular facts and circumstances of the case in hand, in accordance with the requirements of the statutory scheme. The duties imposed by section 70(2) of the 1990 Act and section 38(6) of the 2004 Act leave with the decision-maker a wide discretion."

21. This approach was again endorsed by the CA in Gladman [2021] EWCA Civ 104 (3.2.21) at [63-65] when Lindblom LJ observed having referred to Lord Clyde in *Edinburgh* (at 1459H to p1460D) that:

*"It recognises the realism, in many cases, of a holistic approach to the performance of the duty in section 38(6). There is no prescribed method to adopt. So long as the statutory duty is complied with, the decision-maker can go about the task in a way that seems suitable in the particular circumstances of the case. To split the performance of the duty, in every case, into two distinct stages or steps would be unduly inflexible (see *East Staffordshire Borough Council*, at paragraph 50). If, in substance, it can be properly discharged in a single, comprehensive exercise – rather than in two stages starting with the question of whether a decision to approve the proposal would be “in accordance with the development plan” and then going on to consider whether “material considerations indicate otherwise” – that will not be unlawful (see *Secretary of State for Communities and Local Government v BDW Trading Ltd.* [2016] EWCA Civ 493 , at paragraph 21)."*

22. I note that specific guidance is provided in the NPPF that relates to weight to relevant policies in emerging plans.

NPPF and Neighbourhood Plans

23. In the February 2019 version of the NPPF, Neighbourhood Plans are addressed in particular in paragraphs 12 to 14, 28 to 30 and 52. In particular:

(i) In paragraph 12 of the NPPF it says that "*[where] a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted*". However it goes on to note that: "*Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.*" That is, of course, merely restating the principles as explained in case law I have referred to above which derive from s38(6) PCPA.

(ii) Paragraph 14 NPPF provides that:

"In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:

a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;

b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;

c) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 73); and

d) the local planning authority's housing delivery was at least 45% of that required over the previous three years."

Again, it should be noted that this paragraph is not statute and represents only a material consideration (to be weighed in the overall balance) and then only if it is of application in any given case²¹.

(iii) Paragraph 30 provides that:

"Once a neighbourhood plan has been brought into force, the policies it contains take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, where they are in conflict; unless they are superseded by strategic or non-strategic policies that are adopted subsequently"

24. Further government guidance relating to neighbourhood plans and decision making is provided by the NPPG²².

Neighbourhood Plans and the NPPF – application in case law

25. In the recent Court of Appeal case of *Chichester DC v Secretary of State for Housing, Communities and Local Government* [2019] EWCA Civ 1640 ('Chichester'), the

²¹ The NPPG provides specific guidance on paragraph 14 – see especially at 097 Reference ID: 41-097-20190509

²² See especially at Paragraph: 007 Reference ID: 41-007-20190509 and paragraphs thereafter

developer had sought permission to construct 34 houses on undeveloped land outside the settlement boundary of the nearby village as defined in the neighbourhood plan.

26. The local authority had refused planning permission pursuant to the National Planning and Policy Framework (NPPF) para.198 (the previous version of the NPPF²³) on the basis that the proposed development conflicted with policies in the local and neighbourhood plans.
27. The developer appealed against that decision. The inspector referred to the requirement in the Planning and Compulsory Purchase Act 2004 s.38 (6) for proposals to be determined in accordance with the development plan unless material considerations indicated otherwise. He found that the proposal conflicted with policies in the local plan and the aims of the neighbourhood plan with regard to the location of new housing, but that it was not explicitly contrary to policies in the neighbourhood plan. Having taken account of the presumption in favour of sustainable development arising from the local authority's inability to demonstrate a five-year supply of housing land, he concluded that the proposal's benefits outweighed its adverse effects, and granted permission. The judge upheld that decision, having found that whilst it was an aim of the neighbourhood plan to restrict development to a certain area, the neighbourhood plan's policies did not say anything, either positively or negatively, about development outside those areas.
28. The local authority had contended that the proposal was plainly in conflict with both the aims and the policies of neighbourhood plan. It submitted that to distinguish, as the inspector had, between the aims of the neighbourhood plan and its policies, and to

²³ Para 198 of that earlier NPPF had provided, inter alia, "*Where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted.*"

conclude that the proposal was at odds with the former but not in conflict with the latter, was irrational and inconsistent with the policy in para.198 of the NPPF.

29. However the Court disagreed with the Council. It held that whilst there was conflict with the local plan policies and the aims of the Neighbourhood Plan, as a matter of construction there was no conflict with the policies in the Neighbourhood Plan.

30. In *Chichester* the NP had identified and allocated four sites for housing in policy and indicated it would support development proposals located inside identified Settlement Boundaries as shown on a Policies Map, "*provided they accord with other provisions of the Neighbourhood Plan and development plan.*" The site in issue fell outside the identified development boundaries. Further because it was contrary to local plan policies and because the Inspector found that the proposal was contrary to the aims of the NP (albeit not the actual policy) he had found the proposal contrary to the development plan strategy for the location of residential development when considered as a whole²⁴. The tilted balance was engaged (in that case because there was no 5 year housing land supply) and the application had been allowed.

