

## **Committee Report**

**Item No: 6A**

**Reference: DC/20/01094**

**Case Officer: Jo Hobbs**

**Ward: Lavenham**

**Ward Members: Cllr Clive Arthey and Cllr Margaret Maybury**

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## **RECOMMENDATION – REFUSE PLANNING PERMISSION**

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### **Description of Development**

Outline Planning Application (some matters reserved, access to be considered) - Erection of up to 166 residential dwellings, a purpose built care home for up to 60 bedrooms, and associated infrastructure including landscaping, public open-space, car parking and means of access off Church Field Road.

### **Location**

Land On The North Side Of, Church Field Road, Chilton Industrial Estate, Chilton Suffolk

**Expiry Date: 03/12/2021**

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

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

**Applicant: Caverswall Enterprises Ltd and West Suffolk NHS Foundation Trust**

**Agent: ROK Planning [Vincent Gorbng no longer represents the applicants, for reasons unknown]**

**Parish: Chilton**

**Site Area: 11.6 hectares**

### **Density of Development:**

Gross Density (Total Site): 14.3 dwellings per hectare (dph)

Net Density (Developed Site, excluding open space and SuDs): 27dph

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

Member site visit March 2022

**Has a Committee Call In request been received from a Council Member (Appendix 1): No**  
**Has the application been subject to Pre-Application Advice: Yes (DC/18/01981 and follow-up advice DC/18/05398) – potential for development on site, but need to comply with employment policy in development plan and need to consider site constraints including heritage.**

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

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

- Major application of 15 or more dwellings

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CLASSIFICATION: Official

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

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### **Summary of Policies**

#### *Babergh Core Strategy and Policies (2014)*

CS1 - Applying the presumption in Favour of Sustainable Development in Babergh  
CS2 - Settlement Pattern Policy  
CS3 - Strategy for Growth and Development  
CS13 - Renewable / Low Carbon Energy  
CS14 - Green Infrastructure  
CS15 - Implementing Sustainable Development  
CS18 - Mix and Types of Dwellings  
CS19 - Affordable Homes  
CS21 - Infrastructure Provision

#### *Babergh Local Plan Alteration No. 2 (2006)*

HS31 - Public Open Space (1.5 ha and above)  
EM02 - General Employment Areas - Existing and New Allocations  
EM24 - Retention of Existing Employment Sites  
CR07 - Landscaping Schemes  
CR08 - Hedgerows  
CN01 - Design Standards  
CN04 - Design & Crime Prevention  
CN06 - Listed Buildings - Alteration/Ext/COU  
CN14 - Historic Parks and Gardens - National  
TP15 - Parking Standards - New Development  
TP16 - Green Travel Plans

### **Supplementary Planning Documents**

Affordable Housing Supplementary Planning Document (2014)  
Supplementary Planning Guidance on Provision of Outdoor Recreation Facilities and Open Space (2010)

### **Other material planning considerations**

National Planning Policy Framework (2021)  
Suffolk County Council Adopted Parking Standards (2019)

### **Babergh and Mid Suffolk Joint Local Plan**

The Babergh and Mid Suffolk Joint Local Plan ('JLP') was formally submitted to the Secretary of State for Housing, Communities and Local Government for independent examination on 31st March 2021.

Following an exploratory meeting with the examining Inspectors on 16th December 2021, it has been proposed to progress the JLP as a 'Part 1' local plan. This will be followed by the preparation and

adoption of a 'Part 2' local plan as soon as possible. Main modifications on the JLP Part 1 are awaited but it has been anticipated that public consultation on those proposed modifications will be undertaken in Autumn 2022, to be followed by further hearing sessions over the Winter. The recently agreed Local Development Scheme anticipates adoption in Spring 2023.

For reasons that will be set out, the JLP does not play a determinative role in the assessment of this application, at the present time.

### **Neighbourhood Plan Status**

This application site is within a Neighbourhood Plan Area.

The Chilton Neighbourhood Development Plan is currently at:-

Stage 1: Designated neighbourhood area – designated December 2017

Accordingly, the Neighbourhood Plan has no weight as no policies are drafted and the plan is at a very early stage at present.

### **Consultations and Representations**

During the course of the application Consultation and Representations from third parties have been received. These are summarised below. Due to the lengthy and technical nature of some of the responses received, Members are directed to consider them all in full.

#### **A: Summary of Consultations**

##### **Cllr Margaret Maybury**

10<sup>th</sup> June 2020: Notwithstanding the principle of any planning application at this site, I would like to suggest that any suggestion of a Care Home should be placed upon the NHS owned land behind the Health Centre rather than on the other part of the site. I am not suggesting that I am pre-determined on any future planning application for this site I just believe that NHS land should be used for medical/health/social need only.

14<sup>th</sup> April 2021: Thank you for the opportunity to be consulted on this application.

Firstly, I would stress the cumulative impact on successive planning applications on the parish, the Ward and this part of the district is excessive. For some three years I have highlighted (along with other local parish council Chairman at parish liaison meetings) the issue of cumulative planning application approvals on any one particular area. Currently in the parish of Chilton there are two major developments, one at Chilton Place and from November 2021 phase1 of Chilton Woods, a strategic site. The Chilton Woods site will be a continuous build out over 10-11 years as stated by Taylor Wimpey on Wednesday 7th April 2021 at the working party meeting convened at 5pm. Anything from 20 to 100 lorries per day will be using a one way system along Acton Lane through Aubrey Drive and out to the A134. TW will be using a one-way system to try and negotiate roads not built for even the current level of traffic and transportation as HGVs/Buses and other large agricultural vehicles cannot safely pass along local roads. Highways currently foul up easily with the amount of traffic generated before Chilton Place and Chilton Woods are even occupied.

Secondly, I note the site was originally earmarked as an economic site.

Thirdly, I note that the site is not allocated within the Joint Local Plan currently lodged with an inspector.

Fourth, I note the site is part of NHS land and earmarked for medical use only. This contravenes the Naylor Report of recent years.

Fifth, Chilton and the surrounding area of Sudbury is short of open space, despite some quoting agricultural land as "open space". Agricultural land is what it is described as agricultural therefore economic land and not an area for residents to use for recreation. Chilton and Sudbury need more open space. This site is an area adjacent to the Health Centre which could be used for such a purpose and help the "social prescribing" system for GPs which majors on mental health and the importance of being outside to exercise.

