

Committee Report

Item 6C

Reference: DC/21/00510

Case Officer: Samantha Summers

Ward: Assington.

Ward Member/s: Cllr Lee Parker

RECOMMENDATION –REFUSE PLANNING PERMISSION

Description of Development

Outline planning application (all matters reserved, access to be considered) Town and Country Planning Act 1990 - Erection of 4 two bed almshouse type units for older persons

Location

Land to the east of the Barn, Assington Barns, The Street, Assington, CO10 5LW

Expiry Date: 24/03/2021

Application Type: OUT - Outline Planning Application

Development Type: Minor Dwellings

Applicant: Mr T. Thain

Agent: Stanfords

Parish: Assington

Site Area: 0.15ha

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 DC/20/04037. Feedback was negative.

“It is unlikely that the proposed development would gain officer support in its current form. Any application would need to address and score positively against policy CS11 of the Babergh Core Strategy. This would include providing 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/20/04023 for the erection of nine dwellings. Although the site for four dwellings falls below the threshold for affordable housing, the other pre-application is for a further nine 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.”

PART ONE – REASON FOR REFERENCE TO COMMITTEE

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

The Head of Economy considers the application to be of a controversial nature having regard to the planning reasoning expressed by the Parish Council and the extent and planning substance of comments received from third parties and the location, scale and nature of the application.

It is linked to application DC/21/00476 for 18 dwellings, also before Members at this meeting.

PART TWO – POLICIES AND CONSULTATION SUMMARY

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

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

ASSN12 - Area of Local Landscape Sensitivity

ASSN14 - Dark Skies

ASSN16 – Biodiversity

ASSN22 – Community Facilities

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

No objection subject to conditions.

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

CIL	Libraries improvements	£864
S106	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

There are no concerns from a Heritage Team perspective because the site will have no effect upon any of the assets within the village. Therefore, whilst I do not wish to comment on the scheme in this regard, I must say that the proposed use of an almshouse motif for articulating a small terrace of single storey dwellings behind a large barn – instead of against the road, and traditionally in proximity to the parish church – is very uncharacteristic.

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 13 letters/emails/online comments have been received. It is the officer opinion that this represents 13 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

REF: 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.	DECISION: GTD 08.12.2017
REF: DC/18/00687	Outline Planning Application. (Access to be considered) Erection of 8no dwellings with garages and construction of new vehicular access.	DECISION: GTD 22.06.2018
REF: DC/18/05178	Outline Planning Application (Access to be considered) Erection of up to 7no dwellings with carports.	DECISION: GTD 09.04.2019
REF: 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.	DECISION: GTD 20.02.2020
REF: DC/19/05808	Submission of details under outline planning permission DC/18/05178 Appearance, Landscaping, Layout and Scale for up to 7no dwellings	DECISION: GTD 21.02.2020
REF: DC/20/02306	Discharge of Conditions Application for DC/19/05807- Condition 5 (Boundary Treatments)	DECISION: GTD 18.06.2020
REF: DC/21/00476	Outline planning application (some matters reserved, access to be considered). Town and Country Planning Act 1990. - Erection of 18No dwellings (comprising 10No three bed bungalows, 1No four bed bungalow and 7 No one bed almshouse type units for older persons) (re-submission of DC/19/04391)	DECISION: PCO

REF: 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.	DECISION: GRA 03.02.2017
REF: 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.	DECISION: GRA 07.12.2016
REF: 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.	DECISION: GRA 18.11.2015
REF: 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.	DECISION: GRA 19.04.2016
REF: 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.	DECISION: GRA 30.07.2010

PART THREE – ASSESSMENT OF APPLICATION

1.0 The Site and Surroundings

- 1.1. The application site, measuring 0.15ha in area, is located to the east side of The Street and is immediately to the north of the Assington Barns complex, in the settlement of Assington, a designated Hinterland Village. The site comprises open land currently serving as overflow parking to the rear of the Barn complex. The land is enclosed with fencing and a hedgerow and previously contained a large polytunnel associated with the garden centre. The application site is outside of the defined Built Up Area Boundary of Assington.
- 1.2. Land immediately north benefits from planning permission (DC/18/00188) for eight dwellings. Land southeast of the site, immediately to the rear of the Assington Barns complex, is being developed for housing, with 15 dwellings nearing completion. Land to the west, on the opposite side of The Street, is in residential use.

- 1.3. 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 up to four dwellings. An indicative site plan shows a terraced row of two-bedroom dwellings oriented to the west with east facing rear gardens. Indicative elevations suggest a single-storey scale.
- 2.2 The proposed units would be for occupation by older persons of at least 60 years of age. The Planning Statement states that the dwellings 'would be for market housing purposes'.
- 2.3 One uncovered car parking space, to the front of each dwelling, is shown for each unit. The existing overflow parking for Assington Barn is reconfigured in order to accommodate the development.
- 2.4 The development is to be served by the existing vehicular access to the overflow parking area.
- 2.5 A concurrent outline application (DC/21/00476, also before Members at this meeting) is pending consideration, proposing 18 dwellings on land east of the Assington Barns complex.

3.0 Policy Context

- 3.1. Babergh has a 6.64 five-plus-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 it comprise ASSN1, 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 as they have been endorsed by the examiner.
- 3.11 ASSN22 has allocated the application site as part of Community Facilities which include:
- The Shoulder of Mutton Public House
 - The Allotments
 - Assington Farm Shop
 - The Village Hall

The application site falls within the Assington Farm Shop area.

