

Committee Report

Item No: 6A

Reference: DC/20/00330

Case Officer: Jasmine Whyard

Ward: Box Vale.

Ward Member/s: Cllr Bryn Hurren.

RECOMMENDATION – REFUSE PLANNING PERMISSION

Description of Development

Outline Planning Application (Access to be considered all other matters reserved) - Erection of up to 64no. dwellings and provision of land for a community building (Use Class D1)

Location

Land to the East of Sand Hill, Boxford, CO10 5AD

Expiry Date: 29/07/2022

Application Type: OUT - Outline Planning Application

Development Type: Major Small Scale - Dwellings

Applicant: Catesby Development Land Limited

Agent: Neame Sutton Limited

Parish: Boxford

Site Area: 5.71 hectares

Details of Previous Committee / Resolutions and any member site visit:

Officers presented a previous application (DC/19/01873- Erection of 80 dwellings and creation of vehicular access) to Members on 11/09/2019 requesting a Member Site Visit, in conjunction with other schemes within the nearby area, at the express request of Cllr Hurren. Members resolved to undertake site inspection which was carried out on 18/09/2019.

The previous application was then subsequently refused and a decision was issued on 09/10/2019.

This application was previously heard at committee on the 17th June 2020 and was approved, however following Judicial Review that original decision of approval was quashed and therefore ceases to have effect. Further context and history on the Judicial Review is found within section 3 of this report.

Following the quashing of the approval Members subsequently resolved to undertake another Member Site Visit alongside commissioning an independent Highway Report following committee on the 19th May 2021.

An independent Highway Report was issued on the 22nd October 2021 and a formal re-consultation was carried out. Members undertook a committee site visit on the 8th December 2021.

Following the results of the independent Highway Report a further technical note on the highway issues raised was received from the applicant. This technical note was subsequently considered and was formally re-consulted on.

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

Has the application been subject to Pre-Application Advice: Yes

Pre-application discussions were held between the Applicant and Council officers under reference DC/18/03262. Pre-application response provided on 20/08/2018.

PART ONE – REASON FOR REFERENCE TO COMMITTEE

The application is referred to committee for the following reason:

- The proposal exceeds 15 dwellings and therefore must be reported to planning committee in accordance with the Council's Scheme of Delegation.

PART TWO – POLICIES AND CONSULTATION SUMMARY

The Development Plan

The following policies are considered the most important to the determination of this proposal. The policies are all contained within the adopted development plan for Babergh District which in the circumstances of this application is comprised of: Babergh Core Strategy (2014) and the 'saved policies'.

Summary of Policies

CS1 - Applying the presumption in Favour of Sustainable Development in Babergh
CS2 - Settlement Pattern Policy
CS11 - Core and Hinterland Villages
CS15 - Implementing Sustainable Development
CS18- Mix and Types of Dwellings
CS19 - Affordable Homes

CN06 - Listed Buildings - Alteration/Ext/COU
CN08 - Development in/near conservation areas

Supplementary Planning Documents

Rural Development & Core Strategy Policy CS11 SPD (2014)

National Planning Policy Framework

The National Planning Policy Framework (NPPF) 2021 contains the Government's planning policies for England and sets out how these are expected to be applied. Planning law continues to require that applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise. The policies contained within the NPPF are a material consideration and should be taken into account for decision-taking purposes.

Other material documents

Suffolk Guidance for Parking (2019)
Suffolk Design Guide (2000)

Neighbourhood Plan Status

This application site is included in an area which has been designated for a Neighbourhood Plan.

The Boxford Neighbourhood Plan is now post-examination (Regulation 18) and minor modifications have been recommended by the inspector. The Neighbourhood Plan subsequently carries significant weight in the determination process.

Summary of Emerging Policies

BOX 1- Housing Strategy for Boxford
BOX 2- Housing Mix
BOX 4- Safety for Vehicles, Pedestrians and Cyclists
BOX 5- Improving access and connectivity
BOX 7- The Design of New Development
BOX 8- Historic Environment and Conservation Area
BOX 10- Boxford Historic Views
BOX 11- The River Box Area of Local Landscape Sensitivity (ALLS)
BOX 12- Important Public Scenic Views
BOX 13- Protection and Enhancement of Natural Features
BOX 15- Localised Flooding

BOX 16- Environmental Design
BOX 18- Supporting New Community Infrastructure

Further discussion of the Neighbourhood Plan is contained later in this report.

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

Parish Council

- **Boxford Parish Council-** Object on the basis of the following: 1- the applicant has failed to engage with the village, 2- no real public benefits, 3- community facility is not needed and would affect the viability of existing facilities, 4- agricultural vehicles would be restricted as they currently use Ellis Street and alterations would restrict space 5- independent Highways Report shocks lack of local knowledge, 6- new footpath inadequate size, 7- pedestrian safety compromised on Cox Hill, 8- reduction in parking bays for use by residents, 9- harm to conversation area from signage, 10- proposed highways alterations would make Ellis Street akin to Swan Street, 11- impact on Swan Street

National Consultee

- **NHS-** No mitigation required.
- **Natural England-** No objection.
- **Anglian Water-** There is capacity available for the proposed flows arising from the development. Recommends informatives relating to the used water network.
- **Suffolk Police Design Out Crime-** Insufficient information at this stage to comment on the design.

County Council Responses

- **Highways-** No objection subject to conditions and s106 requirements including an amended PROW contribution. The increased traffic flows along Swan Street arising from the development are considered to be minimal. Whilst the outcome of the appeal at Land South of Daking Avenue is acknowledged, this does not alter the Highway Authority's position. Consider the proposed footway improvements to be deliverable. S278 Agreement would be required to carry out works within the highway network.
- **Public Rights of Way-** No objection, recommend informatives to be included on any decision notice.

- **Travel Plan**- No objections, subject to condition.
- **Development Contributions**- No objection, some updates required to obligations previously set out.
- **Floods and Water**- No objection subject to conditions and recommend informative to be put on decision notice.
- **Fire and Rescue**- No objection subject to condition relating to fire hydrants.
- **Archaeology**- No objection subject to conditions relating to written scheme of investigation and post investigation assessments.

Internal Consultee Responses

- **Strategic Housing**- No objection. Changes in the previously agreed tenure of the affordable housing mix is required. Made comments on the indicative open market housing mix.
- **Environmental Health (Sustainability)**- No objection subject to condition.
- **Environmental Health (Land Contamination)**- No objection.
- **Place Services Landscaping**- No objection but make comments relating to elements of the landscaping scheme that should be considered within a reserved matters application.
- **Place Services Ecology**- No objection, subject to conditions relating to biodiversity enhancement, mitigation and protection.
- **Public Realm**- No objection to public open space, subject to play provision being incorporated in the scheme and local management and maintenance being secured.
- **Heritage**- Identify a very low level of less than substantial harm to the Boxford Conservation Area arising from the slight urbanising effect of the proposed highways improvements. The proposed dwellings would result in no harm in principle subject to seeing the detailed design within reserved matters.
- **Infrastructure and Policy**- Do not support the principle but raise no objection to infrastructure subject to securing contribution towards school transport. The development would be CIL liable.
- **Arboricultural Officer**- So long as the footpath is built upon the existing road surface with no excavation to the bank/ verge where the tree along Ellis Street stands, there would be no impact on the tree.

Other Responses

- **Suffolk Preservation Society-** Object. Disagree that the level of harm identified by the Council's Heritage Team is correct, it is felt that there would be a higher level of harm to Boxford's Conservation Area arising from the highway improvements. The Council can demonstrate a 5-year housing land supply.

B: Representations

At the time of writing this report at least 124 letters/ emails/ online comments have been received following the quashing of the original decision. It is the officer opinion that this represents 83 objections. A verbal update shall be provided as necessary.