Sixth, any further residential development would require huge investment from the developer for infrastructure, including but not restricted to, a new secondary education facility at Sudbury to facilitate the vast numbers of primary age children expected from the recent developments within Acton, Great Waldingfield, Long Melford and Chilton itself. Further expansion of Health facilities. Further police numbers and facilities. Further library facilities now the local Sudbury library space is being used for a customer service point, my opinion is that a new library would need to be provided.

Seventh, the area has a lack of employment opportunities together with a low wage bias within the employment it currently has.

Eighth, BDC currently has a five year housing land supply. This would be a windfall site and is not needed.

In consideration of my points above, I DO NOT support the planning proposal and object in the strongest terms against any application that may be forthcoming or is being proposed. The site is adjacent to the listed Chilton Hall, the listed garden and the listed parkland. This heritage trio is part of the last remaining manor house in the vicinity as the those at Acton, Little Waldingfield and Great Waldingfield have been lost over the centuries (recently I learned that Acton Hall was demolished by 1825 as the building commodities were listed for sale). This unique heritage setting must be preserved for future generations. I therefore add this as a reason for objection to the proposed residential site.

#### **Cllr Trevor Cresswell**

Objection – land is industrial and should be kept for employment. The land near the health centre should be for NHS expansion as the town grows. Also, with Chilton Woods very nearby is there a real need for more houses when it will be jobs and services required?

#### **Cllr Jan Osborne**

I have always stated and continue to state that this site needs to be kept as employment land. And that the land at the back of the Health Centre should be retained for provision of our health service. As Sudbury grows the health centre will need to grow to accommodate the need.

Although there is no over-demand for employment land we need to retain for the future as employment opportunities come forward.

I strongly object to this application.

#### **Town/Parish Council**

#### **Chilton Parish Council**

Object

15<sup>th</sup> May 2020: Contrary to employment policies, will cause substantial harm to heritage assets, significant adverse impact on character of landscape, unacceptable traffic impact, negative impact on residential amenity, inadequate ecology investigations. Supporting reports provided by Michael Collins (listed building and heritage specialist), Alison Farmer Associated (landscape architects on landscape character and landscape visual assessments) and Elwood Landscaping Design (landscape architect on arboricultural issues). Also had regard to emerging Joint Local Plan, and evidence underpinning it including the Heritage Settlement Sensitivity Assessment 2018, Landscape Guidance 2015 and Landscape Character Assessment 2015.

12<sup>th</sup> May 2021: Heritage – note applicant's heritage consultant finds no harm to heritage assets, surprising as a heritage impact assessment produced by the same consultant in 2010 for two large warehouses development identified harm to heritage assets. Several buildings proposed under this application of same ridge height to warehouses, namely 12.8m, fail to understand why height is required and object to it. We rely on evidence of own heritage consultant, who finds level of harm as substantial, which is supported by The Gardens Trust, Ancient Monuments Society. Historic England assess the harm at the higher end of less than substantial harm, and Place Services identified future development sites should avoid further encroachment on these assets in particular Chilton Hall and the Church. Request that your authority recognise the proposed development will cause a high level of harm and be substantially damaging to the heritage assets.

On accepting substantial harm with previous planning applications, your authority noted development was only acceptable as the site was allocated for employment, and were it not for those wholly exceptional circumstances such harm should not be permitted to occur. Do not consider there are clear and compelling justification for any harm to heritage nor are there such wholly exceptional circumstances relating to this application.

There needs to be clear and compelling justification to cause harm to heritage assets, there is no justification nor does the proposed development comply with the current local plan not the pre-submission Joint Local Plan.

Should the authority disagree with the assessment of substantial harm the benefits would not outweigh the level of harm to the heritage assets which could not be anything other than at the higher end of less than substantial. Note that recent appeal decision for the district the Inspector noted that any such harm is to be considerable importance and weight. These must be balanced against the public benefits.

Whilst the parish council accept there are certain public benefits of the scheme, principally the provision of some affordable housing, care home facilities and the economic benefits of the same. These benefits can be provided elsewhere and avoid the harm. Consider benefits are principally private in nature and observe that the council has a sufficient land supply and meets the requirements of the Housing Delivery Test. Sufficient land has been allocated in the JLP to meet its requirements for the plan period. Also the open space provided will principally benefit the future residents and is unlikely to function as public space.

The additional construction traffic in cumulation with all other developments permitted in the area will impact residential amenity.

Other developments in parish have not delivered in line with what was permitted at outline consent, including at Chilton Place an additional construction access points and reduced extent of landscaping indicated at outline, and no community woodland at Chilton Woods. Consider this application could be revised to alter the care home to residential or build on the open space, it is therefore important to give careful consideration to the heritage and landscape matters at the outline stage, as a more harmful reserved matters application could be submitted.

Continue to support the Joint Local Plan and deallocation of site for development and under emerging Neighbourhood Plan wish to conserve the site as open natural green space. Other green spaces such as Chilton Airfield are being lost for walking and cycling by residents to residential development.

There are restrictive covenants protecting the tree belt on both the title certificates for the Caverswall Enterprises and West Suffolk NHS Foundation Trust, preventing the construction of any building or article or item, and so inroads and paths proposed are not permissible.

Do not consider that the applicant can enter into a S106 agreement due to ongoing proceedings with liquidators of Caverswall Holdings Ltd (CHL).

29<sup>th</sup> October 2021:

We write in response to the ecological material recently filed by JBA, the applicants advisers. We note that JBA have carried out further investigations on part of the site but not on the site as a whole. It needs to be borne in mind that this site was deliberately deep ripped or spike harrowed previously which actions caused ecological harm and destroyed skylarks nests. We consider that the fact that the quality of the grassland and habitats may have been degraded because of such actions should not now be taken into account to assist or benefit those seeking the permission.

We note the responses by Natural England and in particular the detailed objection filed by Suffolk Wildlife Trust dated 21st October 2021. Suffolk Wildlife Trust are obviously an independent expert rather than an adviser retained to assist the Applicants to obtain planning permission. We echo and endorse what is said by SWT. We strongly recommend to your authority that you adopt the independent expert advice of SWT that "We are concerned that development on this site, which consists of a habitat mosaic of priority habitats and non-priority habitats both with ecological value for a range of protected and priority species including great crested newts, reptiles and a variety of bird species is contrary to the NPPF 2021 as well as local policies."

