

## **Committee Report**

**Item 6B**

**Reference:** DC/21/00476

**Case Officer:** Samantha Summers

**Ward:** Assington.

**Ward Member/s:** Cllr Lee Parker

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## **RECOMMENDATION – REFUSAL OF PLANNING PERMISSION**

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### **Description of Development**

Outline planning application (some matters reserved, access to be considered). Town and Country Planning Act 1990. - Erection of 18 dwellings (comprising 10 three bed bungalows, 1 four bed bungalow and 7 one bed almshouse type units for older persons) (re-submission of DC/19/04391)

### **Location**

Land east of Assington Barns, The Street, Assington, CO10 5LW

**Expiry Date:** 27/04/2021

**Application Type:** OUT - Outline Planning Application

**Development Type:** Major Small Scale - Dwellings

**Applicant:** Mr T Thain

**Agent:** Stanfords

**Parish:** Assington

Site Area: 0.86ha

**Details of Previous Committee / Resolutions and any member site visit:** None

**Has a Committee Call In request been received from a Council Member** No

**Has the application been subject to Pre-Application Advice:** Yes The proposal was for 9 dwellings on the site and the advice given was negative.

"It is unlikely that the proposed development would gain officer support. Any application would need to address, and score positively against, policy CS11 of the Babergh Core Strategy.

This would include a local housing needs assessment which should only be for Assington and not a wider area because Assington is a Hinterland Village.

This pre-application is also read in conjunction with pre-application Dc.20.04037 for the erection of four dwellings. Although the site for nine dwellings falls below the threshold for affordable housing, the other pre-application is for a further four dwellings and would take the number of dwellings to thirteen, which would trigger an affordable housing contribution. Piece-meal development is liable for this contribution where the applicant is the same for each application.

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It is likely that an application on this site would be a committee decision because the previous scheme was a committee refusal.”

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## **PART ONE – REASON FOR REFERENCE TO COMMITTEE**

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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.

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## **PART TWO – POLICIES AND CONSULTATION SUMMARY**

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### **Summary of Policies**

Babergh Local Plan Alteration No.2 (2006):

CN01 - Design Standards

CR04 – Special Landscape Areas

TP15 - Parking Standards - New Development

Babergh Core Strategy 2014:

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

CS02 - Settlement Pattern Policy

CS11 - Core and Hinterland Villages

CS15 - Implementing Sustainable Development

CS18 - Mix and Types of Dwellings

CS19 - Affordable Homes

NPPF - National Planning Policy Framework

Suffolk Design Guide

### **Neighbourhood Plan Status**

This application site is within the draft Assington Neighbourhood Plan (ANP) Area.

The ANP is currently at:

Stage 5: Independent examination completed, recommending that, subject to modification, the Assington NDP meets the basic conditions and should proceed to a local referendum.

Accordingly, the draft Neighbourhood Plan is attached significant weight.

Relevant ANP Policies include:

ASSN1- Spatial Strategy

ASSN2 - Housing Development

ASSN10 - Housing Mix

ASSN12 - Area of Local Landscape Sensitivity

ASSN14 - Dark Skies  
ASSN16 - Biodiversity

## **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**

##### **Assington Parish Council**

Councillors reviewed Planning Applications - DC/19/00476 - Erection of 4 No two bed almshouse type units for older persons. | Land To The East Of The Barn, Assington Barns The Street Assington CO10 5LW and DC/21/00510 - Erection of 18 No dwellings (comprising 10 No three bed bungalows, 1 No four bed bungalow and 7 No one bed almshouse type units for older persons) (re-submission of DC/19/04391) | Land East Of Assington Barns The Street Assington CO10 5LW together, as they are effectively on the same site, and resolved to strongly object to this application on the following points:

##### Neighbourhood Plan

1) Assington's Neighbourhood Plan reached examination stage on 16th November 2020. Completely out of the control of the Parish Council a substantial delay to the examination has been caused by Covid-19, but nonetheless we expect this to be concluded imminently. As a result, the Plan will be passed to Babergh to approve to go forward to referendum, most likely in May. We anticipate in light of the delays caused by Covid-19 that Babergh will expedite this process, and therefore we expect these two planning applications to be determined with the Neighbourhood Plan either at pre-referendum stage (and therefore being afforded considerable weight as required by Paragraph 107 of the Localism Act - <https://www.gov.uk/guidance/neighbourhood-planning--2# covid-19>), or it will have been through referendum, adopted and therefore carry full weight.

a. This application is in clear conflict with Policies ASSN1 – Spatial Strategy, ASSN12 – Area of Local Landscape Sensitivity and ASSN16 – Biodiversity and should therefore be refused.

b. The neighbourhood plan's village-wide questionnaire was returned by 52% of the adult population (<http://assington.onesuffolk.net/assets/NeighbourhoodPlan/Consultations/April-19-Consultation-Boards-Final.pdf>, slide 3), and showed that:

- 89% do not support larger developments of 10+ houses
- 77% do not support developments of more than 5 dwellings
- 75% say we have enough, or too much housing already in the village
- Less than 3% support having more than 50 houses built in the village between 2018 and 2036
- 97% said any new development should respect the landscape of The Brook, south from the Church, and past The Vicary and the Reservoir, including its valley-side slopes.
- 94% thought that new development should provide additional public access, green space and wild places in Assington. Far from creating it, this application destroys green space.
- 76% thought that the volume of traffic is a problem for us in the village (we have a narrow main street with cars forced to park on the road)

##### Alms Housing and affordable provision

2) The applicant has described some of the housing proposed as "Almshouse type units for the older persons". In DC/21/00510 these so-described houses are ticked on the application form as "market housing"; clearly there is no intention from the applicant to gift these properties to a charitable trust to run as Almshouses. While we would look favourably upon genuine Almshouses gifted by a local landowner to

charity to be run in perpetuity for the needy, this is clearly not what is happening here. Indeed it is difficult to conclude anything other than that the term 'Almshouses' is being used by the applicant in an attempt to swindle the planning authority into thinking that these should be looked upon more favourably than the previously refused application.

