

Committee Report

Item 7C

Reference: DC/20/04987

Case Officer: Alex Scott

Ward: Debenham.

Ward Member/s: Cllr Kathie Guthrie.

RECOMMENDATION – REFUSE OUTLINE PLANNING PERMISSION

Description of Development

Application for Outline Planning Permission (some matters reserved, access to be considered). Town and Country Planning Act 1990 - Erection of up to 32 dwellings following demolition of existing buildings (resubmission of DC/19/04553).

Location

Anchor Storage, Eye Road, Kenton, Stowmarket Suffolk IP14 6JJ

Expiry Date: 06/02/2021

Application Type: OUT - Outline Planning Application

Development Type: Major Small Scale - Dwellings

Applicant: Mr Stephen Britt

Agent: Philip Cobbold

Parish: Kenton

Site Area: 2.2ha

Density of Development:

Gross Density (Total Site): 14.55 dwellings per hectare

Net Density (Developed Site, excluding open space and SuDs): 16.31 dwellings per hectare

Details of Previous Committee / Resolutions and any member site visit: Outline Planning Permission, for a similar development on the site, was refused by MSDC Development Committee A on 19th February 2020 for the following reasons: Unsustainable Location; Loss of Employment Land; Harm to Heritage Asset; and not sufficiently addressing issues relating to Land Contamination and Flood Risk. (Further details appended).

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

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

PART ONE – REASON FOR REFERENCE TO COMMITTEE

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

It is a “Major” application for:

- a residential development for 15 or more dwellings.

PART TWO – POLICIES AND CONSULTATION SUMMARY

Summary of Policies

NPPF - National Planning Policy Framework
FC01 - Presumption In Favour Of Sustainable Development
FC01_1 - Mid Suffolk Approach To Delivering Sustainable Development
FC02 - Provision And Distribution Of Housing
CS01 - Settlement Hierarchy
CS02 - Development in the Countryside & Countryside Villages
CS03 - Reduce Contributions to Climate Change
CS04 - Adapting to Climate Change
CS05 - Mid Suffolk's Environment
CS06 - Services and Infrastructure
GP01 - Design and layout of development
HB01 - Protection of historic buildings
HB14 - Ensuring archaeological remains are not destroyed
H04- Proportion of Affordable Housing
H07 - Restricting housing development unrelated to needs of countryside
H13 - Design and layout of housing development
H14 - A range of house types to meet different accommodation needs
H15 - Development to reflect local characteristics
H16 - Protecting existing residential amenity
H17 - Keeping residential development away from pollution
CL08 - Protecting wildlife habitats
RT04 - Amenity open space and play areas within residential development
RT12 - Footpaths and Bridleways
E03 - Warehousing, storage, distribution and haulage depots
E04 - Protecting existing industrial/business areas for employment generating uses
E05 - Change of Use within existing industrial/commercial areas
E06 - Retention of use within existing industrial/commercial areas
T09 - Parking Standards
T10 - Highway Considerations in Development

Neighbourhood Plan Status

This application site is not within a Neighbourhood Plan Area.

Consultations and Representations

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

A: Summary of Consultations

Town/Parish Council (Appendix 3)

Kenton Parish Meeting - 10.12.2020

Object and trust that the application will be refused outright - Comprehensive report provided -
Conclusions: The application is poorly conceived and disregards the provisions of the NPPF and Local Plan; The proposal would result in an unacceptable form of development to the detriment of the character and appearance of the surrounding countryside and local amenity, including from the surrounding countryside and public rights of way; The proposal is in an unsustainable location in respect of access to local services and facilities; and The proposed development would cause unacceptable harm to the significance of heritage assets.

National Consultee (Appendix 4)

Environment Agency - 25.11.2020

Holding Objection on Foul Drainage grounds - Further information to demonstrate that the risks of pollution posed to surface water can be safely managed if a package treatment plant is used - No objection on Flood Risk grounds raised.

East Suffolk Drainage Board - 26.11.2020

Note the applicant intends to discharge surface water to a watercourse within the watershed catchment of the Board's IDD - Recommend discharge from this site is attenuated to the Greenfield Runoff Rates wherever possible.

Historic England - 13.11.2020

Do not wish to offer any comments - Suggest the LPA seeks the views of their specialist conservation and archaeological advisers, as relevant.

Natural England - 10.11.2020

Natural England has no comments to make on this application.

County Council Responses (Appendix 5)

SCC - Highways - 19.11.2020

Consider a Transport Statement is required - The applicant has not adequately considered the impacts on the highway from the traffic generated by the development, especially during peak hours; A footway is required between the site and bus stops, and the existing footway and PROW networks of the village; Public Footpath 21 runs through the site and this has not been considered within the layout.

SCC - Public Rights of Way - 11.11.2020

Object to this proposal on the basis that: Neither the site plans nor the Design and Access Statement depict Public Footpath 21 (FP21); None of the documents describe the alignment of FP21; None of the documents explain how FP21 will be affected by the proposed development; None of the documents show how FP21 will be integrated and protected in the design of the proposed development; and None of the documents explain how FP21 will be protected during construction.

SCC - Lead Local Flood Authority - 10.11.2020

Holding Objection - The proposed site layout and surface water drainage is not conjunctive to good design and the proposed strategy for the disposal of surface water is also proposing to utilise a hybrid system; Information submitted in support of the application is also considered to be out of date.

SCC - Archaeology - 11.11.2020

No objection - There would be no significant impact on known archaeological sites or areas with archaeological potential - Do not believe any archaeological mitigation is required.

SCC - Fire and Rescue - 10.11.2020

Fire Hydrants required within the development on a suitable route for laying hose - Automatic Fire Sprinkler system(s) advised.

SCC - Development Contributions - 27.11.2020

S106 required to cover Secondary School Transport Contributions - all other infrastructure requirements to be covered by CIL.