Views are summarised below:-

- Affects local wildlife
- Application is lacking information
- Building work
- Conflict with District Plan
- Conflict with Neighbourhood Plan
- Design
- Development too high
- Dominating/ overbearing
- Drainage
- Fear of crime
- Harm to listed building
- Health and safety
- Inadequate access
- Inadequate public transport provision
- Increase of anti-social behaviour
- Increase in pollution
- Increase danger of flooding
- Increased traffic/highway issues
- Inappropriate in a Conservation Area
- Landscape impact
- Light pollution
- Loss of open space
- Loss of outlook
- Loss of privacy
- Loss of parking
- More open space needed on development
- Noise
- Out of character with the area
- Over development of site
- Overlooking
- Residential amenity

- Smells
- Scale
- Strain on existing community facilities
- Sustainability
- Trees

For completeness, prior to the original decision being quashed 52 representations, all of which were objections, were received as follows:

- Affects local ecology/wildlife
- Application is lacking information
- Boundary issues
- Conflict with local plan
- Conflict with NPPF
- Design
- Development too high
- Dominating/overbearing
- Drainage
- Fear of crime
- General dislike of proposal
- Harm to listed building
- Health & safety
- Impact on property value
- Inadequate access
- Inadequate parking provision
- Inadequate public transport provisions
- Inappropriate in a conservation area
- Increase danger of flooding
- Increase in anti-social behaviour
- Increase in pollution
- Increased traffic/highways issues
- Landscape impact
- Light pollution
- Loss of light
- Loss of open space
- Loss of outlook
- Loss of parking
- Loss of privacy
- Noise
- Out of character with the area
- Over development of site
- Overlooking
- Residential amenity
- Scale
- Strain on existing community facilities
- Sustainability

- Trees
- Conflict with Neighbourhood Plan

A petition was also previously submitted during the original course of the application with 110 no. signatures. This was formally registered through the Councils Petition scheme as an objection.

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

PLANNING HISTORY

REF: DC/19/01873	Outline Planning Application (some matters reserved) - Erection of up to 80No residential dwellings including vehicular access.	DECISION: REF 09.10.2019
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PART THREE – ASSESSMENT OF APPLICATION

1. The Site and Surroundings

- 1.1 The site extends 5.71 hectares of Grade 3 agricultural land (good to moderate quality). The site is located within the countryside, approximately 155 metres south of the Built-Up Area Boundary (BUAB) for Boxford. There is a Public Right of Way (footpath) that runs centrally between the north and south of the site. The nearest existing footpath to the site which leads into the centre of Boxford starts 47 metres north, which was delivered as part of the Station Field development.
- 1.2. The site is located outside of but adjacent to the Box Valley Special Landscape Area (SLA), which surrounds the site to the south and west. The site is not within the Dedham Vale Area of Outstanding of Natural Beauty but is near to it (approximately 416 metres south east of the site). The Boxford Conservation Area coincides with the BUAB and is also located 155 metres north of the site. There are trees on site protected by any Tree Preservation Order (TPO). The trees adjacent to the proposed highways works are not protected by TPO but fall within the Boxford Conservation Area.
- 1.3. The site falls within Flood Zone 1 (very low fluvial flood risk). The site is also primarily at a very low risk of pluvial flooding, with a sliver of land within the northern area of the site at a low risk of pluvial flooding (1 in 1000 annual probability).

2. The Proposal

- 2.1. Outline Planning Permission is sought for the erection of up to 64 no. dwellings and provision of land for community building, with access to be considered and all other matters reserved.

- 2.2. As part of an indicative site layout incorporates the following elements of the scheme are proposed:
- New footpath connections through the site and connecting to existing footpaths (including upgrades to PROW)
 - Public open space totalling 2.03 hectares
 - Woodland edge walk with new tree planting and Native woodland belt planting totalling 1.14 hectares
 - SuDS
 - Pumping station with landscape screen
 - 35% affordable dwellings
 - Play area
 - New vehicular access to Sand Hill
 - Community building on land totalling 0.08 hectares

3. Judicial Review

- 3.1. The application was previously heard at committee on the 17th June 2020 in which Members voted in favour of the officer's recommendation to grant planning permission and a decision was subsequently issued on the 11th December 2020 following completion of the S106 Agreement.
- 3.2. The completed S106 Agreement was worded in such a way to provide more flexibility in delivering the community building than the committee resolution allowed, on account of the apparently strong contention locally that no building was wanted.
- 3.3. The committee resolution stated that the S106 Agreement secure a 'community building consisting of a unit to be set on an area of no less than 0.08 hectares and that it constitutes a D1 Use Class unit'.
- 3.4. The completed S106 Agreement did not strictly secure a community building and instead secured a 'community building contribution' at a cost of £254,000 to be used for unspecified community purposes at the development site or within its vicinity (e.g. for the construction of a community building or for improvements to the current village hall or similar local facility).
- 3.5. Boxford Parish Council consequently applied for a Judicial Review of the original decision, which was successful on the grounds that the discrepancy between the committee resolution building and the wording in the S106 Agreement was unlawful. The planning permission was subsequently quashed on the 26th March 2021.
- 3.6. Boxford Parish Council applied for Judicial Review on several other grounds as listed below, however these were not grounds that resulted in the quashing of the decision but are included for the purposes of complete transparency and completeness.
- Members erred in law on highways matters bearing upon their decision, and the error has gone uncorrected before the Decision was issued

- Breach of the Coronavirus Regulations
- The Defendant erred in granting planning permission which failed to properly secure the highways improvements
- The Defendant erred in granting planning permission which failed to secure superfast/ultrafast broadband.

4. Redetermination

- 4.1. On the basis of the quashing of the original decision DC/20/00330, the application is before Members for redetermination. It is also noted that given the passage of time since the issuing of the original decision, there have been changes in circumstances, including the submission of the emerging Joint Local Plan to examination (Regulation 22), submission of an independent highways assessment commissioned by Boxford Parish Council, progression of Boxford's Neighbourhood Plan (Regulation 18- post examination) and the commission of an independent highways assessment by the Council. However, the overall scheme proposed has not changed in any way.
- 4.2 For clarity, Boxford's Neighbourhood Plan is now considered to hold significant (but not full) weight in the determination process as it is now post-examination. In view of the position outlined by the Inspector on the 28th April 2022, the Council's emerging Joint Local Plan has now been split. Part 1 will continue to be examined, however Part 2 is subject to further review and will be re-submitted for examination in due course. As such the emerging Joint Local Plan currently attracts limited weight in the determination process.
- 4.3. Members are therefore presented with a refreshed planning balance and an updated overall recommendation of refusal.

5. The Principle of Development

- 5.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the planning acts, then that determination must be made in accordance with the plan unless material considerations indicate otherwise. It is important to note that Section 38(6) positions the Development Plan as the starting point for determination, it does not however act as the end point and other material planning considerations must be appropriately considered and weighed in the determination process.
- 5.2. The National Planning Policy Framework (NPPF) 2021 contains the Government's planning policies for England and sets out how these are expected to be applied. Planning law continues to require that applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise. The policies contained within the NPPF are a material consideration and should be taken into account for decision-making purposes.
- 5.3. The age of policies themselves does not cause them to cease to be part of the development plan or become "out of date" as identified in paragraph 219 of the NPPF. But the weight attributed to development plan policies should be proportionate to their

degree of consistency with the NPPF, however. The closer the policy is consistent with the aims of the NPPF, the greater the weight that can be attributed to it.

- 5.4. The principle of development is primarily assessed against Core Strategy policies CS2, CS11 and CS15. It is considered that they are the most important policies for the determination of the application.
- 5.5. The decision not to engage the 'tilted balance' when assessing this application is particularly relevant in light of the case of *Wavendon Properties Limited v SSCLG and Milton Keynes Council [2019] EWHC 1524 (Admin)*. The Wavendon Case confirmed that whilst one of the 'most important' policies in the decision-making process can be considered to be 'out-of-date' this in itself is not enough to engage the 'tilted balance'. As in this instance, the 'most important' policies, when taken as a whole, are considered to be consistent with the NPPF and therefore engaging the 'tilted balance' in this case would be incorrect. The Council can also demonstrate a 6.86 year Housing Land Supply (February 2022) and continues to pass the Housing Delivery Test.
- 5.6. Whilst policy CS2 may be considered to hold significant but not full weight, the overall 'basket of policies' is considered to be up to date and as such, the 'tilted balance' paragraph 11d) is not engaged.

Policy CS2

- 5.7. Policy CS2 designates Boxford as a Core Village. Policy CS2 sets a high threshold for permitting development in countryside locations (outside of settlement boundaries) by laying out an exceptional circumstances test. A review of the settlement boundaries as envisaged at the time of the Core Strategy being adopted has not occurred, nor has there been a specific site allocations document (again as set out within the CS document). The exceptional circumstances approach is therefore overly restrictive and is inconsistent with the flexible approach advocated within the NPPF, when assessed against paragraph 219 of that document. The weight afforded to policy CS2 is thus reduced as a result and, in turn, officers afford less weight to the significance of any conflict with that element of the policy as a result. The NPPF does however contain a similar exceptional circumstances test, set out at paragraph 80, however it is only engaged where development is isolated. For the reasons set out in this report, the development is not isolated.
- 5.8. In policy terms, as the proposed development is for residential development with a community building. Noting that the Council can demonstrate an adequate five-year housing land supply (currently measured at 6.86 years February 2022), the development is not considered to meet an exceptional circumstance as set out under policy CS2. Therefore, the proposed development does not satisfy policy CS2, and is, in strict terms, in conflict with the Development Plan. Adopting a cautious approach, the development is considered to conflict with the Development Plan when viewed as a whole. The first side of the S38(6) balance, so to speak, therefore indicates that planning permission should be withheld.