3) The applicant does propose 7 social housing properties in DC/19/00476, but it appears again as though the intention is not to gift these to a charity to run as Almshouses, although the application is unclear. In any event, the number represents only the bare minimum required by Babergh's Strategic Housing team. Clearly social housing is desirable, but this application segregates them completely from the market housing, something that Babergh's Strategic Housing and Assington Parish Council opposes.

4) Assington's Neighbourhood Plan does have a policy (ASSN9) clearly allowing affordable housing on rural exception sites, of which this site would be suitable. However, the applicant has made no attempt whatsoever to comply with ASSN9.

#### Highways impact unsustainable

5) This development would considerably increase the volume of traffic onto a road which has no capacity for any additional traffic. The additional traffic will not only be the vehicles of the owners of the proposed new properties but also their visitors and deliveries. Suffolk Highways have, in their comments to the previous applications DC/18/00687 and DC/18/05178, stated that this location in The Street is "not a sustainable location from a transport policy perspective. The increase in trips and traffic [from new development] would present a detrimental impact to the road network and landscape character of the area." DC/19/00476 and DC/19/00510 propose using the same access. Speeding traffic and the considerable increase in volume of traffic is already causing significant problems and dangers in the (often single file) road through the village centre. Any additional traffic will be dangerous to all road users, and deter the significant number of cyclists, walkers and horse riders who use The Street.

#### Valued countryside location

6) The site is not even close (and certainly not in or adjacent to) to the existing built up area boundary or the proposed new BUAB in the emerging local plan. There is a need for any planning application to evidence exceptional circumstances and need for development in 'Countryside'. As policies CS2 and CS11 refer, from a planning policy perspective this application therefore should be treated as a development in countryside, and approval should only be granted if exceptional circumstances can be proved AND subject to a proven justifiable need for the housing (policy CS2 of Babergh Core Strategy 2014 and NPPF paragraph 79 ). This is NOT the case currently, as no 'exceptional circumstances' justification whatsoever have been presented as part of this application.

#### Housing need not demonstrated

7) In light of the above, the applicant needs to give evidence and prove that there is a local need for this housing; a full detailed housing needs survey would be required. Babergh's emerging joint local plan identifies a need for 38 properties in Assington parish between 2018 and 2036. There have already been 54 properties granted in 18 months, almost 50% more than the amount Babergh have stated to be needed in 18 years! In addition to these 54, the Neighbourhood Plan has allocated additional sites, in sustainable locations (which this application is clearly not in) to be developed in a graduated way with community support between now and 2036, bringing the total to be built to 67. Assington has had 54 houses granted planning permission since 2018, a 33% increase in housing with zero investment in infrastructure. This is totally unacceptable to the PC.

#### Out of Character scale of the development

8) The previous application was refused partly because of the inappropriate density of the housing, and this has not been addressed in the revised proposal. The proposed plan is a clear overdevelopment of a small site and would fundamentally change the character of the area, particularly when taking in

combination with the 23 houses already approved in the barn area, many of which are under construction. This would have a major impact on the social, physical and environmental amenity of the village. Policy CS11 states very clearly that the cumulative impact of development within villages and within the functional cluster of villages is a material consideration when assessing proposals in respect of “social, physical and environmental impacts.” Therefore this application should be considered at least in light of the 54 houses granted planning permission since 2018, a 33% increase in housing compared to the 164 houses in the village at the 2011 census. 33% is an exceptional and transformational amount of new housing for any location; it has come with no investment in infrastructure, and will damage the village character for present and future generations. A further 22 houses as proposed by these applications will destroy it. In 2020 AECOM completed an independent report (attached) for the Assington neighbourhood plan stating clearly that housing density in Assington is “below 15 dph and often below 10 dph”. This planning application would represent a significant increase in density - to 22 dph.

#### NPPF Requirements not met

9) This development does not demonstrate how it would achieve the three sustainable requirements as identified in CS15 and NPPF para 8., social, economic and environmental. This application makes no attempt to address these issues, or to demonstrate how it would achieve them.

#### CS11 Requirements not met

10) CS11 requires a site in hinterland villages to be: - “A close function relationship to the existing settlement”. – it is nowhere near the existing or proposed BUABs - “Well designed and appropriate in size/scale, layout and character to its setting and to the village” – it clearly fails this test as described above - “Adjacent to or well related to the existing pattern of development for that settlement” - it is not – the site juts out away from the traditional ribbon form of development of the village into open countryside - “Meets a proven need such as affordable housing or targeted market housing identified in an adopted community local plan/neighbourhood plan” – application makes no attempt to do this.