One of our concerns that this application is a very bare outline and deals only with establishing access, a care home and 166 residential units. Everything else is purely indicative and if permission were to be granted on this indicative Masterplan plan basis the final plans submitted under Reserved matters approval could be substantially different and much more harmful but the principle of development will have been established. We have seen how harmful these bare outline applications can be as they grant an applicant significant flexibility. Chilton Woods was such a bare outline application and although the indicative Masterplan submitted promised the provision of significant areas of community woodland which was a fundamental part of the scheme and public open spaces, regrettably a substantial part of the community woodland is not being provided by the developer. What is proposed to be delivered on that site is significantly different from that envisaged in the Masterplan and the outline permission.

We have read JBA briefing note dated 31 August 2021. It is important to recognise how unsafe it is to rely on the information put forward because it is purely indicative. JBA admit that "The metric will be recalculated when the plan is finalised at reserved matters stage. The metric as it currently stands is an indication to demonstrate what is potentially possible at this stage given that the Masterplan is only indicative as part of the outline planning application."

Put into plain English what this means is that your authority cannot rely on any of the information put forward in support because it is all vague, purely indicative and could substantially change in the future. Your authority needs to have much more certainty about the overall effects of this application to determine it properly.

In this letter references to the NPPF are to the July 2021 document which in parts amended the NPPF 2019 edition.

SWT advise you and we agree that this application is contrary to Section 179 of the NPPF 2021. That section requires all development to protect and enhance biodiversity. That includes “promoting the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species and to identify and pursue opportunities for securing measurable net gains for biodiversity.” This proposal breaches that requirement; it does the opposite; far from promoting and enhancing biodiversity it will damage and/ or destroy and / or degrade biodiversity as was done earlier by the deep ripping or spike harrowing of the site.

Further, this application fails to comply with SPO9 and in particular LP 18 of the Pre Submission Joint Local Plan (PSJLP) because if permission is granted it will result in the loss of Priority Habitats. Your policy provides that enhancement for biodiversity should be commensurate with the scale of the development. That is not the case with this application. The PSJLP was formally approved by your authority in November 2020 and is undergoing public examination by Inspectors. It is therefore at an advanced stage and significant weight can be accorded to it as a material consideration.

Further as we have previously referred this land is outside the settlement boundary as set out in SP03 in the PSJLP. In addition to the adjacent sensitive heritage receptors which constrain development on this site due to the harm that will occur if permission were to be granted, the non-allocation of this land for development in the PSJLP accords with section 175 of the NPPF 2021 which provides that “Plans should allocate land with the least environmental or amenity value.”

We continue to object to this development for the reasons stated in our earlier letters of objection dated respectively 15 May 2020 and 12 May 2021 and on ecological grounds for the reasons set out above. Accordingly we recommend refusal of permission.

### **Sudbury Town Council**

Refuse – site is designated employment land and against planning policy. Sudbury Town Council would like to reiterate their views within the forthcoming local plan that this land should remain as designated employment land. Note that Viability and Employment report page 57 point 7.8 is incorrect as Taylor Wimpey have only purchased the residential land at Chilton Woods, not the employment land.

### **Great Waldingfield Parish Council**

Object to this cross-boundary development due to loss of wildlife habitat in Chilton, extra traffic through Great Waldingfield, loss of green gap between the parishes that has existed for 1000 years and over-development in Chilton parish. Transport Assessment should consider the effects of consents granted that will use the B1115 and emerging Allocations in the Joint Local Plan.

2<sup>nd</sup> July 2021:

Object on the following grounds

1. Loss of wildlife habitat. The land adjacent to the health centre has never been developed, the wild flowers and grasses are a huge asset to Sudbury.
2. Heritage. The grade 1 listed Chilton Church is, at present, surrounded by a small oasis of unspoilt countryside. The view of the Church from the Health Centre is particularly beautiful. Building anything close to the church would ruin its setting.
3. Urban sprawl. Sudbury is moving towards Chilton. The proposed development at Chilton Woods is being built as an addition to Sudbury rather than a standalone garden village. Building houses on both sides of the B1115 and developing both sides of Churchfield Road would contribute to sprawl and over-development.
4. Loss of green gap. It is important to Great Waldingfield that we stay separate from our neighbours. There must be green fields between Great Waldingfield, Chilton, Acton, Newton and Little Waldingfield, it is essential for our identity. Building between Chilton and Great Waldingfield, on this side of the B1115, would decrease the separation.
5. Traffic. Any further development on the B1115 will lead to increased traffic through Great Waldingfield.
6. Amenities. Local schools are full. Building more houses will cause educational problems.

13<sup>th</sup> October 2021:

At its Parish Council Meeting on the 11th October 2021, the Parish Council wished to reaffirm its previous objection on the grounds that Chilton has sufficient development for any Parish, that any development on this site will lead to increased traffic in Great Waldingfield, any development between Chilton and Great Waldingfield will reduce the green gap between the parishes that has existed for 1000 years and needs to be protected and also the loss of wildlife habitat in Chilton.

### **National Consultee**

#### **NHS England/West Suffolk Clinical Commissioning Group**

No objection – one GP practice within 2km of proposed development which is the Cornard Surgery (a branch of the Hardwicke House Group). These practices do not have sufficient capacity for the additional growth. Therefore CIL monies are sought to increase capacity within the GP catchment area by way of extension, refurbishment or reconfiguration of The Cornard Surgery or other surgeries in the Hardwicke Group. Should the level of growth in this area prove this to be unviable, the relocation of services would be considered and funds would contribute towards the cost of new premises, thereby increasing the capacity and service provisions for the local community.

#### **Anglian Water**

No objection – capacity for used water flows and wastewater treatment at Great Cornard Water Recycling Centre, and surface water disposal method acceptable.

#### **Environment Agency - Permitting**

*Response July 2020:*

New development near an existing facility permitted under Part A (1) of the Environmental Permitting (England and Wales) Regulations 2016 (EPR) regulated by the Environment Agency could result in the nearby community being exposed to impacts including noise and odour. The severity of these impacts will depend on the size and nature of the facility and prevailing weather conditions.

Planning policy requirements (paragraph 182 of the National Planning Policy Framework) state that new development should integrate effectively with existing businesses and not place unreasonable restrictions upon them. Where the operation of an existing facility could have significant adverse effects on new development (including changes of use), the applicant should be required to provide suitable mitigation for these effects. Mitigation can be provided through the design of the new development to minimise exposure to the neighbouring facility and/or through financial contributions to the operator of the facility to support measures that minimise impacts.