Policy CS11

- 5.9. As noted in the Core Strategy, delivery of housing to meet the district's needs within the framework of the existing settlement pattern means there is a need for 'urban (edge) extensions' as well as locally appropriate levels of growth in the villages. Policy CS11 responds to this challenge, setting out the 'Strategy for Development in Core and Hinterland Villages'. The general purpose of Policy CS11 is to provide greater flexibility in the location of new housing development in the Core and Hinterland Villages. The site is an edge-of-settlement location, noting its close proximity to the existing settlement boundary, as such the criteria set out at Policy CS11 are engaged. The policy advises that Core Villages will act as a focus for development within their functional cluster.
- 5.10. Policy CS11 states that development for Core villages will be approved where proposals can demonstrate they would not detrimentally impact upon and positively contribute to the following matters to the Council's satisfaction:
- i) the landscape, environmental and heritage characteristics of the village;
 - ii) the locational context of the village and the proposed development (particularly the AONBs, Conservation Areas, and heritage assets);
 - iii) site location and sequential approach to site selection;
 - iv) locally identified need - housing and employment, and specific local needs such as affordable housing;
 - v) locally identified community needs; and
 - vi) cumulative impact of development in the area in respect of social, physical and environmental impacts.
- 5.11. The accompanying 'Rural Development & Core Strategy Policy CS11 Supplementary Planning Document' (the 'SPD') was adopted by the Council on 8 August 2014. The SPD was prepared to provide guidance on the interpretation and application of Policy CS11, acknowledging that the Site Allocations Document foreshadowed in Policy CS11 may not be prepared for some time. Although the SPD is not part of the statutory Development Plan, its preparation included a process of community consultation before it was adopted by the Council and means that it is a material consideration when planning applications are determined.
- 5.12. *i) the landscape, environmental and heritage characteristics of the village;*

Policy CS11 envisages that there will be some development in the countryside, and it is axiomatic that the development of a greenfield site will result in an element of adverse impact; the key question is whether the character impact of the development is reasonably contained and can be mitigated.

The Landscape and Visual Appraisal (January 2020) submitted with the application notes that the proposal would result in the loss of agricultural land and a change to public visual receptors including along the public rights of way. The indicative plan and quantum of development proposed demonstrates that an appropriate landscape buffer and rural edge of settlement character could be achieved within reserved matters.

An Archaeological and Heritage Impact Assessment (January 2020) was also submitted and assessed by the Council's Heritage Team and SCC Archaeology.

The site falls outside of but near to the Box Valley SLA, the Boxford Conservation Area and listed buildings. The submitted supporting documents (Landscape and Visual Impact Appraisal and Archaeological and Heritage Impact Assessment) have been assessed by the Councils Landscape and Heritage professionals. In regard to landscaping, it is considered that the main landscape impact would be confined to the site and that there would be no detrimental impact on the Box Valley SLA or Dedham Vale AONB. Whilst a very low level of less than substantial harm to the Boxford Conservation Area has been identified arising from the development of the site and associated highways works, this is outweighed by the public benefits as discussed later in this report. Archaeology could also be dealt with by condition as discussed later in this report.

Further assessment of the landscape, environment and heritage impacts and potential mitigation measures are found later in this report under sections 9 and 11 of this report.

5.13. *ii) The locational context of the village and the proposed development*

This matter requires an assessment of the context in which the application site is located by reference to the village, its facilities and applicable planning designations. Paragraph 10 of the SPD requires development to be in or adjacent to a Core Village or a Hinterland Village, ensuring they are well related to existing settlement, in order to engage with CS11.

It is suggested that the starting point for assessing whether sites are 'well related' is whether or not the site adjoins the Built-Up Area Boundary (BUAB) of the village. Some sites, even though they adjoin a BUAB may not be well related to settlement and a judgement will need to be made taking in account issues such as:

- Whether the proposal would constitute ribbon development on the edge of the village
- How the site is connected to the existing settlement, jobs, facilities and services including location of site access and availability of sustainable transport links
- The scale, character and density of the proposal in relation to the existing adjoining development
- Whether the proposal constituted a logical extension of the built-up area of the village
- Whether the proposal is self-contained and has logical natural boundaries.
- The proposal would read as a logical residential extension owing to the settlement pattern within this area of the village. The proposal would adjoin existing residential development northeast (Brook Hall Road) and northwest (Station Field).

Boxford provides a range of services, facilities and amenities, and has transport connections to services and employment hubs found in Hadleigh, Sudbury, Ipswich, and beyond. The site is therefore not considered to be isolated (noting its proximity and connection to settlement) and is instead well related, given the proximity to services and other dwellings.

The indicative masterplan layout shows that the proposal has been sensitively considered and could be accommodated on site in a sympathetic and responsive manner to its environs, whilst ensuring it achieves a rural edge of settlement character. The site is contained to its north and western boundaries, with a landscaping buffer proposed at the open eastern and southern boundaries.

5.14. *iii) Site location and sequential approach to site selection*

The acceptability of the principle of development does not turn on whether or not the site is within the settlement boundary. There are no sites within the Boxford settlement boundary which would enable a development of a scale commensurate with that proposed. There are no other brownfield sites being promoted for development within or around Boxford of this scale. Case law, namely *R (on the application of East Bergholt PC) v Babergh DC [2016] EWHC 3400 (Admin)*, has clarified that in relation to sequential assessment, there is no requirement to consider alternative sites adjoining the settlement boundary, as sequentially they are within the same tier.

The site is within a sequentially preferable location, noting its proximity to Boxford's settlement boundary.

5.15. *iv) locally identified need- housing and employment and specific local needs such as affordable housing*

In respect of affordable housing need, paragraph 2.8.5 of the Core Strategy advises that policy CS11 will lead to greater flexibility in the provision of affordable housing, related to need which has to be considered more widely than just within the context of individual settlement but also the other villages within the associated functional clusters and in some cases adjoining clusters. This is consistent with the requirements of the NPPF (paragraph 79) to ensure that the local plan meets the needs for affordable housing in the housing market area.

Policy CS18 states that the mix, type and size of housing development will be expected to reflect established needs in the Babergh District. An appropriate condition could be imposed if permission were granted to ensure that the open market mix would be a consideration come reserved matters.

Policy CS19 also seeks to secure 35% of dwellings as affordable. As the Council have not set a specific threshold, affordable housing is thus triggered on site of either 0.5 hectares or more or sites of 10 dwellings or more. Paragraph 14 of the SPD states that CS11 proposals should also be accompanied by a statement that analyses the local housing needs of the village (in both open market and affordable housing terms) to demonstrate how they have been taken into account in the proposal.

The Council's 2019 Ipswich Housing Market Area Strategic Housing Market Assessment shows that there is high demand for smaller homes with the biggest increase in demand between 2019-2036 projected to be for 2-bedroom homes followed by 3-bedroom homes.

The application is supported by a local housing needs assessment dated December 2019, which provides evidence of local housing need through secondary data. Just within the part cluster, the shortfall is likely to be at least 90 dwellings to 2031 but could be up to circa 140 dwellings. As the Core Village at the centre of a functional cluster, at the very least Boxford should be meeting most (if not all) of the needs arising within the Hinterland Villages and countryside which do not overlap into other clusters.

Case law has established that in the case of Core Villages, 'local' needs are those arising in the village and its cluster (and perhaps the areas immediately adjoining). Looking at the whole of the Boxford cluster, the shortfall is even greater. At an absolute minimum circa 120-150 dwellings are needed solely to meet demographic needs arising in the cluster, albeit this fails to factor in an uplift for market signals and would not be consistent with the district-wide assessment of need. Accounting for such an uplift would imply a shortfall of circa 230-280 dwellings to 2031 on a 'bottom-up' basis in the whole cluster and circa 260 - 270 on a 'top-down' basis across the whole cluster. Whilst it is the case that a number of permissions have been granted for new homes in Boxford and its functional cluster since the date of the 2019 assessment, that number does not greatly reduce the identified need.