#### Special Landscape Area

11) The application is in a special landscape area that enhances the rural and tranquil nature of the location and is highly valued by the local population. It should be preserved. This application is different from the previously granted applications DC/18/00687 and DC/18/05178 because it infringes far more on the highly valued valley area of Assington, protruding starkly into the countryside in a position that will be visible both from other dwellings and from public footpaths in the area. It was (tenuously) arguable that DC/18/00687 and DC/18/05178 protruded out only as far as the existing Vicary Estate development; this application protrudes far further. The impact of such development on this site on the nature, wildlife and environment would be disastrous for the long-term view of conservation in this area.

#### Existing permission

12) While the site has permission for touring, seasonal and static caravans for temporary occupation, none of these structures are greater than c. 2.5m in height. Even though the new application proposes bungalows and one storey housing, the plans still show these to be between 5-6m in height. Replacing caravans with permanent buildings of 5 and 6m in height is therefore a fundamental change to the landscape, and one that cannot be screened by existing hedging or indeed additional landscaping. It will fundamentally change the landscape. Furthermore, a significant amount of wildlife (e.g. tawny owls) live in this location, and new building will destroy the habitat of this wildlife forever.

#### Infrastructure

13) Assington has a lack of physical infrastructure in relation to public drainage and water systems. There is no main sewerage in most of the village. The drainage is constantly under pressure already, with roadworks to try to address road flooding issues.

#### Facilities

14) Assington has few facilities (e.g., schools, surgeries, bus services) and all the neighbouring schools including Boxford are already full.

### **National Consultee**

#### **Natural England**

No objection.

### **County Council Responses**

#### **SCC Highways**

The proposed site is accessed off approved applications access road. With this application, this creates a development of up to 37 dwellings. A Transport Statement has not been supplied with the application. We would expect to see a transport statement for this site to take in the cumulative impact of all three sites and others within the village that have been approved. The NPPF focuses on the importance of promoting sustainable transport and give priority to pedestrian and cycle movements;

- The bus stops are approximately 500m from to the north of the site which is considered acceptable distance to walk to catch public transport but there are minimal bus services .
- There is a disjointed footway network from the site to the bus stops and village hall; part unbound, and behind hedging. This could be considered unattractive for the vulnerable user to walk to the facilities within the village.
- The primary school is approximately 3.4 miles and the high school is 5 miles from the site therefore, not within walking distance.

Although the site is not considered a sustainable location from a transport policy perspective, we consider the proposal would not have an impact on the public highway with regard to congestion, safety or parking. Therefore, the County Council as Highways Authority, does not wish to restrict the grant of permission as it would not have a severe impact on the road network (NPPF para 109)..

#### **SCC Archaeology**

There would be no significant impact on known archaeological sites or areas with archaeological potential. We have no objection to the development and do not believe any archaeological mitigation is required.

#### **SCC Developers Contribution**

<b>CIL</b>	Libraries improvements	£864
<b>S106</b>	Highways	tbc

Based on the intended use of this development proposal being ‘almshouse’ type “units for occupation by older persons of at least 60 years of age”, Suffolk County Council interprets from the accompanying Planning Statement that no children are likely to arise from this matter. On this basis, no education or early years contributions are sought for the proposed four dwellings.

#### **SCC Flood and Water**

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

- Location Plan ref 2419-106
- Plots 1-4 Indicative Floor Plans & elevations Ref 2419-108
- Indicative Site Layout Ref 2419-110

A holding objection is necessary because of the potential cumulative impact of the proposed development along The Street, Assington with regard to flood risk and surface water drainage. The holding objection is a temporary position to allow reasonable time for the applicant and the LLFA to discuss what additional information is required in order to overcome the objection(s). This Holding Objection will remain the LLFA's formal position until the local planning authority (LPA) is advised to the contrary. If the LLFA position remains as a Holding Objection at the point the LPA wishes to determine the application, the LPA should treat the Holding Objection as a Formal Objection and recommendation for Refusal to the proposed development. The LPA should provide at least 2 weeks prior notice of the publication of the committee report so that the LLFA can review matters and provide suggested planning conditions, even if the LLFA position is a Formal Objection. The points below detail the action required in order to overcome our current objection:

1. Submit a full site specific Flood Risk Assessment covering all plots/applications.
2. Submit a surface water drainage strategy showing a viable method for the disposal of surface water in line with NPPF hierarchy.

### **Internal Consultee Responses**

#### **Strategic Housing**

- A development proposal for 18 dwellings for DC/21/00476 and
- A development proposal for 4 dwellings for DC/21/00510
  
- 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.
  
- We would treat both of these applications as one site and therefore would be seeking 35% of the total number 'open market' dwellings = 22 dwellings.
  
- This scheme would need to provide at least 7 affordable dwellings to be policy compliant.

#### **Heritage**

No comments.

#### **Ecology**

No objection subject to securing ecological mitigation and enhancement measures.

#### **Environmental Health – Noise/Odour/Light/Smoke**

No objection subject to conditions.

#### **Environmental Health – Land Contamination**

No objection.

#### **Environmental Health – Sustainability**

No objection subject to conditions.

### **B: Representations**

At the time of writing this report at least 29 letters/emails/online comments have been received. It is the officer opinion that this represents 29 objections. A verbal update shall be provided as necessary.