Environmental Permitting Regulations require operators of Part A (1) activities under EPR to demonstrate that they have taken all reasonable precautions to mitigate impacts of their operations. This is unlikely to eliminate all emissions and there is likely to be residual impacts. In some cases, these residual impacts may cause local residents concern. There are limits to the measures that the operator can take to prevent impacts to residents. Consequently, it is important that planning decisions take full account of paragraph 182 of the NPPF. Where we consider that an operator has not taken all reasonable precautions to mitigate impacts of their operations therefore not complying with the conditions of the environmental permit we will consider action in accordance with our Enforcement and Sanctions Policy.

When a new development is built near to an existing facility this does not automatically trigger a review of the permit.

*Subsequent response April 2021:*



Previous response in terms of the proximity of the development to Nestle Factory and potential odour nuisance/permit compliance still stands and nothing further to add.

Discussed how likely was it that the improvements to the odour treatment systems would be completed and would be successful. Cannot provide any guarantees of the success of the final design (as the project is not completed and performance testing undertaken), but the construction/operation phase for odour abatement should be completed in May and the performance testing will follow that.

### **Natural England**

No objection –proposed development will not have significant adverse impacts on designated sites. Following comments made on priority habitats on site:

This site was identified as containing two habitats, Lowland Calcareous Grassland (CG7) and Lowland Meadow (MG1e), of priority habitat quality by a Natural England survey in 2017. The survey identified that Lowland Calcareous Grassland CG7 was present towards the southern boundary and this aligns with the results of the botanical survey conducted by the applicants consultants. Natural England's survey also identifies that "intact" Lowland Meadow (MG1e) was approximately present along the eastern, northern and western boundary of 'Field A' as labelled on the Natural England survey map, alternatively labelled as Field 1 by the applicants botanical survey.

Natural England notes that the presence of 'intact' Lowland Meadow (MG1e) along the western boundary of Field A/1 is not captured by the applicants Botanical Survey, with Appendix C of the Botanical Survey report indicating that no quadrats were placed or surveyed in this location. As such, the presence of "intact" Lowland Meadow (MG1e) may cover a larger surface of the site than indicated by the applicants Botanical Survey as indicated by Appendix D: Approximate extent of priority habitat grassland.

Additionally, Natural England's previous survey identifies that the habitat to the north of the "barrow" structure of Field 1/A was recorded as recently harrowed Lowland Meadow MG1e priority habitat at the time of the 2017 survey and therefore distinct from areas of the site referred to as "intact" MG1e. This area of harrowed Lowland Meadow MG1e priority habitat is now identified by the applicants botanical survey as neutral grassland which is not of priority habitat quality. It is not clear why this habitat has not recovered to its prior quality as would be expected following harrowing, but with appropriate management would likely recover to its prior quality. Furthermore, Natural England's Field Assessment Form noted the following, "MG1e present is a species rich sub-community of MG1 and the richer elements are well expressed at the site; therefore it should be considered whether this can be regarded as lowland meadow and pasture priority habitat, particularly as this grades into the calcareous grassland." Natural England notes that the gradation, also highlighted in the Botanical Survey report, is not indicated as priority habitat by the Botanical Survey, with approximate locations identified in Appendix D of the Botanical Survey report.

Priority habitats are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. List of priority habitats and species can be found here<sup>1</sup>. Natural England recommends that the expected loss of priority habitat is considered in line with paragraphs 171 and 174 of the NPPF and any relevant development plan policy. The expected loss may be reduced by the appropriate placement of site features, however, due to the extent and locations of priority habitat and the scale of development, it is not considered likely that loss can be avoided entirely. Natural England also recommends that the compatibility of the wildflower mix within the area of calcareous grassland and any other grassland mixes, or intended management techniques are properly assessed. Further to this, Natural England shares the concern within Suffolk Wildlife Trust's recent response that the variety of plans and strategies (e.g. reptile mitigation strategy) currently related to the management of the calcareous grassland and lowland meadow may conflict with the appropriate management of the priority habitat.

## **Suffolk Wildlife Trust**

Objection – on following grounds:

- Do not believe the biodiversity net gain calculations are accurate in the absence of a detailed masterplan, misrepresentation of hedgerows as scrub creation and classification of neutral grassland as fairly poor.
- The competing uses of reptile translocation site and translocated Priority habitat.
- No dormice surveys completed, when they were previously requested and hazel dormice were present on adjacent site within 250m of this site in 2015. Consider species likely to be in woodland, dense scrub and hedgerow on site and within wider landscape.
- Bat activity surveys only partially completed, and required in terms of potential light spill to the north and east boundaries of the site.
- Annual monitoring of any translocation of reptile receptor sites
- A Biodiversity Enhancement Strategy should be produced.

Subsequent response 21<sup>st</sup> October 2021:

Maintain holding objection - We are concerned that development on this site, which consists of a habitat mosaic of Priority Habitats and non-priority habitats both with ecological value for a range of protected and Priority species including great crested newts, reptiles and a variety of bird species, is contrary to the National Planning Policy Framework (NPPF) (2021) as well as local policies.

## **Historic England**

This application is an amendment which seeks outline planning permission for the erection of 166 residential dwellings, a 60 bedroom care home and associated infrastructure. Historic England were previously consulted in March 2020 on proposals for 190 residential dwellings, a care home with up to 60 bedrooms and associated infrastructure. In our letter of 09 April 2020 we objected to these proposals on heritage grounds due to the harm that would be caused to the significance of the grade I Church of St Mary and the grade II\* Chilton Hall, with its grade II landscape and walled garden, due to the erosion of their rural setting. We have reviewed the amended proposal and our assessment of the likely impact remains the same and Historic England objects to the proposals on heritage grounds. We refer the council to our previous letter which sets out extensively our advice.

The site lies within the setting of two characterful and highly designated buildings with a close connection dating from the fifteenth century, the Church of St Mary and Chilton Hall. The landscape between the hall and church allows views between the two and reflects the historic relationship between the buildings. The existing footpaths connect the two and offer access around the perimeter of the application site, enabling the hall and church to be experienced in their rural setting. The church is listed at grade I, the Hall is listed grade II\*, the walled garden and the historic landscape are both grade II. The proposed development would erode the rural setting of these assets and the relationship between them. We refer you to our previous letter of 9 April 2020 which sets out in detail the significance of the heritage assets and the contribution setting makes to that significance.

### *The impact on the significance of the historic environment*

We note that the amended proposal has reduced the residential dwellings from 190 to 160. The applicant has removed 24 dwellings from the northeast boundary of the application site which is closest to the grade II\* Chilton Hall. This would remove some development from the immediate boundary of Chilton Hall and the registered park and garden. However, the proposal to develop the site with a care home and housing would fundamentally change the character of the site from open rural land to that of a large, built development. It would result in the loss of this field which currently provides a buffer between the northern edge of Sudbury and Chilton Hall. The loss of the field would mean the hall and its landscape were no longer encircled by a rural landscape as it has been throughout its existence. This would significantly erode its rural setting which is an essential part of a country estate.