- 3.12 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 application site. In the Joint Local Plan Assington has been classified as "Hinterland" and development would be assessed against Policy SP03 – Settlement Hierarchy.
- 3.13 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 reached, 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.

- 3.14 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 within the draft ANP settlement boundary. Policy ASSN1 focuses new development within the settlement boundary and therefore the proposal accords with this policy. The site is a small brownfield 'windfall' site within the settlement boundary, one of the types of sites identified at Policy ASSN2 that can contribute to meeting the housing growth set out in the draft ANP.
- 4.2 Policy ASSN12 designates an Area of Local Landscape Sensitivity, effectively replacing the existing Special Landscape Area 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. The site is previously developed brownfield land, enveloped by surrounding development, including the approved housing immediately north, and commercial Assington Barns complex immediately south. It is therefore entirely enclosed and directly associated with the built form of the Barn complex. Officers agree with the Planning Statement observations:

'...the site is not an open greenfield site nor is it exposed or subject to any long-distance views. There is only a limited view from The Street between sections of hedgerow. The nearest public footpath is some distance to the south and offers no views into this land. Moreover, it is not possible to view the site from the footpath to the east along the river valley...'

- 4.3 For these reasons officers consider that any impact on the Area of Local Landscape Sensitivity will be very low to negligible, and therefore conflict with Policy ASSN12 will be similarly, at best, slight.
- 4.4 In respect to 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.
- 4.5 Development on this site would result in a reduction of the land associated with Assington Farm Shop. Reduction in the land may hinder future development on the site which provides an important community hub for the village, provides employment opportunities and also provides a service for tourists staying in the area. Loss of this land may, in the future, lead to issues around parking or expansion of the business.

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 For the reasons set out at paragraph 4.2, landscape harm arising from the development will be extremely limited. There is no identified heritage related harm, noting an absence of on objection from the Heritage Officer.

The locational context of the village and the proposed development

5.5. The site is located within the ANP settlement boundary and, already developed, forms an integral part of the Assington barns complex. The development will appear as a logical edge-of-village extension. The physical and functional relationship of the development to the village is an appropriate one. **However, this is on land that has been designed as a Community Facility and protected by the Neighbourhood Plan. Therefore, there is a conflict with the use of the land. The Neighbourhood Plan is given greater weight than policy CS11 in this instance.**

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

5.6. The development comprises less than 10 dwellings and the site area is less than 0.5ha, therefore the affordable housing requirement at Policy CS19 does not apply. Similarly, the housing mix requirement stipulated at ANP Policy ASSN10 does not apply as that too relates only to developments of 10 or more dwellings.

5.7 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

5.8. 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

- 5.9. 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.
- 5.10. Being adjacent to approved housing schemes, there is a clear cumulative impact to be considered should the application be granted. The development proposal is modest, limited to four, two bedroom units. For this reason, cumulative impacts (other than flooding – see further below) are unlikely to cause any localised harm of note.
- 5.11. The space for the proposed development is limited. The proposed gardens on the indicative site plan are very small and the development would be car dominated. The layout of the development would not be in-keeping with the existing pattern of development in Assington where dwellings have a greater sense of space. The future residents would be living in what is essentially a car parking area.

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 Parish Council considers that the proposal would considerably increase the volume of traffic onto a road which has no capacity for any additional traffic. Clearly the Highway Authority disagrees with this contention and raises no objection to the proposed intensification of the existing access. It must be said that the access arrangements are unusual, with domestic traffic to be directed through the commercial car park and the main building undercroft. This may present some operational challenges for the business however this is not an amenity or traffic issue per se for The Street itself, but more an operational matter for Assington Barns. It is not deemed a matter that causes serious conflict with any local development plan policy. 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. Those that have not relate more specifically to concurrent application DC/21/00476 and are therefore addressed in that respective officer's report.

PART FOUR – CONCLUSION

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 Core Strategy 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 HLS, the HDT has been passed, and taken in the round the most important policies for the determination of this application are up to date.
- 13.3. Whilst the site is located outside the current settlement boundary and the emerging JLP settlement boundary, it is within the draft ANP settlement boundary but as a Community Facility area not for residential use.
- 13.4. The proposal gives rise to significant conflict with policy ASSN22 of the draft ANP.
- 13.5. The application does not respond favourably to Policy CS11, There is not proven identifiable need for further housing in Assington.
- 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. There is conflict with the most important relevant development plan policies, policies not deemed out-of-date. The housing supply benefit is attached limited weight given the district does not have an identified housing shortfall.
- 13.8. 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 development cannot demonstrate that living conditions for the future residents would be acceptable. The development would be cramped with little outdoor space and would be car dominated. The scale and layout of the development would not reflect the existing pattern of development or local distinctiveness of this rural village where existing properties have large gardens and have a sense of space. The development would result in a suburban layout that is out-of-keeping with the existing character of Assington. The development is considered to conflict with Policies CS1, CS2, CS11 and CS15 of the Babergh Core Strategy. Furthermore, development of this land may comprise Community Facilities within the village and future commercial development of Assington Barn Shop and is contrary to policy ASSN22 of the Assington Neighbourhood Plan. These policies are consistent with the National Planning Policy Framework 2019.

2. 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.