Grounds of objection are summarised below:

- Loss of views
- Biodiversity impacts

- Out of keeping with linear development pattern
- Cumulative impact on village given existing permission
- Unsustainable location
- Contrary to Neighbourhood Plan
- Contrary to Development Plan policies
- Lack of village infrastructure, wastewater plant at capacity
- Few facilities in village
- Overdevelopment
- Light pollution
- Narrow road unsuitable for more housing
- Outside the BUAB
- No local bus service
- No identified local need for almshouse type accommodation
- Existing grounds of refusal from previous application remain valid
- Lack of landscaping and amenity green space
- Cumulative traffic damage to SSSI and AONB
- Damage to valued special landscape area
- Assington already overdeveloped

(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**

<b>REF:</b> DC/17/04927	Application under Section 73 of the Town and Country Planning Act - 'Erection of 2 No. two bedroom houses and 1 No. four bedroom house with associated off street parking and detached garages. Construction of new vehicular access.' - To vary conditions 2 and 6 of planning permission B/15/01393 to allow garage for plot 2 to include additional living accommodation over first floor accessed via external staircase and plot 3 to include additional living accommodation over first floor accessed via external staircase with garden store to side elevation.	<b>DECISION:</b> GTD 08.12.2017
<b>REF:</b> DC/18/00687	Outline Planning Application. (Access to be considered) Erection of 8no dwellings with garages and construction of new vehicular access.	<b>DECISION:</b> GTD 22.06.2018
<b>REF:</b> DC/18/05178	Outline Planning Application (Access to be considered) Erection of up to 7no dwellings with carports.	<b>DECISION:</b> GTD 09.04.2019
<b>REF:</b> DC/19/05807	Submission of details under outline planning permission DC/18/00687 - Appearance, Landscaping, Layout and Scale to be considered for up to 8no dwellings.	<b>DECISION:</b> GTD 20.02.2020

<b>REF:</b> DC/19/05808	Submission of details under outline planning permission DC/18/05178 Appearance, Landscaping, Layout and Scale for up to 7no dwellings	<b>DECISION:</b> GTD 21.02.2020	
<b>REF:</b> DC/20/02306	Discharge of Conditions Application for DC/19/05807- Condition 5 (Boundary Treatments)	<b>DECISION:</b> GTD 18.06.2020	
<b>REF:</b> DC/21/00510	Outline planning application (all matters reserved, access to be considered) Town and Country Planning Act 1990 - Erection of 4No two bed almshouse type units for older persons.	<b>DECISION:</b> Decision	Awaiting
<b>REF:</b> B/16/01448	Application under S73 of the Town and Country Planning Act (1990) - Change of use to caravan and camping site including provision for static, seasonal and touring caravans, tented camping and winter storage of caravans: Variation of condition 6 of consent ref. B/15/01348 to enable varied wording of occupation restriction.	<b>DECISION:</b> GRA 03.02.2017	
<b>REF:</b> B/16/01346	Erection of single storey front/side/rear extension to existing cafe tea room. As amplified by Drawing Nos. 2419/0001A and 2419/0002A received 14 October 2016 to show informal parking bays, bin storage area and relocated gas tanks.	<b>DECISION:</b> GRA 07.12.2016	
<b>REF:</b> B/15/01393	Erection of 2 No. two bedroom houses and 1 No. four bedroom house with associated off street parking and detached garages. Construction of new vehicular access.	<b>DECISION:</b> GRA 18.11.2015	
<b>REF:</b> B/15/01348	Change of use to caravan and camping site including provision for static, seasonal and touring caravans, tented camping and winter storage of caravans.	<b>DECISION:</b> GRA 19.04.2016	
<b>REF:</b> B/10/00595	Proposed frontage enclosure comprising post and rail timber fence and gates, together with alterations/improvements to existing vehicular access (existing access blocked up). As amplified by Agent's email, dated 2nd July 2010.	<b>DECISION:</b> GRA 30.07.2010	

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## **PART THREE – ASSESSMENT OF APPLICATION**

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### **1.0 The Site and Surroundings**

- 1.1. The site lies to the rear of the Assington Barns complex, located east of The Street in Assington, a designated Hinterland Village. The land is developed in accordance with planning permission B/15/01348 which allows for a caravan site. Creation of hardstandings and the storage of caravans is evident at the Assington Barns complex. The site is outside of the defined Built Up Area Boundary of Assington.
- 1.2. Located between the Assington Barns complex and the subject site is a plot being developed with 15 dwellings, which is nearing completion.
- 1.3. There are existing hedgerows to the southern and eastern boundaries of the site with agricultural fields beyond to the east. To the north lies an existing orchard with the Grade II listed dwelling, Centuries, fronting The Street located approximately 120 metres to the northwest. West of the site, at the frontage to The Street and immediately south of the vehicle access serving the subject site, are three double storey detached dwellings (B/15/01393).
- 1.4. The site lies within the countryside and is designated as a Special Landscape Area. The site is not in a Conservation Area. The site is in Flood Zone 1.