The development would still erode the rural landscape which forms part of the setting of the Church of St. Mary which has survived to the north of the churchyard. This would affect the key views of the church from this area and the way in which this landscape contributes to the aesthetic and spiritual values of the church. The open landscape between the church and the Hall enables the historic connection between the two to be understood. The loss of part of this rural land would undermine this link.

### *The policy context*

The National Planning Policy Framework has at its heart the principle of sustainable development. This has three over-arching objectives which are described as interdependent and need to be pursued in mutually dependent ways: economic, social and environmental, paragraphs 7 and 8. In the historic environment section the document sets out how heritage assets are an irreplaceable resources and the desirability of sustaining and enhancing their significance, paragraphs 184 and 192. It continues that great weight should be given to an asset's conservation (and the more important the asset, the greater that weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance, paragraph 193. Any harm or loss requires clear and convincing justification, paragraph 194. Where a proposal will lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal, paragraph 196.

The Historic Environment Good Practice Advice Note 3: The Setting of Heritage Assets provides more detail on this subject. It provides general advice on understanding setting and a staged approach to making decisions on setting issues.

### *Position*

Historic England has reviewed the amended application and remains of the position that the development of this site would erode the landscape setting which makes a strong contribution to the significance of the two neighbouring highly designated heritage assets, the Church of St. Mary and Chilton Hall and its landscape. This would result in harm to their significance which, although it would be less than substantial, this would be of harm of a considerable level. We refer you to our previous letter where we set out extensive advice.

### *Recommendation*

Historic England objects to the application on heritage grounds due to the harm that would be caused to the significance of the grade I Church of St Mary and the grade II\* Chilton Hall, with its grade II landscape and walled garden, due to the erosion of their rural setting. We consider that the application does not meet the requirements of the NPPF, in particular paragraph numbers 192 and 194.

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.

Your authority should take these representations into account in determining the application. If you propose to determine the application in its current form, please inform us of the date of the committee and send us a copy of your report at the earliest opportunity.

*Also Members are directed to the following earlier response from Historic England dated 9<sup>th</sup> April 2020 that provides this additional more detailed assessment of the significance of the historic environment:*

The Church of St. Mary lies to the southeast of the development site. It dates from the fifteenth century and has a chantry chapel of this date built for the Crane family who lived at Chilton Hall. Internally there are two surviving stained glass figures from this period and a fine series of monuments in the Crane Chapel dating from the fifteenth to seventeenth centuries. The red brick tower is distinctive feature and dates from the early sixteenth century.

The church is situated to the south of Chilton Hall. The village associated with the church may have been moved to create the deer park for Chilton Hall, had the village had not already been lost as a result of the Black Death. The church therefore stood in an open landscape setting formed by the deer park and farmland. The growth of Sudbury northwards with the construction of the industrial estate has encroached on the setting of the church to the south. However, beyond the churchyard to the north there remains an open setting formed by farm land and the application site which allows views to and from the church within a landscape context. In views from the surrounding landscape the church tower acts as a landmark.

The design and fabric of the church and its setting within the churchyard and wider landscape illustrate medieval ecclesiastical architecture and design and the historic relationship with its setting. The aesthetic appeal of the church is enhanced by the rural setting, which also complements the spiritual value of the church. The church is listed grade I placing it in the top 2.5% of all listed buildings.

Chilton Hall lies to the north east of the application site. It is the surviving wing of a sixteenth century house which was the seat of the Crane family. Built of red brick with a large embattled staircase turret and massive walls all surrounded by a moat, it is evocative this period. The west side was re-fronted in the eighteenth century.

The Hall sits in its historic landscape within the rural landscape to the north of Sudbury. The earliest parts of the landscape are contemporary with the hall or earlier and subsequent owners have enhanced this. The gardens lie to the south and west of the Hall, with a large seventeenth century walled garden with a number of decorative features. To the south of this are the earliest features, two ponds shown on a map of 1597 and beyond these a woodland garden laid out in the 1930s. To the south east was the large deer park.

Although Chilton Hall is not far from the northern edge of Sudbury, the wider rural landscape setting of the Hall has been retained with the application site to the south, the open fields between the church and hall and further fields to the east. The gardens and rural landscape illustrate the function of the building as a country seat and tell a storey about life here in terms of how the landscape was used for recreation and enjoyment and to feed and support the occupants. It also makes an important contribution to its aesthetic appeal. The landscape between the hall and church allows views between the two and reflects the historic relationship between the buildings. The existing footpaths connect the two and offer access around the perimeter of the application site, enabling the hall and church to be experienced in their rural setting. The Hall is listed grade II\*, the walled garden and the historic landscape are both grade II.

#### *The impact on the significance of the historic environment*

The proposal to develop the site with a care home and housing would fundamentally change the character of the site from open rural land to that of a large, built development. It would result in the loss of this field which currently provides a buffer between the northern edge of Sudbury and Chilton Hall. The loss of the field would mean the hall and its landscape were no longer encircled by a rural landscape as it has been throughout its existence. This would significantly erode its rural setting which is an essential part of a country estate. The development would also erode the rural landscape which forms part of the setting of the Church of St. Mary which has survived to the north of the churchyard. This would affect the key views of the church from this area and the way in which this landscape contributes to the aesthetic and spiritual

values of the church. The open landscape between the church and the Hall enables the historic connection between the two to be understood. The loss of part of this rural land would undermine this link.

We recognise a sizeable planted perimeter boundary is proposed (partially strengthening existing planting) which would filter some of the views of the development from the surrounding land. However, setting is defined as 'the surroundings in which a heritage asset is experienced' (National Planning Policy Framework). This is a broad definition and the development of the site would change the character of the land and way these historic places are appreciated and understood within their surroundings. The degree to which the landscape belts filter views would also change seasonally and over time. Although setting does not depend on public access, the existing footpaths around the site are within the planted boundary close to the Hall and church. A development of this scale would also result in increased vehicle movements, noise and lighting which can also affect the setting of historic buildings.

In sum, the proposal to develop the site would erode the rural landscape setting of Chilton Hall and its landscape and the Church of St. Mary and would result in harm to the significance of these heritage assets. This would be less than substantial harm, but harm of a considerable level.