Internal Consultee Responses (Appendix 6)

MSDC - Strategic Planning and Infrastructure - 09.12.2020

Recommend Refusal - Proposal considered Unsustainable and Harmful: Development is contrary to current development plan, national policy and the emerging JLP; This is major development proposal in a small rural settlement with very limited accessibility to essential services and facilities; The impact of the proposal would be significantly different to that of small scale / infill growth; This additional unplanned growth would create unnecessary adverse harm in respect of social and environmental conditions with regards the increased need to drive or bus pupils to and from School and the need to drive to access services and facilities, with no regular public transport available.

MSDC - Heritage - 27.11.2020

Proposal would result in low to medium less than substantial harm to the setting and significance of the Grade II Listed Sycamore Farmhouse - Scheme essentially a re-submission of that previously refused; Do not consider any additions or amendments which would alter assessment of the scheme in heritage terms.

MSDC - Ecology Consultants - 23.11.2020

Holding Objection due to insufficient ecological information - The ecological survey report submitted with the application is out of date and requires updating.

MSDC - Environmental Protection - Land Contamination - 01.12.2020

No objection – Have reviewed the application and supporting Geoenvironmental Risk Assessment by Sue Slaven (reference : P0135/R01 Issue 1 dated October 2020) - Request that the LPA are contacted in the event of unexpected ground conditions being encountered during construction and that the minimum precautions are undertaken until such time as the LPA responds to the notification - Also advise that the developer is made aware that the responsibility for the safe development of the site lies with them.

MSDC - Environmental Protection - Air Quality - 13.11.2020

No Objection - The development is highly unlikely to cause a significant adverse impact on local air quality when measured against guidance of the Institute of Air Quality Management and DEFRA.

MSDC - Environmental Protection - Noise/Odour/Light/Smoke - 12.11.2020

Further information required - The proposed residential premises would be in close proximity to existing agricultural/ commercial premises and there is potential for significant loss of amenity at new dwellings due to noise - Environmental Noise Assessment (ENA) required - Construction and Environmental Management Plan (CEMP) required.

MSDC - Environmental Protection - Sustainability - 12.11.2020

No objections - Subject to environmental sustainability measures being secured by way of condition.

MSDC - Strategic Housing - 12.11.2020

The policy position would be for 35% affordable housing on any site of 10 or more units or site area in excess of 0.5 hectares - 32 dwellings equates to 11.2 dwellings for this submission to be policy compliant. Therefore the Council require 11 dwellings and 0.2 as a commuted sum - Preferred Mix of affordable housing is:

Affordable Rented - 8 homes required:

2 x 1 bed 2-person houses @ 58 sqm

4 x 2 bed 4-person houses @ 79 sqm

2 x 3 bed 5-person houses @ 93 sqm

Shared Ownership - 3 homes required:

3 x 2 bedroom 4-person houses @ 79 sqm

MSDC - Waste Services - 27.11.2020

No objection subject to conditions - Ensure that the development is suitable for a 32 tonne Refuse Collection Vehicle (RCV) to manoeuvre around - Please provide plans with each of the properties bin presentations plotted, these should be at edge of the curtilage or at the end of private drive and there are suitable collection presentation points. These are required for approval.

MSDC - Public Realm - 10.11.2020

Note the provision of public open space including an attenuation basin - Detailed design should include an adequate area of usable open space that does not include water storage - On site play Area should also be included in the detailed design.

Mid Suffolk Disability Forum - 14.11.2020

Would like to see a commitment to ensuring that all dwellings will meet part M4 of the Building Regulations.

MSDC - Economic Development - 29.01.2021

Do not Support this application - Object to the loss of Employment uses at this site - 14 persons employed currently, therefore cannot demonstrate site is unsuitable for employment - Employment opportunity in rural areas is important to the sustainability of our communities.

B: Representations

At the time of writing this report at least 23 letters/emails/online comments have been received. It is the officer opinion that this represents 18 objections, 5 support and 0 general comment. A verbal update shall be provided as necessary.

Views are summarised below:-

Material planning considerations raised by the objections include:

- Traffic impacts stemming from the increased use of the site by cars, van and motorcycles;
- Nature of local roads which are unlit, narrow and winding with few passing places;
- Lack of pedestrian footways through village;
- Lack of local infrastructure including GP or dental practice, shops or leisure facilities;
- Loss of local employment;
- Lack of parking on site;
- Lack of bus service to Kenton;
- Proposed development is out of keeping with the character of the area; and
- Likely contamination on site owing to asbestos construction of current buildings.

Material planning considerations raised by the supporters include:

- Development is on a Brownfield Site;
- Reduction in HGV Traffic through Village;
- Visual enhancement due to removal of Industrial Buildings;
- Local employment at Aspell Cider is near to the site;
- Will provide green open space for the village.

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

PLANNING HISTORY

REF: DC/19/04553	Outline Planning Application (some matters reserved - access to be considered) - Erection of up to 32No dwellings (existing buildings to be demolished).	DECISION: REF 19.02.2020
REF: 3478/10	Retention of existing office building.	DECISION: GTD 17.02.2011
REF: 1384/04	RETENTION OF TEMPORARY OFFICE ACCOMMODATION FOR A FIVE YEAR PERIOD FROM 31/10/05.	DECISION: GTD 31.12.2004
REF: 0851/00/	CONTINUED USE OF TEMPORARY OFFICE ACCOMMODATION FOR A PERIOD OF FIVE YEARS	DECISION: GTD 06.10.2000
REF: 0421/95/	ERECTION OF TEMPORARY OFFICE ACCOMMODATION USING PRIVATE FOUL DRAINAGE SYSTEM AND EXISTING VEHICULAR ACCESS.	DECISION: GTD 09.08.1995