### **2.0 The Proposal**

- 2.1 Outline planning permission is sought, with all matters reserved except access, for the erection of 18 dwellings. This is a re-submission of previously refused scheme DC/19/04391 - Outline Planning Application (some matters reserved - access to be considered) - Erection of up to 19 No. Dwellings. The application was refused for two reasons:
  1. The proposed development, by virtue of its scale, density and location, would adversely impact the character and appearance of the area, including the landscape qualities of the Special Landscape Area, contrary to Saved Policy CR04 of the Babergh Local Plan 2006, Policies CS11 and CS15 of the Babergh Core Strategy 2014 and the National Planning Policy Framework 2019 in particular paragraphs 8 and 170.
  2. The proposed development would be outside of the Built Up Area Boundary of Assington, and it has not been adequately demonstrated that there is an identified local need for the proposal. As such the development is contrary to Policy CS11 of the Babergh Core Strategy 2014.
- 2.2 An indicative site plan suggests a possible layout comprising 10 detached three bedroom bungalows, a detached four bedroom bungalow and a terrace of seven one bed almshouse type units. The seven units would be for occupation by older persons of at least 60 years of age.
- 2.2 The development would be served by a continuation of the access road recently constructed to serve the neighbouring 15 dwelling immediately to the west.

2.3 The application is a re-submission of the previously refused DC/19/04391. The principal changes comprise one less dwelling and a building height restriction to single storey only.

### **3.0 Policy Context**

3.1 Babergh has a 6.64 year residential land supply. This position does not engage paragraph 11d of the NPPF.

3.2 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.

3.3 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.

3.4 Even if policies are considered to be out of date, that does not make them irrelevant; their weight is not fixed, and the weight to be attributed to them is within the remit of the decision taker. There will be many cases where restrictive policies are given sufficient weight to justify refusal despite their not being up to date.

3.5 Also, as required by paragraph 213 of the NPPF, the weight attributed to development plan policies should be according to their degree of consistency with the NPPF. The closer the aims of a policy are to the NPPF, the greater the weight that can be attributed to them.

3.6 Policy CS1 ‘Applying the Presumption in favour of Sustainable Development in Babergh’ is in-step with paragraph 11(d) of the NPPF, even though the policy’s wording was based on the earlier 2012 NPPF. This policy is therefore afforded full weight. Policy CS11 is considered to be consistent with the aims of the NPPF, in particular with regard to the need for development to respond positively to local circumstances which is consistent with paragraph 77 of the NPPF, and therefore has full weight. Policy CS15 sets out desirable characteristics for development which are based upon the principles of sustainable development which is also consistent with the NPPF and given full weight. Both policies CS11 and CS15 accord with the NPPF, particularly in relation to paragraphs 77 and 78 of the NPPF relating to rural housing, locally identified needs and promoting sustainable development in rural areas, paragraph 103 relating to limiting the need to travel and offering a genuine choice of transport modes, paragraph 127 to achieve well-designed places and paragraph 170 to contribute to and enhance the natural and local environment.

3.7 Policy CS2 ‘Settlement Pattern Policy’ designates Assington as a Hinterland Village. Policy CS2 requires that outside of the settlement boundary, development will only be permitted in exceptional circumstances subject to a proven justified need. This blanket approach is not entirely consistent 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. For the reasons set out in this report, the development is not isolated. Paragraph 79 of the NPPF is not engaged.

3.8 In the absence of an up to date allocations document and given the delay in the settlement boundaries review since the last local plan was adopted in 2006, coupled with the fact that its exceptional circumstances test is not wholly consistent with the NPPF, the policy cannot be given full weight. However, its overall strategy is appropriate in taking a responsible approach to spatial

distribution, requiring the scale and location of new development to take into account local circumstances and infrastructure capacity. These elements are considered to be consistent with the NPPF and therefore the policy is given substantial weight.

- 3.9 The draft Assington Neighbourhood Plan (ANP) has been subject to independent examination. The examiner recommends, subject to modifications to some policies, that the ANP should proceed to a local referendum. Section 70(2) of the Town and Country Planning Act 1990 provides that a local planning authority must have regard to a post-examination draft neighbourhood development plan, so far as material to the application.
- 3.10 Policies in the ANP considered most important for determining the application comprises ASSN1, ASSN10, ASSN12, ASSN14 and ASSN16 (ASSN19 is not considered further in this report given the application is made in outline and noting ASSN20 as modified relates only to non-residential development). Some of these policies have been recommended for modification by the examiner, to ensure they are consistent with the NPPF. All of the ANP policies therefore are afforded significant weight.
- 3.11 Babergh and Mid Suffolk District Councils have been working on a Joint Local Plan 2020 which is currently at the “Submitted” (Regulation 22) stage. The document has given Assington a settlement boundary which extends around the dwellings currently under construction to the east of The Barn complex but does not include the caravan site (i.e., the application site). In the Joint Local Plan Assington has been classified as “Hinterland” and development would be assessed against Policy SP03 – Settlement Hierarchy.
- 3.12 Paragraph 48 of the National Planning Policy Framework allows weight to be given to policies contained within an emerging plan. The weight given to the plan is dependent on what stage it has reach, in this case it is at Submission stage, and whether there are unresolved objections to its content. At this stage Officers afford the Joint Local Plan limited weight for decision making purposes however, noting that this is likely to increase as the plan progresses through examination. The plan does show the direction of travel that the Local Planning Authority is likely to take in regard to future development.
- 3.13 The NPPF does not specifically determine whether the tilted balance applies when ‘one of’ or ‘any of’ the most important policies are out of date. However *Wavendon Properties Ltd v SSHCLG [2019] EWHC 1524 (Admin)* has made it clear that the most important policies should be viewed together and an overall judgement made whether the policies as a whole are out of date. Taken as a whole, the most important policies referred above, particularly those in the ANP, are not out-of-date and consequently, the tilted balance in paragraph 11(d) of the NPPF does not apply.