There is therefore evidence of a shortfall in housing provision in the remaining Core Strategy period in the Boxford cluster (whether looking at the part or whole cluster), thus fulfilling the requirement in CS11 that proposals demonstrate evidence of local need. The proposed scheme (which will deliver up to 64 new homes) would help to meet some of this identified shortfall in housing within the Boxford cluster.

Members should note that the report follows the same methodology as that accepted by the Inspector (from which the Secretary of State did not demur) in the Long Melford appeal and, most recently, the Sproughton appeal. The assessment has been judged on its own merits, but its findings are accepted.

Boxford's Neighbourhood Plan is however a new material consideration arising since the application was originally determined. This must therefore be weighed in the overall planning balance. Boxford's Neighbourhood Plan has now been examined and thus holds significant weight in the determination of the application.

The Neighbourhood Plan allocates the development of 13 dwellings, this is to be achieved via extant planning permissions (equating to 8 dwellings) and small-scale emerging allocations (equating to 5 dwellings) that were contained within the emerging Joint Local Plan. However, it should be noted that emerging allocations and the settlement hierarchy remain the subject of outstanding objections and further work is being undertaken by The Council on this matter. The examining Inspector has agreed that this part of the emerging Joint Local Plan can be separated whilst this further work is being undertaken.

Whilst Boxford's Neighbourhood Plan solely allocates 13 dwellings, Boxford's Housing Needs Assessment does not identify an overall housing need and is silent on this matter, it does however identify that the affordable dwellings required alone across the plan period will likely exceed the 13 allocated dwellings [equating to 28 units as set out in the Boxford Neighbourhood Plan Examiner's report]. Moreover, the Neighbourhood Plan

currently gives way to Core Strategy policy CS11 as it is adopted and holds full weight. Policy CS11 discusses residential development for Core Villages as not only for the settlement itself but relating to its wider functional cluster comprising of other settlements.

It is important here to pause and recognise concerns that might be raised in respect of the “identified requirement” advised to the Neighbourhood Plan group and which has formed part of the emerging Joint Local Plan. Such a requirement follows a “top down” approach and is not necessarily a reflection of the needs that are arising from the Core Village and its functional cluster. It is that assessment of local need which forms part of the assessment required under policy CS11.

Policy BOX 1 of Boxford’s Neighbourhood Plan relates specifically to housing growth for Boxford. The policy, as proposed to be modified, restricts development outside of the settlement boundary- as follows:

“New development outside of the defined settlement boundaries will only be supported where it is in accordance with national and development plan policies”.

The examiner’s report on this policy states the following, which is important to set out, but members are directed to refer to it in full as available on the Council’s website¹

“56. I have been referred to three documents assessing housing need. Firstly, the Boxford Housing Needs Assessment (September 2020) prepared by AECOM as a supporting document for this Plan. That document concludes there is an identified need for approximately 28 affordable dwellings during the Plan period.

57. Land to the east of Sand Hill, Boxford Local Housing Needs Assessment Catesby Development Land Ltd (December 2019) prepared by Lichfields to support the promotion of land for development East of Sand Hill, identifies that within the Boxford part cluster, the housing need to 2031 is a minimum of 90 dwellings.

58. Review of Local Housing Needs for Boxford (January 2021) prepared by Boyer to support the promotion of land for development North of Butcher’s Lane identifies a local housing need target of around 115 dwellings to 2031.

59. Paragraph 7.11 in the Plan explains that the housing strategy is for further “specific small-scale growth, either where it would contribute towards a specific identified housing need that is not being met by recent developments or where it would provide another specific community benefit identified in the Plan.”

60. Policy BOX 1 does not reflect the housing strategy outlined in paragraph 7.11. In particular, Policy BOX 1 seeks to accommodate development commensurate to the village of Boxford being a Core Village, where such villages are to act as a focus for development within their functional cluster. In addition, the support for individual dwellings or small groups of dwellings, within the settlement boundaries

¹ <https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Boxford-NP-Exam-Report.pdf>

in Policy BOX 1 does not include a requirement to “contribute towards a specific identified housing need that is not being met by recent developments or where it would provide another specific community benefit identified in the Plan.” Therefore, in the interest of precision and to ensure that there is no internal conflict in the Plan, I recommend that Paragraph 7.11 is deleted.

61. Policy BOX 1 does not set a minimum housing figure for the Parish, although it does refer to the allocation of a site for 7 dwellings at Stone Street Road. Policy BOX 1 seeks to concentrate new housing development, comprising individual dwellings or small groups of dwellings, within the settlement boundaries.

62. Outside the settlement boundaries, Policy BOX 1 restricts new development to specific purposes. To ensure that the Plan contributes towards sustainable development, I recommend modification to this part of Policy BOX 1 to state that housing development outside the settlement boundaries will only be supported where it is in accordance with national and development plan policies. Supporting paragraph 7.18 should be similarly modified.”

...

64. I am required to test the indicative housing figure proposed by BDC. In doing so, I have taken into consideration representations promoting additional land for development on land North of Butcher’s Lane and on land East of Sand Hill. In particular, I am conscious of the planning history of the latter site.

65. BDC is yet to publish a revised Part 2 to the emerging JLP, or to publish any revised supporting documentation. Documents supporting both this Neighbourhood Plan and development proposals conclude there is a need for further housing beyond the indicative figure provided by BDC. Policy BOX 1 does not set a minimum housing figure and is not required to do so. Neither is it required to allocate sites for new housing development, although this Plan has chosen to allocate one site. Seeking to focus new housing development within the settlement boundaries is the correct approach to achieving a sustainable pattern of development in order to contribute towards the environmental objective of sustainable development. In addition, allowing some development outside the settlement boundaries where it accords with national and development plan policies, as I have recommended, would ensure that Policy BOX 1 is a housing strategy for the Parish that contributes towards the achievement of sustainable development.”

Therefore, the accepted modifications to policy BOX 1 would, for the time being at least, require that assessments for housing outside of the settlement boundary to be carried out having regard to those most important policies previously identified i.e., policies CS2, CS11, and CS15. Compliance with those policies, and relevant national policies, would indicate a positive assessment against policy BOX 1; on the other hand, non-compliance with those policies would equate to a departure from the neighbourhood plan.

Whilst Boxford's Neighbourhood Plan and the submission draft of the Joint Local Plan do not directly identify a requirement for an additional 64 dwellings within Boxford, it does not however deny the existence of the need that has otherwise been identified. On the basis of the submitted housing needs assessment and in the absence of evidence to suggest otherwise, on balance it is considered that the proposed development would go some way to meet an identified, proven and evidenced local housing need in relation to private market and affordable housing need in Boxford and its wider functional cluster.

In respect of policies CS18 and CS19 and emerging policy BOX 2, there is nothing before officers to suggest that an appropriate mix of dwellings could not be brought forward within a reserved matters submission. The specific mix of dwellings could be conditioned to be submitted alongside the reserved matters, with the affordable housing mix being secured at this stage via S106 Agreement.

5.16. *v) locally identified community needs*

The SPD identifies that proposals should be accompanied by a statement that analyses the community needs of the Village and how they have been taken into account in the proposal; this is however not an explicit requirement of the policy. Therefore, while in this case the applicant has not submitted a community needs assessment, this is not of itself fatal to the acceptability of this criterion. The proposed development will generate contributions towards community infrastructure (via Community Infrastructure Levy charging regime and s106 contributions outlined in section 13 of this report), to be spent on local services and infrastructure, therefore supporting rural communities, local services and facilities.

In this regard, despite the absence of the community needs assessment, the proposal delivers benefits through CIL that counter-balance any perceived policy tension in the absence of a specific assessment.

This proposal responds directly to a previously identified lack of community benefits under the previous decision (DC/19/01873) through the inclusion of the community building (D1 Use Class) shown on the indicative plan. This would be secured through the s106 agreement. This position is supported by Boxford's emerging Neighbourhood Plan. Policy BOX 18 seeks to protect and permit expansion of existing community infrastructure, whilst identifying general community needs, including, '*provision of flexible and adaptable space(s) for multi-uses e.g.... meeting spaces that would provide a better service to the community*'. Such community building as proposed therefore neither addresses an identified community need nor does it undermine or prejudice any existing community needs, such that the proposed building is neither a positive or negative of the development and is neutral in this regard.

Whilst direct employment use is not proposed with this application, the wider effects and potential spending power from a development of this extent, would yield positive benefits for Boxford and surrounding areas.

The CIL contributions, the delivery of a community building and overall scale of the development would serve to satisfy social and economic benefits for the community, whilst offering a significant degree of public open space on site for future occupants.