PART THREE – ASSESSMENT OF APPLICATION

1. The Site and Surroundings

- 1.1. The 2.2ha site is located on the eastern side of Eye Road in Kenton, a designated countryside village. The site is occupied by a range of warehouses (8000sqm floor area) and single storey offices, operating as 'Anchor Storage'. The existing lawful use of the site is for Use Class B8 (storage and distribution).
- 1.2. Residential development and farm buildings are located north of the site. To the west (on the opposite side of Eye Road), and to the east of the site, is open countryside. Commercial units are located on land south of the site.
- 1.3. The site is not in a Conservation Area or special landscape designated for protection. The nearest designated heritage asset is the adjacent Grade II listed Sycamore Farmhouse which the site essentially wraps around on its eastern and southern boundaries. The proposed developable area of the site, as indicated, lies within Environment Agency Flood Zone 1, whilst the far eastern portion of the site (indicated for open space) lies within EA Flood Zones 2 and 3.
- 1.4. A Public Right of Way, Public Footpath 21, runs through the centre of the site, from east to west, connecting to the existing Public Right of Way network, extending away from the site, out into the countryside to the east of the Village.

2. The Proposal

- 2.1. The application seeks Outline Planning Permission, with all matters reserved save for access, for the erection of up to 32 new dwelling houses and public open space on the site, following demolition and removal of the existing industrial/commercial buildings on the site. An indicative masterplan has been provided with the application to indicate how the layout and landscaping of the site may be achieved, however such matters are presently reserved.
- 2.2. The applicant has not proposed to provide any affordable dwellings on-site, as part of the proposal and has suggested that a commuted sum in this respect would be sufficient to address the planning policy requirements in this respect.
- 2.3. The proposed means of access would be to Eye Road, to the east, via a single estate road access, in the approximately location of the existing commercial access to the site.
- 2.4. The indicative layout suggests a range of detached, semi-detached and terraced housing would be provided, and that public open space area, incorporating a surface water drainage attenuation basin as a feature, would be provided to the east of the site, adjacent to open countryside. Soft landscaping is also indicated to the site's perimeter. The supporting Planning Statement suggests the development outcome will comprise a mix of single storey, one and a half storey and two-storey dwellings of traditional form and appearance and incorporating the use of traditional materials. Such matters are, however, presently reserved at this outline stage.

3. Previous Application

- 3.1. The current application follows previous planning application reference DC/19/04553, for a very similar development of up to 32 dwellings on the site, which was considered by this committee in February 2020 and was refused planning permission for the following reasons:
 - 1) The proposed development, remote from local services and lacking accessible sustainable transport modes, will result in a high level of car dependency for future occupants. The density and scale of the development would result in landscape harm. The identified adverse impacts outweigh the scheme's public benefits, and therefore the proposal does not constitute sustainable development, contrary to Policies FC1 and FC1_1 of the Core Strategy Focused Review 2012 and the National Planning Policy Framework 2019.
 - 2) The proposal would also lead to the loss of employment land, with no significant benefit or alternative schemes provided, contrary to the directions of Saved Local Plan policy E4 and E6. Similarly, the area has not been shown to be one in high demand for housing such that the employment uses present on site should be replaced in line with the provisions of paragraph 121 of the NPPF.
 - 3) While it is acknowledged that the removal of the existing buildings from the site would be read as a benefit to the setting of Sycamore Farmhouse, the replacement of these buildings would still result in harm to its setting. This harm has been identified as being less than substantial when read against the NPPF and the public benefits offered by the site are insufficient to counter this harm due to the adverse impacts arising from the location of the scheme. This runs contrary to paragraph 196 of the NPPF and to the provisions of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 4) The application fails to demonstrate that the site is suitable for housing in the context of land contamination and cannot demonstrate that the remediation of the entirety of the site would result in land that was considered suitable for residential uses. This runs contrary to the requirements of paragraphs 178 and 180 of the National Planning Policy Framework 2019 which seeks to avoid development on sites which may reasonably pose a health risk to its end user.
 - 5) Paragraph 165 of the National Planning Policy Framework 2019 requires major developments to incorporate sustainable drainage systems, including taking advice from the lead local flood authority. The application fails to take account the advice from the lead local flood authority, contrary to paragraph 165 of the National Planning Policy Framework 2019.
- 3.2. Planning decision ref: DC/19/04553 is considered a material planning consideration in determination of the current application and, as such, the current proposal would be expected to overcome the reasons previously given for refusal, having also had regard to the current planning policy environment.

4. The Principle of Development

- 4.1. The starting point for any planning decision is the development plan, as identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004. Determination of any application must be made in accordance with the plan unless material considerations indicate otherwise. A key material consideration regarding the principle of development is the National Planning Policy Framework (NPPF) 2019.
- 4.2. For the purposes of the application at hand, the following documents are considered to form the adopted Development Plan:
 - National Planning Policy Framework (NPPF) (2019)
 - Mid Suffolk Core Strategy Focussed Review (2012)
 - Mid Suffolk Core Strategy (2008)
 - Saved Policies of the Mid Suffolk Local Plan (1998)
- 4.3. Mid Suffolk currently benefits from a housing land supply in excess of five-year, as set out in the Council's Housing Land Supply Position Statement and Joint Annual Monitoring Report, both published in October 2020. There is, therefore, no requirement for the Council to determine what weight to attach to all the relevant development plan policies in the context of the tilted balance test, whether they are policies for the supply of housing or restrictive 'counterpart' policies, such as countryside protection policies. This said, there is a need for Council to determine whether relevant development policies generally conform to the NPPF. Where they do not, they will carry less statutory weight.
- 4.4. The NPPF requires the approval of proposals that accord with an up to date development plan without delay, or where there are no policies, or the policies which are most important are out of date, granting permission unless the NPPF policies provide a clear reason for refusal, or adverse impacts of doing so would demonstrably outweigh the benefits. The age of policies itself does not cause them to cease to be part of the development plan or become "out of date" as identified in paragraph 213 of the NPPF. Significant weight should be given to the general public interest in having plan-led decisions even if the particular policies in a development plan may be old, and weight can be attributed to policies based on their compliance with the requirements of the NPPF.
- 4.5. Policies CS1 and CS2 of the Core Strategy, and saved Policy H7 of the Local Plan are policies most important for determining the application. Policy CS1 identifies a settlement hierarchy as to