#### **4.0 Assington Neighbourhood Plan**

- 4.1 The site is outside the draft ANP settlement boundary. Policy ASSN1 focuses new development to within the settlement boundary. The policy, as modified by the examiner, contemplates permitting development outside the settlement boundary where it is in accordance with national and district level policies. This requires a judgement as part of the overall balancing exercise and is considered further in the Conclusion section of this report.
- 4.2 Policy ASSN2 sets out that housing growth in the plan area will be met through the site allocations identified in the draft ANP and small brownfield ‘windfall’ sites within the ANP settlement boundary. The subject land does not meet either of these criteria. The land is outside site allocation ASSN3 (Assington Barn). The site is not deemed a small windfall site. The proposal conflicts with Policy ASSN2.

- 4.3 Policy ASSN10 sets out a housing mix requirement for smaller units in developments of ten or more dwellings to provide a minimum of 66% of the development to be two and three-bedroom dwellings. The percentage sought corresponds to the findings of the SHMA. The application complies with Policy ASSN10.
- 4.4 Policy ASSN12 designates an Area of Local Landscape Sensitivity, effectively replacing the existing Special Landscape Area (SLA) designation, not proposed to be taken forward in the emerging JLP. The policy, as modified by the examiner, seeks to protect or enhance the special landscape qualities of the area.
- 4.5 The subject site is positioned beyond the rear of the single plots fronting The Street, extending substantially eastward beyond the Assington Barn complex. This is because the site sits to the rear of the 15-dwelling development, located to the rear of the barn complex, currently nearing completion. As a result, unlike much of the development in the village, the application site is visually divorced from The Street.
- 4.6 The site has planning permission and is being used for the stationing of, up to 19 mobile homes, in addition to the seasonal use for 22 touring caravans and the long-term storage of a further 22 caravan units. The applicant sets out in some detail the extent of the 'as-of-right' development that can take place on the site owing to the most recent planning permission, in the context of the Caravan Sites and Control of Development Act 1960. This includes an access road and concrete bases, double mobile home units, an overall floor area of 2128m<sup>2</sup>. The applicant is of the view that mobile homes are by virtue of their design and appearance, alien features within the landscape.
- 4.7 The applicant contends the site is not exposed or subject to any long distance views compared with the St Edmunds Close development, rather, it is very well screened with very limited views only from the north and south, and not at all from the east and the valley to which the SLA is related. The applicant contends that when regard is had to this fallback position, the impact of the single-storey development now proposed can only be defined as neutral. The applicant notes that, with an overall building height of no more than 5.5 metres, development will be only 1.4 metres higher when compared with the flat roofs of the mobile homes. The applicant also notes the extensive screening to boundaries and the opportunity for further screening should the application be recommended for approval.
- 4.8 Whilst there is some merit in this "fallback" argument; the landscape impact cannot be considered in isolation, but rather in combination with the neighbouring development. The scheme essentially doubles the number of dwellings surrounding the Assington Barns complex (located to the east and south). When considered cumulatively alongside the adjacent 15 dwellings, plus the three dwellings constructed at The Street frontage, the resulting 36 dwelling development (40 if the concurrent application is approved and brought forward) takes on the appearance of a suburban housing estate of some scale. The proposal creates a not insubstantial non-linear housing estate on the edge of a small scale linear settlement. The scale, intensity and permanence of development is significantly greater than the existing caravan park.
- 4.9 Officers also acknowledge the extent of the perimeter screening, although they suggest that the concealment effect may be overstated by the applicant. The screening may soften the presence of the development to some extent, but it will not offset the identified landscape harm in any significant way.
- 4.10 In respect of Policy ASSN14, light pollution can be readily managed at reserved matters; there is no conflict at this outline stage with Policy ASSN14. Similarly, biodiversity impact mitigation can be managed effectively by planning condition as per standard planning practice, noting the absence

of objection from the ecology consultant in respect to the supporting ecology report, and therefore the application does not conflict with Policy ASSN16.

## **5.0 Policy CS11**

- 5.1 Development in hinterland villages will be approved where proposals are able to demonstrate a close functional relationship to the existing settlement where the criteria related to core villages in CS11 are addressed to the satisfaction of the local planning authority and the additional criteria related to hinterland villages are also met.
- 5.2 Consideration against Policy CS11 and the SPD:
- the landscape, environmental and heritage characteristics of the village;
  - the locational context of the village and the proposed development (particularly the AONBs, Conservation Areas, and heritage assets);
  - site location and sequential approach to site selection;
  - locally identified need - housing and employment, and specific local needs such as affordable housing;
  - locally identified community needs; and
  - cumulative impact of development in the area in respect of social, physical and environmental impacts.
- 5.3 The general purpose of Policy CS11 is to provide greater flexibility in the location of new housing development in the Core and Hinterland Villages. Considered together, Policy CS2 (Settlement Pattern Policy) and Policy CS3 (Strategy for Development and Growth) and Policy CS11 provide for a minimum of 1,050 dwellings to be delivered in Core and Hinterland Villages for the period between 2011 and 2031.