5.17. *vi) cumulative impact of development in the area in respect of social, physical and environmental impacts*

At paragraph 13 of the SPD it states, 'cumulative impact should include existing commitments and other proposals in the same village and existing commitments and other proposals in the cluster where they are likely to have a wider impact for example in terms of traffic generation, capacity of schools and health services. The impact on other neighbouring villages and neighbouring local authority areas should also be taken into account'.

The development has been assessed by Suffolk County Council's Development Contributions Manager and as previously stated the scheme would generate pooled CIL funds to mitigate against detrimental impacts and support the delivery of further services and facilities. A range of other contributions towards infrastructure are outlined in section 13 of this report.

The nearest local schools are Boxford CEVC Primary School which the site is within the catchment of. The second nearest is the Thomas Gainsborough School (secondary school and sixth form) which is over 3 miles away. Finally, Hadleigh High School (secondary school) operates on a catchment basis but does not currently include Boxford within that catchment and is over 3 miles away.

A primary school transport contribution was previously required when the application was originally determined. However, SCC Development Contributions no longer consider this a necessary contribution owing to an updated forecast for Boxford CEVCP School dated June 2022. The school has a capacity of 210 places, with 200 places being at 95% capacity, which is the bare minimum for education authorities to meet this statutory duty with operational flexibility, whilst enabling parents to have some choice of schools). The actual pupil roll for 2021/22 published on the forecast is 177. On this basis, pupils forecast to arise from this proposed development should be able to obtain a place at the local school, thus meaning that there is no longer a requirement for a primary school transport contribution.

The proposal has been considered as to the cumulative landscape impact, in conjunction with the existing settlement pattern, and also other permitted schemes. Given the location of the application site, the scheme would not create or contribute to a demonstrable landscape harm in isolation or in cumulation given that the site is set amongst the backdrop of the Boxford BUAB.

Officers acknowledge the infrastructure comments raised by consultees, and this is an important aspect of the scheme, as with any application of this scale and form.

Whilst SCC Highways as the Local Highways Authority (LHA) concluded that the development could be accommodated without adverse strain on the highway network.

Following significant Member and Parish Council concerns The Council commissioned an independent highways assessment (SWECO, October 2021) to independently assess the concerns raised. This report concluded that *'any impact on Swan Street is unacceptable due to the precedent set as part of the appeal decision for this sensitive corridor'*.

The appeal decision that SWECO refer to is application B/17/00091 at Land South of Daking Avenue, Boxford for the erection of 24 dwellings (APP/D3505/W/18/3197391). This position established by the Planning Inspectorate has been reinforced since SWECO issued their report to the Council, in relation to a more recent application DC/20/05283 at Land South of Daking Avenue, Boxford for the erection of 6 dwellings (APP/D3505/W/21/3275718). Whilst this appeal was not dismissed on highways grounds, the Inspector made a clear distinction in the circumstances between the two applications along Daking Avenue, with this lower quantum of development (6 dwellings) being considered to have a neutral impact on Swan Street but acknowledged that the position adopted in the earlier appeal related to a higher quantum of development which would have had a severe impact. The Inspector in this most recent appeal stated, *"Indeed, in relation to the 2018 appeal it was common ground that the development would have resulted in between 7 and 8 additional vehicle movements during morning and evening peak hours. In contrast, in relation to this appeal, the Highway Statement submitted by the appellants as part of the planning application indicates that the proposed development would generate just 2 additional vehicular movements in the peak hours."*

Whilst Daking Avenue is notably closer to Swan Street than the site, noting the location and beneficial and shorter connections that Swan Street provides for vehicles travel towards neighbouring villages and towns (including Bury St Edmunds) it is likely that future occupants on site would utilise Swan Street. This intensification of use is likely to range between 2 and 6 vehicular movements, which both SWECO and the Council contend would result in a significant intensification of use that would lead to a severe impact, by way of increasing congestion and risk of incidents between motorists, pedestrians and cyclists. The impact to both the highway network and its users would be severe and thus contrary to this criterion of CS11 and paragraph 111 of the NPPF.

The highways impacts of the proposal are further discussed within section 7 of this report.

It is considered that the cumulative impact of the development in relation to the highway network cannot be accommodated within the existing highway infrastructure of the village and will exacerbate existing issues along Swan Street, which would ultimately have a severe and detrimental impact within the village.

- 5.18. Policy CS11 also requires development proposals to score positively against policy CS15, which is discussed in the subsequent section of this report.
- 5.19. Whilst the proposal accords with a range of matters specifically outlined in policy CS11, it fails to demonstrate that the development would not result in a detrimental cumulative impact in the area, specifically in respect of the environment, arising from highways issues, contrary to criterion vi of CS11. Therefore, the development is strictly in conflict with policy CS11 and thus the development plan.

5.20. In turn, therefore, this would be in direct conflict with policy BOX1 of the post-examination Neighbourhood Plan.

Policy CS15

- 5.21. Policy CS15 is a long, wide-ranging, criteria-based policy, setting out how the Council seeks to implement sustainable development. It contains 19 criteria, covering matters from landscape impact, job creation, reducing emissions and promoting healthy living and accessibility. Many of the criteria within policy CS15 are covered within the individual sections of this report including, for example, landscape impacts, sustainable drainage, biodiversity and minimising car use. Therefore, it is not necessary to run through each and every one of those criteria in this section of the report. An overarching summary of the key points is presented instead.
- 5.22. Criteria i) and ii), the local character, shape and scale of the area, the locality would not be adversely affected to a degree warranting refusal. The introduction of an advanced planting buffer is a significant landscaping benefit, along with resultant ecological and biodiversity gains. The quantum of development and areas proposed to be built on would retain a rural edge of settlement character with suitable landscape buffers and open space. The indicative layouts demonstrate that the development could be visually well-integrated and appear as a logical extension of the existing settlement.
- 5.23. In relation to criterion vi), the impacts on infrastructure have been considered at length by SCC (Education and Highways), as well as at a District level (Planning Policy) and independently (SWECO). The County Council raise no objection to the proposed works, including highways infrastructure measures. On the contrary, Planning Policy raise concern as do the findings of the SWECO highways report. Whilst it is considered that there are suitable mitigation measures and contributions that can be secured in respect of a large number of matters, those relating to highways impacts along Swan Street cannot be mitigated. Whilst SCC may consider that the highways impacts are acceptable a contrary view has been independently provided by SWECO to suggest otherwise. Officers must assess these two contrasting views as done in section 7 of this report. The proposal is however ultimately considered to conflict with this criterion to a significant degree.
- 5.24. Criterion xi) seeks to sequentially site development in areas which are at the lowest risks of flooding. Unlike a large proportion of Boxford, the site falls wholly within Flood Zone 1 and is therefore at a low risk of fluvial flooding. Whilst the site is primarily at a very low risk of pluvial flooding (less than 1 in 1000-year probability), there is a small area to the north of the site which is at a low risk (1 in 1000 year probability). This low risk area is however proposed to accommodate an attenuation basin and would not have any 'more vulnerable' types of (residential or community building) development sited within it.
- 5.25. Criteria viii), iv), xv) and xvi) have been accorded with as the applicants have submitted a Sustainability & Energy Statement (January 2020) which outlines the social, economic and environmental dimensions of the scheme, with measures that could be secured via condition.

- Development designed in response to local constraints and opportunities considering measures to ensure the character of the development reflects the character of the environment and creates a safe and sustainable community
- Provision of new homes which will support local businesses and services
- Provision of space for the creation of a new community building
- Provision of sustainable travel features including cycle parking and new footpaths to enable easy connection to nearby amenities and employment areas
- Sustainable materials and construction methods to minimise waste
- Use of measures to reduce pollution during construction and operation including measures related to noise pollution, air quality and water pollution
- Development designed to minimise the impact of the development of the site habitats and wildlife including retention of the sites
- Retention of existing hedgerows, as well as a range of mitigation and enhancement measures to improve the sites biodiversity
- Measures to manage waste during both construction and occupation to reduce waste and maximise recycling.
- The proposed dwellings will 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).
- Development of new homes in Flood Zone 1 and inclusion of a surface water management system including SUDs to manage the 1 in 100 annual probability plus 40% climate change rainfall event.

These measures are welcomed and supported by the Council's Sustainability Officer.