## **The Gardens Trust**

### **Object**

Initial response 13<sup>th</sup> May 2020:

Our concern is the considerable adverse impact that we feel the proposed development will inevitably have on the significance of this Registered Park and Garden (RPG), which includes not only the walled garden next to the Hall, but also the woodland garden lying between the Hall and the site, and the open parkland running along the northern boundary of the proposal site. The RPG forms part of a unique cluster of heritage assets whose significance is inextricably linked, the RPG enhancing the significance of the other assets and vice versa. The applicant has, in our opinion, substantially underestimated the significance of the RPG and other assets, and consequently, even the proposed 'mitigation measures' (namely some moderate planting), comes nowhere close, in our view, of overcoming the harm that this proposal will cause to the RPG and other assets. We set out our objection in greater detail below.

The significance of the four designated heritage assets (Grade I St Mary's Church, Grade II\* Chilton Hall, the Grade II RPG and the Grade II walled garden) which will be affected by the development, is amplified due to the fact that the church, hall, RPG & walled garden, were all built by the Crane family within a short historical time-frame. In our opinion, these assets constitute an important cohesive group which interrelate with one another in a shared landscape. They should therefore be considered as a single entity as far as significance is concerned. A negative impact on any one of these assets will affect the significance of the whole, as well as individually. Your officers will be familiar with Historic England's (HE) *The Setting of Heritage Assets, Historic Environment Good Practice Advice in Planning Note 3, Part 1 – Settings and Views* (Second Edition), pub 2<sup>nd</sup> Dec 2017 (SHA, PN3) which corroborates this (p2) : heritage assets *'that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each'*.

We are surprised that the Heritage Assessment (HA) produced for the applicant by Jonathan Edis, Heritage Collective, does not include any illustrated map regressions earlier than the tithe map mentioned regarding the extent of the park prior to c1840. Such map regressions would have shown the extent of the Crane's holdings and the relationship between the church and Hall complex, especially as the Crane family association with Chilton dates back to the late C15. We therefore challenge Mr Edis's assertion (3.5) that *'there must be a question mark over the significance of the rest of the designation . . . The field boundaries in the area do not have the characteristics of a designed landscape that has been imposed on its surroundings, and the core of the designation seems to be quite localised, within the immediate*

*surroundings of the Hall.* The surrounding land was previously a deer park, part and parcel of the original Crane estate, and therefore of importance when looking to understand the setting of the heritage assets. The HA (4.14) mentions that the setting of the church and hall complex has been considerably altered and that *'it cannot be said that the historic setting is pristine in any way.'* SHA, PN3 rightly states (p4) *'Where the significance of a heritage asset has been compromised in the past by unsympathetic development affecting its setting, to accord with NPPF policies consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the asset'*. There is no need to make the situation worse.

The collective importance of this group of assets has been recognised in the Babergh & Mid Suffolk Heritage & Settlement Sensitivity Assessment Final Report (HSSA) of March 2018 quoted in the Heritage Assessment (1.4) : *'It is recommended that future development sites avoid further encroachment on these assets, in particular Chilton Hall and Church ...'* and that *'the hall is still discernibly separate from the edge of Sudbury and would be susceptible to any development which infilled this small section of open landscape between it and the edge of Sudbury'*. Allowing development across the whole of the proposed site would be extremely damaging to the significance of the RPG and related assets, completely removing their historic, rural setting outside the Sudbury settlement.

The emerging Joint Local Plan (JLP) proposes to de-allocate the site from its current employment use, as there is currently an oversupply of employment land for the plan period and also due to the site's heritage sensitivity (Vincent & Goring Planning Statement (PS) on behalf of Caverswall Enterprises Ltd and Suffolk NHS Foundation Trust, para 5.18). This assessment is backed up by the 2019 Strategic Housing & Economic Land Availability Assessment (SHELAA), which considers the site under Ref SS0933. It concludes that the site lies *'within an area of high heritage sensitivity'* which is why it has been discounted from employment use or any other development in the emerging JLP. There is also currently a sufficient housing supply within the 5 year housing plan, so this application, especially when taken with the additional housing developments already granted in Chilton : surrounding Chilton hall to the north (see Local plan proposals map for BDC CPO1 illustrating the area of the Chilton woods allocation for 1150 residential units) plus the 130 houses at the Orchard site, also wholly within Chilton parish, takes the housing requirement well over and above the required housing target for Babergh.

The northern boundary of the development site immediately abuts the RPG, which we reiterate, includes not only the walled garden next to the Hall, but also the woodland garden lying between the Hall and the site, and the open parkland running along the northern boundary of the site. Much is made in the documentation about the tree belt which is it claimed will conceal the development in views from within the RPG and other heritage assets to the north, as well as protect the experience of the assets from intrusive noise and light. We consider this reliance on the tree belt to be misplaced. The tree belt between Chilton Hall and the grassland was planted several years ago when the site was allocated for employment and has no understory. Since then it has not been well maintained and the trees are in poor condition (Arboricultural Impact Assessment, Para 6.3). It consists predominantly of moderate to low quality trees. In a recent local decision (APP/D3505/W/19/3230839) a planning inspector emphasised that limited reliance should be placed on the ability of planting to screen views of developments, given the variability of such planting. In order to fulfil even a partial screening role, trees and associated dense undergrowth must be managed and maintained permanently by the long-term implementation of a management plan. Even with such a management plan in place we remain unconvinced that the development will not result in urbanising, physical form at the edge of the RPG being prominent, even if filtered to some degree, from within the RPG, negatively affecting its significance.

In conclusion, we **OBJECT** to the above application as it does not comply with the emerging local plan, nor does it meet the requirements of NPPF 192(c) & 194, and if allowed, would seriously damage the setting of all the assets. The group of assets taken together will no longer be set in a rural landscape for the first

time in its entire existence, and the experience of and significance of the RPG in particular, will be significantly adversely affected by the development in the immediately adjoining field.

Further response 20<sup>th</sup> April 2021 to revised proposals:

The GT submitted a response to the above application on 13<sup>th</sup> May 2020 (attached), and whilst we note the slight reduction in dwellings, our objection remains and our previous comments are still relevant. We would like to repeat our grave concern that despite many statutory consultees and other relevant bodies, objecting strongly, many on heritage grounds, the applicant continues to maintain that this application will not cause harm to the setting or significance of the various heritage assets it affects.