### *The landscape, environmental and heritage characteristics of the village*

- 5.4 Landscape considerations are considered above at paragraphs 4.5 – 4.7. There is no identified heritage related harm, noting an absence of an objection from the Heritage Officer.

### *The locational context of the village and the proposed development*

- 5.5 The site is located outside the current settlement boundary, the draft ANP settlement boundary and the emerging JLP settlement boundary. The scale of development proposed, the extent of the development site area, its position beyond the settlement corridor, and the extent of its eastward projection out of the village means it does not appear as a logical edge-of-village extension. The development does not pay due respect to the established locational context of the village.

### *Locally identified need - housing and employment, and specific local needs such as affordable housing*

- 5.6 The development comprises more than 10 dwellings and therefore the affordable housing requirement at Policy CS19 applies. No affordable housing units are proposed. The dwellings set aside of the over 60s comprise market housing. There is clear conflict with Policy CS19.
- 5.7 As already noted, the application complies with Policy ASSN10, providing an appropriate number of bedrooms identified within the Neighbourhood Plan, notwithstanding the requirements of the Strategic Housing Officer should a social housing element come forward. However, what it does not offer, is a mix of different house types as the proposed development would be all single storey. 53 new dwellings have been granted in the village over the last few years but because of the scale of the developments granted, there has been no affordable housing since before 2017 because the trigger point for the contribution had not been reached. This figure includes the 15 dwellings

adjoining the application site which came in two separate applications of less than 0.5 ha and under ten dwellings. The proposed development would form an extension to the existing 15 dwelling development by means of access through the development. Therefore, affordable housing contribution should include the previously approved 15 dwellings.

- 5.8 No Local Needs Assessment has been submitted with the application. In view of this, officers cannot be certain that there is in fact any need for further housing in the settlement having regard to the wording of policy CS2, CS11 and the SPD. This weighs heavily against the application.

#### *Locally Identified Community Needs*

- 5.9 No community needs assessment was received with the application. This is not fatal to the application because of its small scale. However, this criterion is not satisfied.

#### *Cumulative impact of development in the area in respect of social, physical and environmental impacts*

- 5.10 Policy CS11 requires the cumulative impact of development both within the Hinterland Village in which the development is proposed and the functional cluster of villages in which it is located, to be a material consideration when assessing proposals under the policy.
- 5.11 As already stated, the development is of scale. Being adjacent to existing housing schemes, there is a clear cumulative impact to be considered should the application be granted as ultimately the overall development east of Assington Barns would comprise 36 dwellings (40 if the concurrent proposal is included).
- 5.12 There is no meaningful separation between the subject site and the adjoining approved schemes, with approved house plots backing directly onto proposed house plots. Nor is there any intervening topography. Intervening vegetation is limited to an existing hedgerow. The hedgerow, to be part removed to enable construction of the access road, would offer little in visibly separating the developments. The proposed development will share the access that forms part of the approved adjoining scheme, with the additional access road appearing as a natural extension of that already approved. For these reasons there is no doubting that if all three schemes were constructed, they would read as one large housing development. The cumulative impact in landscape terms, notwithstanding the permitted caravan park fallback position, would not be insignificant.

### **6.0 Policy CS15**

- 6.1 Policy CS15 is a long, wide-ranging, criteria-based policy, setting out how the Council will seek to implement sustainable development. It contains a total of 19 criteria, covering matters such as landscape impact, job creation, minimising energy and waste and promoting healthy living and accessibility. Many of the criterion in Policy CS15 are covered in the individual sections of this report and it is not, therefore, necessary to run through each and every one of those criteria in this section of the report.
- 6.2 What follows is, therefore, an overarching summary of the most relevant issues.
- 6.3 Policy CS15(xviii) seeks to minimise the need to travel by car using alternative means and improving air quality. There has been an appeal decision and various recent approvals for housing within the vicinity of the site along The Street, whereby the Planning Inspector and Council have judged that the location is sustainable having regard to its proximity to services within the village and surrounding centres. There will be a level of car dependency, as there always is in rural settlements, however the extent of essential local services on offer does limit, to a degree, the environmental harm that would result. This policy conflict is not attached significant weight.

- 6.4 The development would provide work for local contractors during the construction period, thereby providing economic gain, through local spend within the community. (criterion iii of CS15).
- 6.5 The proposed development would support local services and facilities, a public benefit weighing positively in the planning balance.
- 6.6 With respect to the potential to exacerbate flooding and criterion xi of CS15, SCC Flood and Water raise a holding objection on flood related grounds. The consultee is concerned with the potential cumulative impact of the proposed development along The Street with regard to flood risk and surface water drainage. As noted in the draft ANP, parts of The Street are predicted to be affected by surface water flooding (according to the Government's Long-Term Flood Risk Map) and there is a historical issue with draining surface water from The Street.
- 6.7 SCC Flood and Water, having regard to the requirement at paragraph 163 of the NPPF which requires authorities to ensure flood risk does not increase elsewhere, requires the submission of a flood assessment report, noting in its advice that *'If the LLFA position remains as a holding objection at the point the LPA wishes to determine the application, the LPA should treat the holding objection as a formal objection and recommendation for refusal to the proposed development'*. There is a clear and obvious conflict with criterion xi of CS15 and the absence of the required flood assessment findings means that the local planning authority cannot determine, at least at this time, which flood risk is not increased elsewhere, contrary to paragraph 163 of the NPPF. This matter weighs heavily against the proposal.
- 6.8 During construction methods will be employed to minimise waste (criterion xiv of CS15).
- 6.9 The proposed dwellings would be constructed as a minimum to meet the requirements of Part L of the Building Regulations, which requires a high level of energy efficiency (criterion xv of CS15).