31. The Court emphasised the site/plan specific nature of such planning decisions. In particular it noted, having referred the basic principles of decision making and policy interpretation under s 38(6) that:

"..the circumstances in which those basic principles are applied will vary widely. Reading the analysis in one case across into another can be mistaken. No two plans are the same. The policies of each are unique, crafted for the area or neighbourhood

²⁴ See as recorded by the CA at para 23 of Lindblom LJ

to which they relate, not to fit some wider pattern or prescription. Often there will be more than a single component of the development plan relevant to the proposal. In many cases – and this is one – there will be both an adopted local plan and a "made" neighbourhood plan. In such cases the court must keep in mind that the "development plan" to which section 38(6) applies is the statutory plan in its totality, its constituent parts taken together. Relevant policies may be found both in a local plan and in a neighbourhood plan. But the statutory presumption applies to the entire plan – the local plan and the neighbourhood plan together.” [paragraph 32]

“This, therefore, is not one of those cases in which a complete set of development plan policies for housing development is to be found in a single document. The strategy for housing development in Southbourne is undoubtedly complete. It does not lack any necessary policy. It contains a suite of policies covering the full range of locations where housing development might be allocated or proposed. But it is not all in one document. It is deliberately split between two. It spans the local plan and the neighbourhood plan, which went through their statutory processes at the same time, and relate to the same plan period. Neither plan on its own constitutes the entire development plan strategy for housing development in Southbourne. Together, however, as two elements, they compose the full strategy. They are mutually dependent parts of a single, comprehensive whole, complementing each other. The positive part of the strategy, which sets the plan's approach to the allocation of sites for housing development, includes Policies 5 and 20 of the local plan, which are translated to the neighbourhood level in Policies 1 and 2 of the neighbourhood plan. The restrictive part is in Policies 2 and 45 of the local plan, limiting development in the "countryside" outside settlement boundaries – which have no counterpart in the neighbourhood plan.

As the examiner discerned in the neighbourhood plan process, the local plan conferred on the neighbourhood plan the opportunity to make allocations and to revise the settlement boundary, while the neighbourhood plan left squarely with the local plan the task of framing a development control policy for unallocated sites outside the settlement boundaries – which is what it did in Policies 2 and 45.” [paragraph 42]

32. In relation to paragraph 198 NPPF (which was in similar terms to paragraph 12 of the current NPPF) the Court noted:

“The concept that when an application "conflicts with a neighbourhood plan" planning permission "should not normally be granted" is straightforward. It carries a policy presumption consistent both with the statutory presumption in favour of the development plan as a whole in section 38(6) of the 2004 Act, which includes a neighbourhood plan, and with the broader theme of the plan-led approach to development control recurrent throughout the NPPF. It does not modify the presumption in section 38(6) ; it reflects that presumption. And it does not elevate the status of a neighbourhood plan within the development plan as a whole (see the judgment of Holgate J. in Woodcock Holdings Ltd. v Secretary of State for Communities and Local Government [2015] EWHC 1173 (Admin) , at paragraph 24; and, in this court, R. (on the application of DLA Delivery Ltd. v Lewes District Council [2017] EWCA Civ 58 , at paragraph 11).”

33. It is of note that LJ Lindblom (at para 47) distinguished two other cases²⁵ – *Crane* and *Canterbury* (in which parties had sought to argue that there had been conflict with policies in what had been suggested were similar contexts) by saying (at paragraph 47):

“there will sometimes be circumstances in which a proposal for housing development, though it neither complies with nor offends the terms of any particular policy of the development plan, is nevertheless in conflict with the plan because it is manifestly incompatible with the relevant strategy in it. This may be a matter of "natural and necessary inference" from the relevant policies of the plan, read sensibly and as a whole. The effect of those policies may be – I stress "may be" – that a proposal they do not explicitly support is also, inevitably, contrary to them. Whether this is so will always depend on the particular context, and, critically, the wording of the relevant policies, their objectives, and their supporting text.

34. Accordingly, the issue may be very case specific. In the more recent case of *R. (on the application of William Corbett) v The Cornwall Council v Stephen Tavener* [2020] EWCA Civ 508 the Court of Appeal noted that:

“35. The recent decisions of this court in Canterbury City Council and Chichester District Council demonstrate the need for care in construing the particular provisions of the development plan in question (see my judgment in Chichester District Council, at paragraph 32). In Canterbury City Council, as in the first instance decision in Crane v Secretary of State for Communities and Local

²⁵ *Crane v Secretary of State for Communities and Local Development* [2015] EWHC 425 (Admin) and *Gladman Developments Ltd v Canterbury City Council*[2019] EWCA Civ 669

Government [2015] EWHC 425 (Admin), the suite of policies for housing development, on their true interpretation, formed a complete strategy and, as a matter of "natural and necessary inference", left no scope for proposals lacking explicit support in that strategy. By contrast, in Chichester District Council , the provisions of the local plan required no such inference, because the policies of central relevance to the proposed housing development were explicit. As always, the interpretation of the relevant policies depended on a sensible reading of the language used in them, in their context, and together (see paragraphs 47 to 49 of my judgment)."

35. I trust the matters I have addressed cover relevant matters for the decision making at hand.

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16th February 2021