- 5.26. Criterion xviii) seeks to minimise the need to travel by car using alternative means and improving air quality. The site is well connected with the surrounding settlement via the local highway and bus network, with pedestrian linkage to the centre of Boxford through the proposed links along Sand Hill and works on Ellis Street. Notwithstanding the highways impacts that will be discussed later in this report, it is wholly possible that residents could utilise active and sustainable means of transport to access services, facilities, amenities and employment by way of the site's proximity to Boxford.

Summary

- 5.27. The scheme offers some public benefits through the erection of a community building and the delivery of 35% affordable housing provision (in accordance with Core Strategy policies CS11 and CS19), meeting a proven shortfall in local housing within the functional Boxford Cluster (comprised of Boxford and surrounding villages as defined under the CS) in accordance with policy CS11.
- 5.28. A material change in circumstances since the original decision was made includes the progression of the Boxford's Neighbourhood Plan and The Council's emerging Joint Local Plan. Having regard to NPPF paragraphs 48 and 49, the outstanding concerns with the Council's proposed spatial strategy within the emerging Joint Local Plan, mean that the Plan currently has limited weight. The emerging Neighbourhood Plan holds significant weight owing to its more advanced preparation stage as a post-examination document.

Policy BOX 1 is of material importance in the determination process, however it is being modified in accordance with the examiner's report to ensure that is more flexible in response to proposals for new housing outside the settlement boundary where such proposals are to be considered having regard to other development plan policies, and national planning policy. Therefore, whilst the Neighbourhood Plan does not allocate the site, include it within a settlement boundary or explicitly identify a local housing need for 64 dwellings, the plan does not preclude such growth, where it might be consistent with policies CS2, CS11 and CS15 and the NPPF.

- 5.29. Members are reminded that the current development plan and its spatial strategy have repeatedly been found sound when tested at appeal, including the recovered appeal at Long Melford decision of April 2020 (appeal ref: 3214377). Similar to that case, which concerned a Core Village, the development in this instance is considered to meet a local need and is for a settlement that should act as a focus for growth within its cluster. In the absence of a settlement boundary review, the settlement boundaries are not considered to be up to date; and in the absence of a site allocations document as envisaged when the CS was adopted, it is the case that the Council's ability to deliver new housing and meet its housing land supply targets relies heavily upon edge of settlement sites coming forward.
- 5.30. However, and most significantly, the proposal is not in accordance with the development plan as a whole (policies CS2, CS11 and CS15), owing solely to the cumulative impacts and significant detriment to the highway network and safety arising from the development. There is a proven need, but the circumstances of the application are not exceptional and unacceptable harm would result if it were approved. Whilst there is a reduced weight afforded to policy CS2 the conflict with CS2 is heightened owing to the fact that the proposal fails to comply with policies CS11 and CS15, which provide for a more flexible approach to countryside development, which echoes the aims of the NPPF.
- 5.31. The principle of development is therefore unacceptable on the basis of unacceptable impact on highway safety and cumulative impacts on the road network (Swan Street) with no acceptable mitigating solution proposed. The proposal is therefore contrary to policies CS2, CS11, CS15 and paragraphs 110 and 111 of the NPPF. In turn, this application is also contrary to policy BOX 1 and BOX 4 of the post-examination Neighbourhood Plan.

6. Nearby Services and Connections Assessment of Proposal

- 6.3. The site is located within close proximity to Boxford and its associated services, facilities and amenities. These include; primary school, public houses, shops, café, hair salon, butchers, post office and store, village store, motor garage with petrol station, GP health centre, church, village hall, sports pavilion and playing fields.
- 6.4. There is a routine public bus service connecting the site to the wider area through the route 91 service. The application site is a 5-minute walk along Sand Hill to the true centre of Boxford, and its available key services.
- 6.5. Public transport accessibility from the site is good with bus stops available on the Sand Hill / Cox Hill junction, which is within walking distance from the site. The bus routes

connect Boxford to the surrounding areas of Hadleigh, Sudbury and Ipswich. The accessible bus network provides a viable option for residents to commute to other settlements for employment, education and healthcare etc. As such, there is the opportunity for residents to choose more sustainable modes of transport than the private vehicle.

- 6.6. The site is considered to be well-connected to a range of services, facilities, amenities and employment with a genuine choice of transport modes available to future occupants to access services, facilities, amenities and employment in nearby villages and towns.

7. Site Access, Parking and Highway Safety Considerations

- 7.3. As part of the application several works are proposed within the highway network to improve connectivity from the site to Boxford.
- New 20 mph speed limit along Ellis Street (secured via Traffic Regulation Order)
 - Extension to existing 1.2 metre footway on southern side of Ellis Street by utilising highway land in the carriageway extending down past the existing footway on the northern side of Ellis Street
 - Formalise parking bays on Ellis Street
 - Increase bus stop waiting area
 - Timber bollards with reflective bands on proposed Ellis Street footway
- 7.4. At the time of the original decision, it was noted that Boxford Parish Council, alongside Members and third-party representations raised significant concerns relating to the traffic impact along Ellis Street. At the time of the original decision no concerns were raised by officers nor the Local Highway Authority (LHA) (SCC Highways). Boxford Parish Council also submitted a highways assessment, which has been duly considered.
- 7.5. Following continued concerns being raised after the original decision was quashed and the submission of further plans relating to the proposed highways works, an independent highways assessment conducted by SWECO was commissioned and published for consultation in October 2021.
- 7.6. The SWECO report assessed the views, position and submitted information from the applicant, parish council, residents and SCC Highways. The findings of the report are summarised below:
- The proposed footway along Ellis Street is deliverable if the existing kerb is retained and bank undisturbed.
 - The proposed footway along Ellis Street offers a benefit for pedestrians over the existing situation.
 - Any impact on Swan Street is unacceptable, noting that it is advantageous to go along Swan Street rather than the A1071 when accessing Bury St Edmunds, Cambridgeshire, The Midlands and the North, it is considered that future occupants of the site would choose to utilise Swan Street.
 - An increase in traffic along Swan Street is unlikely to adversely affect pedestrians

- The impacts on the highway network identified at Swan Street and Ellis Street are both significant but contextually different in terms of visibility for vehicles and their ability to stop to let vehicles pass.
- 7.7. It is acknowledged within the SWECO report that the proposed footway works along Ellis Street would improve the current local pedestrian network by improving overall accessibility into Boxford by creating a footway in a location where pedestrians currently have to walk within the road. Moreover, the works would create a footway which would meet the width of the existing pedestrian network infrastructure around Boxford. Whilst the works would not significantly improve existing problems, they would not worsen them in such a way that would be comparable to Swan Street and warrant refusal. On balance there would be no practical nor material change in the existing function of the carriageway along Ellis Street.
- 7.8. Whilst the SWECO report partly relies on behavioural assumptions that people will drive along Swan Street as it is advantageous, offering a shorter and more direct route to Bury St Edmunds. As demonstrated by the first Daking Avenue appeal, even a modest increase of between 7 and 8 vehicles using Swan Street during peak hours was considered enough to result in a severe impact on the highway network. Whilst the most recent appeal stated that 2 movements would have had a neutral impact, as identified within the SWECO report, this development creates the potential for 6 movements during peak hours which is considered to have a detrimental and severe impact on the highway network.
- 7.9. There have been no alterations made to Swan Street since that appeal and there are no mitigation measures proposed along Swan Street under this application. The potential increase in traffic along Swan Street arising from 64 dwellings is considered in isolation unacceptable, especially noting that using Swan Street is a beneficial route for future occupants to take to save time and therefore future occupants are likely to use this route and engage in this increased risk. The existing safety risks and congestion arising from the substandard highway network along Swan Street would be exacerbated. This cumulative embracement of risk would increase potential conflicts and compromise safety along Swan Street, between both motorists, cyclists and pedestrians.
- 7.10. Both appeal decisions along Daking Avenue accepted that an increase of between 7 and 8 vehicular movements during peak hours would have a severe impact. The most recent appeal suggested that in isolation 2 movements during peak hours would have a neutral impact. The SWECO report identified that the Sand Hill development would result in between 2 and 6 vehicular movements during peak hours. There is currently an application pending (DC/22/02448) which is a resubmission of the application that was subject to the most recent appeal along Daking Avenue (APP/D3505/W/21/3275718). The applicant considers that this resubmission has addressed appeal was originally dismissed. Noting that the inspector did state that 2 vehicular movements would have a neutral impact, it should be noted that were that scheme to be approved alongside this application at Sand Hill, the severe impact arising from between 7 and 8 vehicular movements as identified within both Daking Avenue appeals would be in cumulation reached.