sequentially direct development, forming part of a strategy to provide for a sustainable level of growth. The Policy identifies categories of settlement within the district, with Towns representing the most preferable location for development, followed by the Key Service Centres, Primary then Secondary Villages. Policy CS2 restricts development in the countryside to defined categories. Local Plan Policy H7 seeks to restrict housing development in the countryside in the interests of protecting its existing character and appearance.

- 4.6. The exceptional circumstances test at Policy CS2 applies to all land outside the settlement boundary, as does saved Policy H7. This blanket approach is inconsistent with the NPPF, which favours a more balanced approach to decision-making. The NPPF does contain a not dissimilar exceptional circumstances test, set out at paragraph 79, however it is only engaged where development is isolated. The definition of isolation in the context of this policy has been shown within court judgements to relate to physical isolation only. The subject land is not physically isolated, and it must follow that paragraph 79 does not engage.
- 4.7. Having regard to the advanced age of the Mid Suffolk settlement boundaries and the absence of a balanced approach as favoured by the NPPF, the statutory weight attached to the above policies is reduced as required by paragraph 213. The fact that the site is outside the settlement boundary is therefore not a determinative factor upon which the application turns.
- 4.8. Saved Policy HB1 is a heritage policy that generally reiterates the statutory duty in relation to heritage assets set out within the Planning (Listed Buildings and Conservation Areas) Act 1990. It is not considered up to date as it does not allow for the weighing of public benefits against heritage harm, a key requirement of the NPPF which is set out in detail at paragraph 196. For the same reason CS Policy FC1-1 is deemed not up to date as it also does not allow for the weighing of public benefits against heritage harm.
- 4.9. Therefore, it cannot be shown that the policies of the Council carry sufficient weight to be determinative to this application. This conclusion is reached irrespective of the Council's five-year housing land supply position. Paragraph 11d) of the NPPF is relevant, it requires that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed;
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 4.10. Turning first to (i) above, footnote 6 of the NPPF given at paragraph 11d states that the areas or assets of particular importance referred to within the policy are those relating to: habitats sites and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets; and areas at risk of flooding or coastal change. Of these areas/assets, those relevant to the application are: (a) designated heritage assets; and (b) areas at risk of flooding.
- 4.11. The aim of the NPPF, the delivery of sustainable development, remains unchanged. The three dimensions of sustainable development, in the context of the proposed scheme, are assessed in detail below.
- 4.12. *Social Dimension* - The delivery of additional housing is recognised as a social benefit and while the Council can demonstrate a five-year housing land supply, this cannot be read as a cap on development but does reduce the level of weight attributed to this benefit. While the application

proposes 11 affordable housing units on the site, Strategic Housing do not support this element of the scheme because of the site's remoteness from services, noting 'tenants of the rented units would be dependent upon car travel for pretty much everything in terms of getting children to school or travelling to work'. This outcome offers limited social benefits.

- 4.13. *Economic Dimension* - The provision of up to 32 dwellings will give rise to considerable employment during the construction phase owing to the scale of development proposed. The New Anglia 'Strategic Economic Plan' (April 2014) acknowledges that house building is a powerful stimulus for growth and supports around 1.5 jobs directly and 2.4 additional jobs in the wider economy for every home built. The proposal will, therefore, result in job creation during the construction period which will have positive regional economy benefits.
- 4.14. Although not an allocated employment site, it is nonetheless a lawful, well established employment land parcel. The redevelopment of the site would therefore lead to the loss of the employment use. Saved Policy E4 states that the Council will resist developments which would likely prejudice the continued use of employment sites while E6 recognises the valuable contribution local employment sites bring to an area and requires significant benefits be offered to offset their loss.
- 4.15. Paragraph 121 of the NPPF is more flexible, allowing the use of retail and employment land for housing, but only in areas of high housing demand where the residential use of the site would not compromise key economic sectors.
- 4.16. There is nothing to suggest there is no reasonable prospect of the site being used for employment uses in the future, however, this opportunity is lost through a change to a residential use. There are limited commercial premises in the settlement which would enable employment generation to take place or to replace the loss of the employment. The loss of the site would significantly impact on the ability of the settlement to provide a modest range of employment opportunities. The loss of local employment opportunities not only has a longer-term economic consequence, it has an adverse environmental impact as it does not help to avoid unsustainable travel patterns to jobs and services elsewhere. These factors weigh negatively in the planning balance.
- 4.17. *Environmental Dimension* - The application is located within the countryside and no services or facilities are noted within Kenton itself. Connections to surrounding villages are poor, made down unlit country roads which are considered to be intimidating to pedestrians, especially when the distances to the surrounding villages are taken into account. This is considered to lead to a high degree of car dependency for the application, contrary to the provisions of the NPPF.
- 4.18. A limited degree of less than substantial harm to the setting of the listed building is also noted, however, the application does serve to remove the existing buildings which are also considered to form existing harm, therefore, it is considered that this element of the application is afforded a neutral weight.
- 4.19. In fully weighting the scheme against the strands of sustainable development, some benefits are noted. However, the site is isolated from services and facilities and would lead to the loss of an existing employment site with nothing to more permanently offset this loss or to demonstrate that this area is one of high housing demand.
- 4.20. The Joint Local Plan is emerging, with limited weight attached, given the preparatory stage of the document. Notwithstanding, as observed by Planning Policy, it is to be noted that the village of Kenton is progressing through the emerging Joint Local Plan as a Hamlet, where only small-scale infill growth would be considered appropriate.