The sensitivity of the site is recognised by the emerging Joint Local Plan (JLP) which proposes to de-allocate the site from its current employment use and also, crucially, due to its heritage sensitivity. This assessment is backed up by the 2019 Strategic Housing & Economic Land Availability Assessment (SHELAA), which considers the site under Ref SS0933. It concludes that the site lies 'within an area of high heritage sensitivity' which is why it has been discounted from any development in the emerging JLP. There is also currently a sufficient housing supply within the 5 year housing plan, so this application, especially when taken with the additional housing developments already granted in Chilton : surrounding Chilton hall to the north (see Local plan proposals map for BDC CPO1 illustrating the area of the Chilton woods allocation for 1150 residential units) plus the 130 houses at the Orchard site, also wholly within Chilton parish, takes the housing requirement well over and above the required housing target for Babergh.

Our other concern is that that although the number of houses has been reduced by 23, as this is an outline application with the drawings and plans being illustrative and not for decision, once the principle of development is established on the site, the applicants can seek to change the layout, including developing the open space currently proposed.

We concur with our colleagues in HE that if permitted, the proposal would 'fundamentally change the character of the site from open rural land to that of a large, built development. It would result in the loss of this field which currently provides a buffer between the northern edge of Sudbury and Chilton Hall. The loss of the field would mean the hall and its landscape were no longer encircled by a rural landscape as it has been throughout its existence.' We therefore disagree with the statement in the Updated Planning Statement Para 4.57 which says, 'the proposed application site does not materially contribute to the setting or significance of the heritage assets.' If permitted, we believe that this application would permanently erode the landscape surroundings, substantially damaging the setting of the suite of heritage assets affected.

The applicant clearly recognises that this application will cause harm, as in Para 2.8 of the Planning Statement Addendum they justify the reduction in the built footprint to the NE boundary of the site by saying : 'a larger area of public open space in this location will provide an additional buffer between the development and Chilton Hall, and will also allow additional views from the site to St Mary's Church.' The applicant here directly seeks to address heritage concerns raised by various respondents, which seems at odds with their further statement in Para 3.16 that 'Evidence has been included in the Heritage Assessment submitted with the planning application to demonstrate that the proposed development would not harm the significance of the heritage assets and hence all of the Site could be developed.'

In our opinion, this application is contrary NPPF Para 192c. In addition, as there is already a significant amount of development around Chilton, we maintain that the application also fails to meet NPPF 194 a & b, as harm to assets of the highest significance should be wholly exceptional, which this development is not. Your officers will be familiar with The Setting of Heritage Assets, Historic Environment Good Practice Advice in Planning Note 3 (Second Edition), pub 2nd Dec 2017, Part I – Settings and Views (GPA) where it states (p2) 'When assessing any application for development which may affect the setting of a heritage

asset, local planning authorities may need to consider the implications of cumulative change.’ (As mentioned above, the Chilton Woods allocation is for 1150 residential units as well as the 130 houses at the Orchard site.) The GPA also states (p5) that ‘The setting of a historic park or garden ... may include land beyond its boundary which adds to its significance but which need not be confined to land visible from the site, nor necessarily the same as the site’s visual boundary. It can include: land which is not part of the park or garden but which is associated with it by being adjacent and visible from it.’ This is entirely relevant here.

In conclusion, the GT OBJECTS to the above application as it does not comply with the emerging local plan, nor does it meet the requirements of NPPF 192(c) & 194, and if allowed, would seriously damage the setting of all the assets. The group of assets taken together will no longer be set in a rural landscape for the first time in their entire existence, and the experience of and significance of the RPG in particular, will be significantly adversely affected by the development in the immediately adjoining field.

### **Ancient Monuments Society (now known as Historic Buildings & Places)**

Objection – due to significant impacts of the proposed development on a number of historic buildings, structure and landscapes, including Chilton Hall (II\*), Chilton Hall garden wall (II), Chilton Hall registered park and garden (II) and Church of St Marys (I).

Development would fill in a large area of open land which has formed an important rural setting for these highly important heritage assets. The cumulative impact of other significant urban expansion has extended to Church Field Road, along with the approved 1,150 dwellings at Chilton Woods, and will dramatically erode and alter the rural setting of the Hall, gardens and the Church and cause a considerable degree of harm to the significance of these structure and their historic setting.

AMS does not agree with the applicant’s position that a vegetative buffer will fully mitigate these impacts or preserved the rural character around the Hall.

Current form of development causes a degree of harm to the setting and historic interest of a range of heritage assets. The immediate open and rural setting of Chilton Hall, garden, wall, and the church and are directly affected. In order to preserve the special historic interest of the area, significant amendments are required to this outline application that cannot be managed at the next stage with a reserved matters application. The general scale and extent of the overall development needs to be reviewed with greater importance to preserving the special interest of these heritage assets and scheduled ancient monuments, as per the requirements of the Planning (Listed Buildings and Conservation Areas) Act.

### **Churches Conservation Trust**

Objection – impact on the setting of St Marys Church and the surrounding landscape which do not meet the requirements set out in the NPPF. St Marys Church and Chilton Hall have a strong historical connection and the preservation of the landscape between them in its present state is fundamental to the significance of the heritage and their settings. St Mary’s is a Grade 1 listed building which dates back to the fifteenth century with a splendid sixteenth century red brick tower. In the chapel there are stunning monuments to Robert Crane, High Sheriff of Suffolk and his two wives. There are also some fifteenth century glass which escaped from the restoration and therefore any impact on the surrounding landscape would not meet the requirements as set out in the NPPF. Further encroachment by development should be avoided. And the apparent lack of infrastructure to support the number of residents which will result in a significant increase of traffic.

### **Suffolk Preservation Society**

Object



SPS previously raised objections to the outline proposals due to the harm to highly designated heritage assets and the reduction in the separation between Chilton and Sudbury (our letter 20 May 2020).

We note and welcome the reduction of the scheme from 190 dwellings and the removal of dwellings from the north east portion of the site in the indicative layout. The area of open space to the north east will go some way to preserving the historic relationship between Chilton Hall (grade II\*) and St Mary's Church (grade I) and is an improvement to the previous layout. However, the reduction to 166 dwellings is modest, and the remaining developed area to the north of the proposed green corridor is disjointed from the rest of the site and will impact Chilton Hall and its designated Park and Garden. Existing residential development has been restricted to the west of Waldingfield Road and Chilton Hall therefore largely retains a sense of its original rural setting to the north of Sudbury. Regardless of existing and proposed enhanced tree screening, development close to Chilton Hall with associated increased lighting and traffic movements will have a significant impact on this setting. We therefore call for a further reduction of the scheme to increase the buffer along the north edge of the site in order to effectively protect the setting and maintain a sense of separation between Chilton Hall, its gardens and the built-up edge of Sudbury.