- 7.11. Notwithstanding that there may be an unacceptable cumulative impact arising from this application alongside a pending application, in isolation the impact arising from this proposed application alone is considered to result in a severe impact on the highway network and its user.
- 7.12. Whilst the LHA did not object, based on the further assessment provided by SWECO alongside the lack of evidence to rebut this position and notable appeal decisions, the LPA takes a balanced and precautionary view that the impacts to Swan Street would be significant and severe, engaging with paragraph 111 of the NPPF.
- 7.13. With regard to paragraph 111 of the NPPF, in noting the findings of the SWECO report, it is considered that the development would contribute to and exacerbate existing highways issues along Swan Street in such a way so as to result in “*an unacceptable impact on highway safety*” along Swan Street. Paragraph 111 thus states that where there is an unacceptable highway safety impact identified development should be prevented or refused. In considering paragraph 110 d) of the NPPF, there are no proposed highways works to mitigate the significant impacts on the transport network along Swan Street to an acceptable degree.
- 7.14. The proposed development would therefore conflict with policies CS11 and CS15, emerging policy BOX 4 and paragraphs 110 and 111 of the NPPF in respect of highways impacts.

8. Design and Layout

- 8.3. Policies CN01 and CS15, emerging NP policies BOX 7 and BOX 16 and paragraph 130 of the NPPF attach great importance to the design of the built environment, stating that good design is a key aspect of sustainable development.
- 8.4. Detailed design is a reserved matter. Notwithstanding this, the scheme could adopt similar aesthetic details of existing residential dwellings within the area, and therefore harmonise with the character and form of the locality. The dwellings as shown on the indicative plans would be up to two storeys with a maximum ridge height of 9.5 metres. The proposed Community building is proposed as a 1.5 storey height, of no more than 7.5m to ridge. These heights could be conditioned. Moreover, specific environmental sustainability measures could be incorporated into the reserved matters and secured via condition.
- 8.5. Layout is also a reserved matter; however, consideration must be afforded as to the effectiveness of the site to include suitable and appropriate access, public open space, the proposed quantum of development, community building, attenuation area and landscaping. The site is readily capable of accommodating all aspects discussed as demonstrated on the indicative masterplan, whilst offering good spatial integration. Whilst the layout is not set as it is in indicative form, specific conditions and s106 obligations could secure certain aspects to be brought forward within reserved matters. There is little before officers at this stage to suggest the scheme would result in undue harm to the character or landscape of the site and immediate locality.

8.6. Notwithstanding that a telephone exchange exists within the village that would provide broadband, a planning condition could be imposed securing the provision of superfast/ ultrafast broadband to the development addressing the previous concern raised by Boxford Parish Council during the Judicial review.

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

- 9.1. Policy CS15 and emerging NP policies BOX 11, BOX 12 and BOX 13 and paragraphs 174 and 180 of the NPPF seek to conserve and enhance biodiversity and the natural environment, among other things. The scheme offers a high level of landscaping at this outline stage, facilitated through public open space, landscape buffers and the quantum of development.
- 9.2. The scheme presents a limited impact upon arboricultural value. The removal of trees and overgrown vegetation as existing is not a matter which officers raise concern with. A cluster of unprotected trees around the proposed access point would have to be removed to facilitate the creation of the site access. The Council's Landscaping Team and Arboricultural Officer resolved to support the application subject to conditions. The Landscaping Team also made several recommendations to improve the landscaping that could be accommodated within a reserved matters submission.
- 9.3. The Council's Ecology Team resolved to support the proposal subject to conditions. The Ecologist supports the scheme subject to the submission and agreement of a landscape and ecological management plan, biodiversity enhancement, skylark mitigation, construction management plan and lighting design details. These matters would be secured via condition in the event planning permission is required.
- 9.4. Paragraph 174 of the NPPF seeks to retain the Best and Most Versatile (BMV) agricultural land for agricultural purposes. Land is graded on a scale of 1 - 5, with Grade 1 deemed excellent quality and Grade 5 deemed very poor-quality agricultural land. In this instance the 5.71Ha site comprises of Grade 3 land. In reviewing the agricultural land classifications for Babergh, the majority of the land within the district is classified as Grades 2 and 3, with limited land in the lower categories. Accordingly, officers thereby consider there to be limited poorer quality land available that would represent a preferable location and the extent of loss of 5.71Ha would be minimal to the wider agricultural land available and so would not be sufficient to merit a reason for refusal for this development.
- 9.5. The application has been screened to determine whether an Environmental Impact Assessment (EIA) is required. This development and other consented and allocated developments have been considered. Given the scale and nature of the proposed development, along with the character, constraints of the surrounding area, it is not considered that the proposed development would result in significant effects on the environment, whether in isolation or in combination with any other developments in the locality. An Environmental Impact Assessment under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) was not required to assess the environmental impacts of the scheme.

10. Land Contamination, Flood Risk, Drainage and Waste

- 10.1. There are no contamination issues or risks identified within the submitted land contamination studies and the Council's Environmental Protection Team are satisfied that development could go ahead without the need for further investigation or remediation at this stage.
- 10.2. As the site is over 1 hectare a Flood Risk Assessment and SuDS details have been submitted to support the application.
- 10.3. The site is located within Flood Zone 1 (very low fluvial flood risk) and is primarily at a very low risk of pluvial flooding, with a small area at a low risk of pluvial flooding. The overall flood risk on site is therefore considered to be primarily very low, with a marginal area that is to be retained as open space/ for SuDS at a low risk.
- 10.4. SCC Floods and Water as the Local Lead Flood Authority (LLFA) have assessed the submitted Flood Risk Assessments and proposed SuDS and are content that the existing and future pluvial flood risk has been appropriately mitigated.
- 10.5. Surface water run off onto the highway has been assessed by SCC Highways, and officers concur with these findings insofar as the sites sealed surfaces could be adequately managed through SUDs. The scheme does not present concern in this regard, and there is little before officers to suggest that a flood and water compliant scheme could not be delivered.
- 10.6. The proposal would accord with policy CS15, emerging NP policy BOX 15 and paragraph 174 of the NPPF in respect of land contamination, flood risk, drainage and waste.

11. Heritage Issues

- 11.1. Policies CS11, CS15, CN01, CN06 and CN08, emerging policies BOX 8 and BOX 10 and paragraphs 197 and 199 of the NPPF seek to protect the character and appearance of buildings and Conservation Areas designated due to their architectural and or historical interest, including from harm to their significance and or setting. Policy CN08 pays particular attention to developments in or affecting Conservation Areas. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Listed Building or its setting and Section 72 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of that area. The practical effect of these statutory duties is to present a strong presumption against the grant planning permission where harm is found. The need to keep designated heritage assets from harm is a matter of considerable importance and weight.
- 11.2. In this case there are specific NPPF policies relating to designated heritage assets (including the Boxford Conservation Area) that should be considered. Paragraph 199 of the NPPF states; "when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation." It continues to identify that; "This is irrespective of whether any potential

harm amounts to substantial harm, total loss or less than substantial harm to its significance”.

- 11.3. Paragraph 197 of the NPPF identifies that the impact of a proposal on the significance of a heritage asset should be taken into account, in order to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.
- 11.4. Paragraph 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 11.5. The NPPF defines the setting of a heritage asset as the surroundings in which it is experienced. The extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset; may affect the ability to appreciate that significance; or may be neutral.
- 11.6. The Council's Heritage Team originally provided the following response to the application “A negligible level of harm to the designated heritage assets because the likely but relatively limited increase in traffic levels within Boxford Conservation Area associated with the development would have a limited negative impact upon its character and the setting of listed buildings within it. However, I consider that the construction of the dwellings themselves and associated highway work would not harm the designated heritage assets in principle. I do not object to the application, subject to conditions and further detail at reserved matters stage.” However, since the quashing of the original decision, further consultation has occurred with the Council's Heritage Team in light of further plans being submitted detailing proposed highway improvements to determine whether the proposed highway works would affect the Boxford Conservation Area and nearby listed buildings and whether the negligible level of harm previously identified has increased.
- 11.7. The proposed development is considered to result in a very low level of less than substantial harm (an increase in harm from the previously negligible level identified) to Boxford Conservation Area by way of the “slight urbanising effect of some of the additional highways works proposed in Ellis Street, combined with the likely but relatively limited increase in traffic levels within Boxford Conservation Area”. The Council's Heritage Team did not however identify any harm to nearby listed buildings.
- 11.8. Irrespective of the very low level of harm identified, material harm is nonetheless identified and thus the test as set out under paragraph 202 of the NPPF is engaged having special regard to the desirability of preserving the setting of the listed building as required by sections 66 and 72 of the listed buildings Act and giving the harm considerable importance and weight where there is a presumption against a grant of permission where harm is identified (also see NPPF paragraphs 194 and 195 – any harm requires clear and convincing justification). Despite the harm being of a very low level, officers apply no less importance to that finding, in accordance with the statutory duties of the listed buildings Act. As well as s66(1) due to impact upon the listed buildings in that

area, S72(1) is engaged because the very low level of adverse effect would occur within the designated area too; in all other respects the significance of the Conservation Area (and its setting) would be preserved. The scheme provides significant benefits through the delivery of housing (including affordable units), a community building, biodiversity and ecology, public open space, all in an accessible location (a Core Village) reducing the need to travel by private car compared to more remote areas of the district. These benefits are considered to decisively outweigh the harms.