- 4.21. In conclusion, the currently proposal is not considered to overcome reasons 1 and 2 given for refusal of previous application DC/19/04553 (see above and appended), having had due regard to the current planning policy environment. Information submitted by the applicant in support of the current application is also not considered to significantly alter planning considerations and reasons previously given for refusal.

5. Nearby Services and Connections Assessment of Proposal

- 5.1. Kenton is a small rural settlement and consequently has very limited accessibility to services and facilities. No services or facilities are noted within Kenton itself. Kenton is less than three miles (2.3 miles) from Debenham, which does provide access to a number of services including Co-Operative Store, cafes, two public houses, antiques dealers, as well as a doctor's surgery, veterinary practice and secondary school. However, the connection between the villages would be made down country lanes with an absence of continuous footways. It is considered that use of these routes would not be optimal for pedestrians given that they are likely to be viewed as being intimidating for pedestrians. There are no regular bus services to or from Kenton.

6. Site Access, Parking and Highway Safety Considerations

- 6.1. Access is a matter sought for approval. Policy T10 of the Local Plan requires the Local Planning Authority to consider a number of highway matters when determining planning applications, including; the provision of safe access, the safe and free flow of traffic and pedestrian safety, safe capacity of the road network and the provision of adequate parking and turning for vehicles. Policy T10 is a general transport policy which is generally consistent with Section 9 of the NPPF on promoting sustainable transport, and therefore is afforded considerable weight.
- 6.2. Paragraph 109 of the NPPF confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.3. The development proposes to utilise the well-established access that is used by the existing commercial operation. Existing sufficient visibility splays are provided. Your officers consider the proposed access arrangements are safe and suitable for all users, consistent with paragraph 108 of the NPPF and with Local Plan Policy T10.
- 6.4. The removal of the existing storage business would reduce the number of HGVs using the nearby local road network. This is considered to improve local amenity conditions for neighbouring residents. The improved conditions would be partly offset by the increase in private vehicle movements associated with 32 dwellings. On balance, however, it is considered that a public amenity benefit would accrue in this regard, weighing positively in the planning balance.
- 6.5. It is noted that SCC-Highways have requested further information with regards submission of a Transport Assessment and, had the application, been considered acceptable in all other regards your officers would have likely sought to secure this from the applicant in the interest of securing improvements to the existing access and highway network, however, on the basis of the information currently submitted the absence of such information is not considered to represent sufficient reason for refusal on highway safety grounds, for the reasons given above.

7. Public Right of Way

- 7.1. It is noted that Suffolk Country Council have raised objection to the application for the reason that the Public Right of Way which traverses the site (Public Footpath 21) is not shown on the indicative layout submitted and it is not considered that sufficient information has been submitted to demonstrate its integration within the proposed development and to ensure that its formal route would be protected.
- 7.2. Whilst the comments received from SCC in this respect are noted by your officers, there is nothing to suggest, at this outline stage that the formal route of this Right of Way could not be suitably accommodated within a detailed layout if it were the single point of concern and constraint, and that its formal route could not be suitably protected.
- 7.3. As such, your officers consider that this matter could suitably be addressed at a detailed reserved matters stage and it is not considered that this issue should represent a reason for refusal of the current outline application on a point of principle.

8. Design and Layout

- 8.1. No formal detail as to the final proposed scale and appearance of buildings, the site layout or landscaping thereof, has been provided with the application, and the layout currently presented in this respect is indicative only at this stage. Such details would be required to be submitted by way of condition should outline planning permission be granted, by way of a future Reserved Matters application. Such a reserved matters application would be required to be reported to MSDC Development Committee prior to determination.
- 8.2. Due to the potential need to reduce the area within the site available for construction of the proposed dwellings, due to the potential need for flood risk and surface water drainage attenuation, and noise impact mitigation, measures as detailed later in this report, your officers have concern with regards the ability of the site to provide the 32 no. dwellings as indicated, at a scale and density that would be appropriate to the existing character of the village. It is however acknowledged that the application proposes up to 32 dwellings and there would, therefore, be the opportunity to negotiate a reduction in the final number of properties, at a reserved matters stage, should this be required.

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

- 9.1. Policy CS5 of the Core Strategy seeks to protect and conserve landscape qualities taking into account the natural environment and the historical dimension of the landscape as a whole rather than concentrating solely on selected areas, protecting the District's most important components and encouraging development that is consistent with conserving its overall character. However, blanket protection for the natural or historic environment as espoused by Policy CS5 is not consistent with the Framework and is afforded limited weight.
- 9.2. Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils.
- 9.3. The site is already developed for commercial purposes. The warehouse buildings do not contribute positively to the character of the area. The loss of the commercial buildings is welcomed. A 32 dwelling development would arguably result in a less harmful landscape impact than the existing commercial site conditions. However, this is not to suggest that the landscape outcome would be an appropriate one having regard to local character. The density and level of housing proposed is of a relatively high level (in the context of the settlement) which would give

rise to a modern suburban character of development. The scale and density of housing proposed is large in the context of the small scale, rural settlement. A modern suburban enclave with an internalised road network, dominated by cul-de-sacs, would starkly contrast with the prevailing one-plot-deep linear development pattern. Moreover, currently there is an absence of any housing that wraps around the frontage dwellings along this section of Eye Road. Introducing such a discordant landscape element would undermine local character.