## **7.0 Vehicle Access**

- 7.1 Access is a matter for consideration as it is not reserved. The existing Assington Barns access arrangements are to be utilised. The Highways Authority raise no objection to the proposed intensification of the existing access. There is nothing in the Highways Authority consultee response that substantiates the contention made by the Parish Council that any additional traffic will be dangerous to all road users, and deter the significant number of cyclists, walkers and horse riders who use The Street. For these reasons the proposed access arrangement is not a matter that presents as a reason to withhold outline planning permission.
- 7.2 There is nothing to suggest access and parking could not be adequately managed through reserved matters applications.

## **8.0 Residential Amenity**

- 8.1 The development is sufficiently set in from all side boundaries that the residential amenity of neighbouring residents can be readily safeguarded. This would be more carefully considered through the reserved matters applications.

## **9.0 Landscape Impact and Trees**

- 9.1 Landscaping is a reserved matter and therefore need not be assessed in detail at this time. There are no trees of note proposed for removal.

## **10.0 Ecology**

- 10.1 Regulation 9(5) of the Conservation of Habitats and Species Regulations 2010 (Implemented 1st April 2010) requires all 'competent authorities' (public bodies) to 'have regard to the Habitats Directive in the exercise of its functions.' For a Local Planning Authority to comply with regulation 9(5) it must 'engage' with the provisions of the Habitats Directive.
- 10.2 The application is supported by an ecology report that has been reviewed by Council's Ecology Consultant. The consultant raises no objection subject to conditions. Biodiversity considerations are not fatal to the application and could be conditioned if an approval was recommended.
- 11.0 Planning Obligations / CIL**
- 11.1 The application is liable to CIL which would be managed through the standard independent CIL process triggered at the reserved matters stage.
- 12.0 Parish Council Comments**
- 12.1 Various matters raised by the Parish Council have been considered in the preceding assessment paragraphs.
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## **PART FOUR – CONCLUSION**

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### **13.0 Planning Balance and Conclusion**

- 13.1 Central to the balancing exercise to be undertaken by decision makers is Section 38(6) of the Planning and Compulsory Purchase Act 2004; which requires that, if regard is to be had to the Local Plan for the purpose of any determination to be made under the Planning Acts, determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 13.2 The tilted balance at paragraph 11d of the NPPF does not apply. This is because the Council can demonstrate a 5-year-plus Housing Land Supply, the Housing Delivery Target has been passed, and taken in the round the most important policies for the determination of this application are up to date.
- 13.3 Straightforwardly this application does not comply with the Development Plan as a whole. It is in the Countryside and the application proposal is absent of a proven justifiable need and the circumstances here are not exceptional. The application does not score positively against policy CS11.
- 13.4. The site is not identified in the draft ANP Policy ASSN2 as being suitable for accommodating any of the projected local housing demand. Whilst the development is not isolated in the terms of paragraph 79 of the NPPF, the change to landscape character brought about by the introduction of 18 dwellings, set well away from the ribbon development along The Street, would be adverse. The cumulative landscape effect, when considered alongside the two approved schemes adjacent, would be significant, even taking account of the 'fall back' caravan park development. These elements of the scheme conflict with ANP Policy ASSN12 and Policies CS1 and CS15. There is harm to the qualities of the ANP's Area of Local Landscape Sensitivity.
- 13.5 The application does not provide any affordable housing units, contrary to Policy CS19.
- 13.6. The proposal does not respond favourably to Policy CS15 criterion xi. The lead local flood authority objects in the absence of a flood assessment report, given the potential for cumulative development

impact on The Street. The lead local flood authority directs that the application should be refused unless the flood information is provided.

- 13.7 The benefits of this application are modest. There are no material considerations justifying approval of a scheme that otherwise departs from the most important, relevant and up-to-date development plan policies. Recommendation is therefore to refuse outline planning permission.

### **RECOMMENDATION**

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

1. The proposed development, by virtue of its scale, density and location, would adversely impact the character and appearance of the area, including the landscape qualities of the Special Landscape Area, contrary to Saved Policy CR04 of the Babergh Local Plan 2006, Policies CS11 and CS15 of the Babergh Core Strategy (2019), Policy ASSN2 of the draft Assington Neighbourhood Plan and the National Planning Policy Framework 2019.
2. The proposal, lacking any affordable housing provision, fails to comply with Policy CS19 of the Babergh Core Strategy (2019).
3. The application fails to demonstrate that the development would not result in an increased risk of off-site flooding, contrary to Policy CS15 of the Babergh Core Strategy (2019) and the National Planning Policy Framework 2019.
4. The proposal would fail to deliver sustainable development, contrary to Policies CS1, CS2, CS11 and CS15 of the Babergh Core Strategy (2019) and the National Planning Policy Framework 2019. There are no material considerations that indicate otherwise.