- 11.9. With regard to the duty under the 1990 Act, the public benefits of the scheme outweigh the very low level of less than substantial harm to the historic environment, even where considerable importance and weight is attached to that harm, and that harm has been weighed again when considered in the overall balance being struck (which, in any event, clearly points to a refusal of planning permission).
- 11.10. The site lies in an area of archaeological potential recorded on the County Historic Environment Record. The site is topographically favourable for early activity, and an Anglo-Saxon brooch fragment is recorded from within it (County Historic Environment Record BXF 009) – if not a chance loss, this may represent a cemetery in the vicinity. There are also recorded findspots of Roman and medieval date in the wider area, particularly to the south (BXF 003, 007, 010, 033, 034). As a result, there is high potential for the discovery of below-ground heritage assets of archaeological importance within this area, and groundworks associated with the development have the potential to damage or destroy any archaeological remains which exist.
- 11.11. There are no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets. However, in accordance with the National Planning Policy Framework, if permission were to be granted planning conditions should be imposed to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

12. Impact on Residential Amenity

- 12.1. Paragraph 130 of the NPPF sets out a number of core planning principles as to underpin decision-taking, including, seeking to secure a good standard of amenity for all existing and future occupants of land and buildings.
- 12.2. There is little before officers to suggest that the scheme would result in a materially intrusive development, which would hinder and oppress the domestic enjoyment and function of existing adjacent property, to an unacceptable level. Officers do not consider that the site is overdeveloped by virtue of the quantum of development shown on the indicative plans which demonstrates that sufficient amenity space and separation distances can be achieved within reserved matters.
- 12.3. It is noted that there is the potential for disruption during the construction phase, and in the interests of neighbours, a Construction Management Plan (CMP) could be secured via condition to mitigate impact.

12.4. The proposed scheme is not considered to detrimentally affect residential amenity in such way as to warrant refusal. The scheme would accord with paragraph 130 of the NPPF.

13. Planning Obligations / CIL

13.1. In the event that planning permission were to be granted, s106 obligations would be required to provide and deliver the following contributions, public benefits, and affordable housing, as follows:

Education

- Secondary school transport- £72,300

Highways

- Traffic Regulation Order (to extend 30mph speed limit and introduce 20mph speed zone)- £20,000
- Public Rights of Way (complete legal process to upgrade PROW footpath to bridleway)- £5000
- Public transport (construct new raised bus stop kerbs with shelters)- £15,000
- Creation of footway from the bottom of Sand Hill, into Cox Hill junction and Ellis Street and an uncontrolled crossing point, inclusive of widening the 'pinch point' on Broad Street

Public Open Space consisting of:

- An area of no less than 2.03Ha
- Local Areas for Play (LAP) and / or Local Equipped Areas for Play provision
- Management Company

Affordable Housing

- 22 units in total. All units to meet Nationally Described Space Standards.

Affordable rent:

4 x 1-bedroom 2 person flats
2 x 2-bedroom 4 person bungalows
8 x 2-bedroom 4 person houses
1 x 3-bedroom 5 person house

Shared ownership:

5 x 2-bedroom 4 person houses
2 x 3bedroom 5 person houses

Other

- Monitoring Fee- £412
- Community Building- unit to be set on an area of no less than 0.08Ha – D1 Local Community Use Class unit

13.2. The development would be liable for Community Infrastructure Levy which would be used to provide the following funding:

Education

- Primary places (£17,268 per place)- £276,288
- Secondary places (£23,755 per place)- £285,300
- Early years places (£17,268 per place)- £86,340

Other

- Libraries improvements- £13,824

PART FOUR – CONCLUSION

14. Planning Balance and Conclusion

- 14.1. The Council benefits from a five-year housing land supply (measured at 6.86 years at the time of writing) and continues to pass the Housing Delivery Test. Whilst policy CS2 is considered to hold less than full weight, when viewed in the round amongst the overall '*basket of most important policies*', including CS1, CS11 and CS15 that are attached full weight given their strong alignment with the NPPF, the most important policies are up to date. In viewing most important policies relevant to the determination as part of an overall '*basket of policies*', the '*tilted balance*' at paragraph 11(d) of the NPPF is not engaged.
- 14.2. A degree of less than substantial harm has been identified to a designated heritage asset (Boxford Conservation Area). This harm, with great weight attached to it, would however be outweighed by public benefits when engaging the test set out under paragraph 202 of the NPPF.
- 14.3. The development would result in a moderate detrimental impact on the landscape character and to visual receptors immediately around the site. However, the landscape harms identified can be appropriately mitigated via planting by year 10 of the development being completed. The enclosed and limited extent of these harms must be noted, and that they do not occur over a significantly large area within the wider landscape. It is inevitable that the development of a greenfield site will present landscape harm but in this context the impact is localised and capable of mitigation sufficient to satisfy policies CS11 and CS15. Environmentally there would also be positive ecological and biodiversity enhancements.
- 14.4. Whilst the majority of the detailed matters are reserved, there is little before officers to suggest the scheme conflicts to an unacceptable level in terms of; design and layout, heritage, residential amenity, ecology, flood and water, land contamination and sustainability/ connectivity. Whilst there would be some landscape harm this is considered to be mitigated.
- 14.5. The site is outside the settlement boundary and therefore strictly conflicts with policy CS2, regardless of the less than full weight attached to that policy. As a policy of vital

importance underpinning the spatial strategy of the Council, and where the circumstances of this application are not exceptional, the development is considered to conflict with the development plan as a whole. Effectively a “straight balance” is required where conflict identified with the development plan as a whole is weighed against other material considerations including the degree of compliance with NPPF and wider scheme benefits.

- 14.6. Although the site is located outside the main part of Boxford, it is on the edge of the village, close to built settlement in a sustainable location. Policy CS11 contemplates development at such edge-of-village locations adopting a flexible approach that is consistent with the NPPF. Whilst the site is in a preferential location, well-related to a Core Village, and offers a range of public benefits, there would be an unacceptable impact on the highway network. Such that the proposal fails against policy CS11 and CS15. The proposal conflicts with the development plan in regard to highways impacts, which undermines the acceptability of the principle of the scheme when assessed against policies CS2, CS11 and CS15.
- 14.7. Whilst many of the conflicts identified (outside of the settlement boundary, school transport, landscape and heritage) are mitigated, the highways impacts on Swan Street are considered to cause an unacceptable impact on highway safety and flow that cannot be mitigated to an acceptable degree, contrary to policies CS11 and CS15, policy BOX 4 of the emerging Boxford Neighbourhood Plan and paragraphs 110d) and 111 of the NPPF.
- 14.8. The proposal is in conflict with the Development Plan as a whole (policies CS2, CS11 and CS15). The application would for that reason also conflict with policies BOX 1 and BOX 4 of the post-examination Neighbourhood Plan. Whilst there are a number of public benefits, these are not sufficient to outweigh the harm that has been identified and there are no material considerations that indicate that a decision should be taken that departs from the Development Plan. Rather, the application of policies in the NPPF and the Boxford Neighbourhood Plan would reinforce that direction. As such and in considering the highways impacts of the proposal officers recommend that the application is refused planning permission.

RECOMMENDATION

The recommendation is therefore that the application is REFUSED planning permission for the following reason:

1. The proposal would be contrary to policies CS2, CS11 and CS15 the Babergh Core Strategy (2014), policy BOX 4 of the emerging Boxford Neighbourhood Plan and paragraphs 110d) and 111 of the NPPF. The scheme would result in an unacceptable and severe impact on the highway network and its users without an acceptable mitigating solution. There would be a severe and unacceptable impact on one of the main roads within Boxford (Swan Street) by way of increasing the risk of incidents without acceptable mitigation.