- 9.4. The layout is not fixed and could be changed at the reserved matters stage, but in light of the amount of development proposed and the site constraints (including the adjacent listed setting), in reality the changes to the layout or a reduction in the amount of dwellings within the housing site would not be able to avoid the adverse landscape effects (identified above) to any great degree. Harm to the general character and appearance of the area, including the landscape setting, is deemed greater than moderate. This harm is contrary to paragraph 127 of the NPPF, which seeks to ensure development adds to the quality of an area and is sympathetic to local character.
- 9.5. Regulation 9(3) of the Conservation of Habitats and Species Regulations 2017 (Implemented 30th November 2017) provides that all competent authorities (public bodies) to have regard to the Habitats Directive in the exercise of its functions. Whilst an ecology report supports the application, your Ecology Consultants have advised that this document is out of date and as such a holding objection to the application is raised in this respect. An up to date report is required to enable the LPA to demonstrate compliance with its statutory duties, including its biodiversity duty under section current legislation.
- 9.6. Should the application have been acceptable in all other respects your officers would have likely requested updated information in this respect from the applicant, however, on the basis of the information currently submitted the proposal does not sufficiently demonstrate acceptability with regards potential impact on protected and priority species, in accordance with Local Plan Policy CL08 and paragraphs 174 to 177 of the NPPF. As such, this matter being a point of principle, your officers advise that the absence of sufficient up to date Ecology and Biodiversity assessment should be included in the reasons given for refusal.

10. Land Contamination

- 10.1. Paragraph 178 of the NPPF suggests planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination. Paragraph 180 states that decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment.
- 10.2. A comprehensive Contamination Report supports the application. Your Land Contamination Specialists in Environmental Protection have assessed the application proposal and the report provided and raise no objection with regards land contamination issues, subject to the LPA being contacted in the event of unexpected ground conditions being encountered during construction and that minimum precautions (as suggested) are undertaken until such time as the LPA responds to the notification. Your EP officers also advise that the developer is made aware that the responsibility for the safe development of the site lies with them. Your officers, therefore consider the application has sufficiently demonstrated that the site is suitable for housing, in accordance with paragraphs 178 and 180 of the NPPF.

11. Flood Risk and Surface Water Drainage

Flood Risk

- 11.1. Paragraph 157 of the NPPF requires a sequential, risk-based approach to the location of development - taking into account the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. NPPF paragraph 158 requires the sequential approach should be used in areas known to be at risk now or in the future from any form of flooding. NPPF Paragraph 163 provides that applications should be supported by a site-specific flood-risk assessment. NPPF Paragraph 165 provides that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should, amongst other matters, take account of advice from the Lead Local Flood Authority (LLFA).
- 11.2. The rear-most portion of the site is prone to flooding (EA Flood Zones 2 and 3). The application is informed by a supporting flood risk assessment. As a result, the indicative layout provided excludes the siting of any housing on the flood prone area, with an open space area instead proposed. In essence, and as noted by the Environment Agency (EA), the applicant has sequentially sited all proposed development within Flood Zone 1. This approach is consistent with that advocated by the NPPF.
- 11.3. In addition to the above , your officers consider that a sequential test with regards the attenuation basin area, and proposed works within that area is required; or to demonstrate that the these are water compatible. In otherwise, that surface water attenuation for the proposed scheme would function adequately in a flood event and not be a development that blocks/reduces flood capacity or results in flood risk by materials used to line the attenuation basin or due to already having water within it that would not allow further water addition. Your officers consider this requirement would likely result in a significant upscale in the size of the attenuation basin currently indicated, should it be required for water storage, and significantly reduce the area of the site available for the erection of the proposed dwellings.
- 11.4. Your officers are also concerned that the Flood Risk Assessment submitted with the application has not included and taken into account EA Flood Zone 2 + allowance for Climate Change Data, and that no + Climate Change outline map has been included. Your officers therefore consider further information is required to demonstrate that the proposed developable area of the site, as a whole (as indicated), does not lie within a Flood Zone, taking into consideration allowance for Climate Change, as required by section 14 of the NPPF.

Surface and Foul Water

- 11.5. The LLFA at Suffolk County Council raise a holding objection, noting there is insufficient detail within the surface water drainage strategy. The LLFA has made clear the information requirements needed in order to assess this element of the scheme. However, to date, this information has not been provided. The application therefore does not take account of advice from the lead local flood authority, contrary to paragraph 165 of the NPPF. This NPPF conflict provides a clear reason for refusing the development proposed, in accordance with the direction provided at paragraph 11d(i) of the NPPF.
- 11.6. The application indicates that foul sewage would be dealt with through package treatment plant(s). The EA has raised a holding objection with regards this proposal and has requested further information to demonstrate that the risks of pollution posed to surface water can be safely managed if a package treatment plant is used. Further information would have been requested from the applicant in order to establish the acceptability of the principle of this proposed means of foul water treatment and disposal should the application have been acceptable in all other regards.

12. Heritage Issues

- 12.1. Policy HB1 of the Local Plan seeks to protect the character and appearance of buildings of architectural or historic interest, particularly protecting the settings of Listed Buildings. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Listed Building or its setting.
- 12.2. Your Heritage Officers have considered the application proposal and advise that the existing warehouse and office buildings on site currently are considered to compromise the setting of the neighbouring Grade II Listed Sycamore Farmhouse, to the south of the site. Therefore, the removal of these existing large industrial character buildings is considered to benefit the setting and significance of this heritage asset. However, the scope of this benefit is reduced given that the application would replace the existing buildings with 32 residential dwellings. Whilst your officers note that the full extent of any harm associated with this application could not be fully judged until the layout, scale and design of the scheme is known, nevertheless your heritage officers have identified less than substantial harm to the significance of the heritage asset (Sycamore Farmhouse).
- 12.3. Paragraph 196 of the NPPF requires that levels of less than substantial harm to designated heritage assets be weighed against the positive public benefits of the scheme bearing in mind that the NPPF also gives great weight to the preservation of a heritage asset.
- 12.4. With regards to the public benefits offered by the application, these extend to the provision of additional housing within the District. To some extent the benefit of this additional housing supply is offset through the fact that the location is not considered to be a sustainable one for additional housing.
- 12.5. It is therefore considered that the benefits of the application are not sufficient to offset the identified level of less than substantial harm identified by the Council's Heritage Team. Therefore, the application is deficient when read against the provisions of the NPPF and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

13. Impact on Residential Amenity

- 13.1. Saved Policy H13 of the Local Plan seeks to ensure new housing development protects the amenity of neighbouring residents. Saved Policy H16 of the Local Plan seeks to protect the existing amenity of residential areas. Paragraph 127 of the NPPF sets out a number of core planning principles as to underpin decision-taking, including, seeking to secure a high standard of amenity for all existing and future occupants of land and buildings.
- 13.2. Your Environmental Protection officers have raised concern with regards the potential for significant impact on amenity, with regards noise and disturbance for future occupants of the development, emanating from the existing adjacent agricultural/commercial premises, located adjacent to the south of the site. Whilst your Environmental Protection officers have not specifically raised objection to the proposed development on this basis, and have requested further information, your planning officers have concern that the need for noise mitigation measures may push the proposed dwellings back away from the south boundary of the site, than currently indicated. This may then have the effect of reducing the area within the site available for construction of the proposed dwellings yet further.

- 13.3. The proposed development itself is not considered to result in demonstrable harm to the amenities currently enjoyed by occupants of existing neighbouring properties in the vicinity of the site.

14. Affordable Housing

- 14.1. Current development plan policy H4 states that the LPA will seek to secure affordable housing, of up to 35% of the total provision of housing, on such sites, for such proposals, in such locations. Furthermore, NPPF paragraph 62 states that where a need for affordable housing is identified the need should be met on-site unless: a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and b) the agreed approach contributes to the objective of creating mixed and balanced communities.
- 14.2. The applicant has not proposed on-site provision of affordable housing and the total number of houses proposed would, therefore, be available for sale on the open market. The applicant has, however, proposed a financial contribution towards affordable housing provision elsewhere in the District.
- 14.3. Your Strategic Housing Officers have provided a comprehensive consultation response setting out the affordable housing need in the District and have recommended that the application should provide onsite provision of 11 no. affordable homes (of a type and tenure as set out earlier in the report) and a commuted sum to cover the 0.2 of a dwelling shortfall, equating to 35% of the total.
- 14.4. It is not, therefore, considered that the financial contribution offered by the applicant is robustly justified at the current time and it is not considered that the applicant's proposed approach would contribute to the objective of creating mixed and balanced communities. The proposal is, therefore, considered contrary to development plan policy H4 and NPPF paragraph 62 in this regard.

15. Planning Obligations and Community Infrastructure Levy

- 15.1. The application is liable to CIL which would be managed through the standard independent CIL process triggered at a reserved matters stage. The application, if approved, would require the completion of a Section 106 agreement to secure a management plan for the public open space areas contained within the site, as well as for an affordable housing contribution (as advised by your Strategic Housing Officers).
- 15.2. The County Council in their function as Education Authority have noted that a contribution would also be required to secure the transport of secondary school aged pupils, again by way of a Section 106 Agreement.

16. Parish Meeting Comments

- 16.1 The matters raised by the consultants acting on behalf of Kenton Parish Meeting have been addressed in the above report.

PART FOUR – CONCLUSION

17. Planning Balance and Conclusion

- 17.1. The most important development plan policies relevant to determining the application, including saved Policy H7 and Core Strategy Policies CS1, CS2, CS5 and FC1.1, are out-of-date. Accordingly, they must carry less than full weight. The default 'tilted balance' position at paragraph 11(d) of the NPPF is engaged.
- 17.2. The first test at paragraph 11(d) relates to the situation where specific policies in the NPPF indicate development should be restricted, such as where areas at risk of flooding are concerned. The NPPF contains specific policies aimed at areas at risk of flooding. It is not considered that the applicant has provided sufficient information to demonstrate the development proposal would be sufficiently flood resilient and would not result in increased flood risk elsewhere. The applicant has also not provided sufficient information in relation to allowance for climate change data with the application, in relation to the FRA assessment of EA Flood Zone 2. The applicant has also failed to take account of advice from the lead local flood authority in relation to incorporation of sustainable drainage systems proposed. The application is contrary to section 14 of the NPPF in these regards. This policy conflict provides a clear reason for refusing the development, in accordance with the direction provided at paragraph 11d(i) of the NPPF.
- 17.3. The second test at 11(d) states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 17.4. The application is not considered to propose a suitable contribution towards affordable housing which would not fulfil the aims of the NPPF to create mixed and balanced communities. This is considered to weigh significantly negatively in both the social and environmental dimensions of sustainable development, as set out in the NPPF.
- 17.5. The density and level of housing proposed would be at odds with the low density, rural character of the area. A suburban housing estate of 32 dwellings set in a linear settlement pattern will result in adverse landscape impacts. Heritage impacts are also adverse, and despite the removal of the existing harm, the proposed development would still lead to harm which is not countered by the benefits of the application.
- 17.5. The site is remote from local services and sustainable transport modes are extremely limited if not non-existent. The site is not a sustainable one for housing. A high level of car dependency, at the density proposed, would result in considerable adverse environmental impacts. The loss of employment land (currently 14 employees), and the consequential reduction in opportunities for local commuting rather than out-of-settlement commuting (which will result if housing proceeds), serves as additional environmental harm.
- 17.6. The application has not demonstrated the site is suitable for housing in the context of potential impact on Ecology, Biodiversity, and protected and priority species, contrary to development plan policy CL08 and paragraphs 174 to 177 of the NPPF. This, in addition to the adverse effects identified above, weighs negatively in the planning balance.
- 17.7. To be set against the adverse impacts would be the public benefit arising from the contribution towards the Council's housing stock. However, the weight placed on this public benefit is reduced because the district does not have a housing shortfall. There are also economic benefits including job creation and local economy spend. These would be tangible and satisfy the economic role of sustainable development, albeit the weight afforded to this consideration is

significantly reduced by the loss of well-established employment land. A further benefit is the removal of HGV's from rural roads, offering improved local amenity conditions. This is a public benefit weighing positively in the planning balance. Collectively the benefits are attached moderate weight.

- 17.8. Paragraph 118c of the NPPF states that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes. For the reasons above the brownfield site is not deemed suitable for housing. The proposal does not gain any support from paragraph 118c of the NPPF and therefore does not offset or outweigh the identified harm.
- 17.9. Neutral in the planning balance is the acceptability of a number of scheme elements, including highway safety (highway safety is not deemed to be improved by the proposed removal of HGVs from the local roads), residential amenity and biodiversity. CIL contributions will be used to ensure existing infrastructure capacity is enhanced to meet additional demand, an additional neutral factor in the planning balance.
- 17.10. Collectively all the identified adverse impacts carry substantial weight. Based on the foregoing, the adverse impacts of the proposal would significantly and demonstrably outweigh the moderate benefits which would arise from the scheme. The proposal would therefore not constitute sustainable development.

RECOMMENDATION

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

1. The proposed development, remote from local services and lacking accessible sustainable transport modes, will result in a high level of car dependency for future occupants. The density and scale of the development would result in landscape harm. The identified adverse impacts outweigh the scheme's public benefits, and therefore the proposal does not constitute sustainable development, contrary to Development Plan Policies FC1 and FC1_1 and the National Planning Policy Framework.
2. The proposal would also lead to the loss of employment land, with no significant benefit or alternative schemes provided, contrary to the directions of Saved Local Plan policy E4 and E6.
3. Paragraph 165 of the NPPF requires major developments to incorporate sustainable drainage systems, including taking advice from the lead local flood authority (LLFA). The LLFA have advised that insufficient detail has been provided within the surface water drainage strategy submitted with the application and as such the applicant has not sufficiently demonstrated that the proposal would not result in harm with regards increased flood risk to existing and future occupants. The application fails to take account the advice from the lead local flood authority, contrary to paragraph 165 of the NPPF.
4. Paragraph 157 of the NPPF requires a sequential, risk-based approach to the location of development - taking into account the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. NPPF paragraph 158 requires the sequential approach should be used in areas known to be at risk now or in the future from any form of flooding. The applicant has failed to carry out a sequential test with regards the surface

water drainage attenuation basin area, as indicated, and has not demonstrated that the proposed surface water attenuation infrastructure would function adequately in a flood event. Furthermore, the Flood Risk Assessment submitted with the application has not taken into account Environmental Agency Flood Zone 2, with additional allowance for climate change data. As such, the applicant has not satisfactorily demonstrated that the proposed development would be sufficiently flood resilient and would not increase flood risk elsewhere.

5. Development plan policy H4 provides that the LPA will seek to secure affordable housing of up to 35% of the total provision of housing, on such sites, for such proposals, in such locations. Furthermore, NPPF paragraph 62 states that where a need for affordable housing is identified the need should be met on-site unless: a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and b) the agreed approach contributes to the objective of creating mixed and balanced communities.

The applicant has not proposed on-site provision of affordable housing and proposes a financial contribution towards affordable housing provision elsewhere in the District. It is not considered that the financial contribution offered by the applicant is robustly justified at the current time and it is not considered that the applicant's proposed approach would contribute to the objective of creating mixed and balanced communities. The proposal is, therefore, considered contrary to development plan policy H4 and NPPF paragraph 62.

6. While it is acknowledged that the removal of the existing buildings from the site would be read as a benefit to the setting of the Grade II Listed Sycamore Farmhouse, the replacement of these buildings would still result in harm to its setting. This harm has been identified as being less than substantial when read against the NPPF and the public benefits offered by the site are insufficient to outweigh this harm due to the adverse impacts arising from the location of the scheme. The proposal is, therefore, contrary to paragraph 196 of the NPPF and to the provisions of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
7. The application has failed to demonstrate that the site is suitable for housing in the context of potential impact on Ecology, Biodiversity, and protected and priority species. The Ecological Survey submitted with the application is of significant age and does not follow standing advice with regards the lifespan of ecology reports and surveys provided by the CIEEM. The development proposal is not, therefore, suitably informed with regards up to date Ecology survey information, and proposed mitigation, and in the absence of such the development poses significant risk of harm to protected and priority species, contrary to the requirements of Development Plan Policy CL08 and paragraphs 174 to 177 of the NPPF.
8. Paragraph 127 of the NPPF seeks to secure a high standard of amenity for all existing and future occupants of land and buildings and NPPF Paragraph 180 provides that planning decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development - and avoid noise giving rise to significant adverse impacts on health and the quality of life. The applicant has failed to demonstrate that the amenities of future occupants of the proposed development would not be adversely affected from noise and disturbance emanating from existing adjacent land uses.
9. Development Plan Policy CS5 provides that developments shall be of a high quality design that maintain and enhance the environment and respect, retain and enhance the local distinctiveness and character and appearance of the area. Policy H13 provides that new housing development

will be expected to achieve a high standard of design and layout and be of a scale and density appropriate to the site and its surroundings. Furthermore policy H15 provides that new housing should be consistent with the pattern and form of development in the area, the character of its setting, particular site constraints such as access and drainage, and the configuration of the site, including natural features. The application has failed to demonstrate that the maximum number of dwellings proposed can be accommodated on the site, with a realistic expectation of a good standard of: design; layout; landscaping; amenity for existing and future occupants, and a safe and suitable environment ultimately being achievable and deliverable. As such the current proposal is considered contrary to the aforementioned planning policies.