The 2018 Babergh Mid Suffolk Heritage and Settlement Sensitivity Assessment is clear that, in order to preserve the value of the distinct settlement of Chilton and the highly designated Chilton Hall, the surviving separation between Sudbury and Chilton should be preserved. The report concludes that Sudbury as a whole has a medium level of sensitivity but highlights this area as one highly susceptible to development. This conclusion is reflected in the emerging joint local plan which does not allocate the site for housing and the Babergh 2019 SHELAA which deems the site suitable for only 25 dwellings which should be sited along the road frontages of Waldingfield Road and Church Field, due to the heritage sensitivity of the site.

In conclusion, although the health centre to the south west corner of the site and industrial development on Church Field Road have urbanised this area to a degree, it is arguably more important to retain remaining rural agricultural land to ensure the significance of these heritage assets is preserved. The NPPG is clear that "When assessing any application for development which may affect the setting of a heritage asset, local planning authorities may need to consider the implications of cumulative change." (para 013 Conserving and Enhancing the Historic Environment).

SPS therefore continues to recommend that the application is refused and that a further reduced scheme is sought which increases the separation between the development area and Chilton Hall. We trust you will find these comments helpful in the consideration of this application and request that SPS is consulted on any further amendments.

### **Council for British Archaeology**

Any development of this site will result in harmful impacts to the local historic environment. Undesignated archaeology will be lost, and the setting of highly designated heritage assets will be urbanised. If a balanced planning judgement finds the greatest public benefit in the creation of new housing, then the CBA believe there are means by which the public value generated by any development can be greatly enhanced through a dynamic and iterative archaeology and heritage strategy for this site. As detailed below.

#### *Significance*

The Suffolk Historic Environment Record (HER) shows the application site to be within an identified area of archaeological potential, specifically relating to Late Bronze Age / Iron Age settlement enclosure. Past excavations indicate that further significant deposits of the same period may be within the redline boundary. The site is between the Grade I Church of St Mary and the Grade II\* Chilton Hall, both of which have medieval origins. The rural setting of the highly designated church and Chilton Hall will contribute to their significance. There is known to be buried archaeology relating to early medieval settlement in the area.

## Comments

The impacts on the setting of the Grade I Listed church and Grade II\* Chilton Hall will need to be minimised and mitigated against if this application is permitted. Paragraph 200 of the NPPF states “Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.” Enhancing and better revealing significance need not be solely considered as visual enhancement, but rather as encompassing experiential opportunities for the local community to interact with their local heritage. Incorporating a heritage strand into the redevelopment of shared public spaces adds a valuable place-shaping strand, which can have considerable benefits in terms of increasing a sense of community, belonging and pride of place.

## Recommendation

If your Authority are minded to permit the development of this archaeologically sensitive area for housing, the CBA recommend that there should be consideration from the outset as to how good public engagement with the archaeology could benefit the local community. The CBA believe that there is strong potential to realise greatly increased public benefits by creating a pro-active and inclusive archaeology and heritage strategy for this site. A number of commercial archaeology units have extensive experience around the inclusion of public participation with archaeological digs and the finds which are generated onsite. The CBA strongly recommend that this strand should be included within your tendering process for the archaeological works that development of this site will require. Pursuing this approach will generate far wider reaching public benefits than for just those people who will live in the new dwellings.

## Sudbury Ramblers

No comment to make, any public rights of way within or adjacent to the site should be preserved.

## Sudbury Society

Objection – retain as employment land, huge provision for housing elsewhere, and make following comments (*repeated for ease of reference*):

We have studied the heritage and environmental objections to this development. We observe that the heritage arguments seem to revolve around the significance of the relationship between the Church and Chilton Hall. The existing development of Churchfield Road adjoining the Church is already in Employment use and so the principle of this use has been in existence for 20 plus years. We fully understand the significance of the heritage assets but if they are important now they were just as important when Churchfield Road was laid out.

Chilton Hall is protected by its listed park and grounds and is totally enclosed by a dense screen of trees meaning there is no line of sight between the two heritage assets, nor between the hall and any construction on this site below tree height.

The various flora and fauna on this site, about which various environmental concerns have been expressed, are only present because it has lain dormant awaiting development for several years. We do not believe that the site should be taken out of commercial use simply because of wildlife that has moved in since it was being actively farmed. There will be other, large and more suitable areas created for wildlife within the Chilton Woods development.

One of the Sudbury Society's principal aims is to retain the strong market town character of the town. We are concerned that the ever-increasing provision of housing with no related employment options will lead to Sudbury developing as a dormitory town to surrounding centres and as far as London. Meanwhile, our road links are already stretched even before all the other allocated residential schemes are completed.

For these reasons we urge that the current designation of the site for employment use be retained.

## **County Council Responses**

### **Suffolk County Council (SCC) Highways**

No objection subject to conditions and S106 contributions:

- Transport Assessment – trip rates suitable for this location. Roundabout of B1115 and Church Field Road would not operate within capacity in the PM peak. However the Chilton Woods development has mitigation proposed for the roundabout to improve capacity and therefore the impact of the committed and proposed development would be mitigated.
- Site access onto an unclassified road. The 85%tile speeds are measured at 35mph and so the visibility splay required is 2.4m x 85m, which is achievable.
- Development not considered to result in detrimental safety impacts on the highway.
- Primary school approximately 1.3 miles from the site. To improve cycle and pedestrian facilities developer will improve the footway on the north of Church Field Road roundabout and contribute £80,000 to the construction of a toucan crossing at the roundabout.
- Site within 300m of bus stop, raised bus stop kerbs and shelters are to be secured through Section 278 agreement.
- Proposed development would not create a severe impact on the highway as appropriate opportunities to promote sustainable transport modes can be supported, giving safe and suitable access to the site and development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- Conditions requested and S106 contribution for toucan crossing £80,000, Travel Plan Contribution £67,972 (£409.47 per dwelling), £50,000 contribution for enhancing demand responsive public transport services in the area. If raised bus stops were not completed as part of a S278 agreement looking to secure £25,000 contribution via S106 agreement.

Public Right of Way comments: We accept this proposal, however the Applicant should note that they have referred to RB3 as a footpath in their plans and this is not correct. RB3 is a restricted byway, and therefore can carry traffic on foot, on a bicycle, on a horse, or in a horse drawn vehicle (essentially all traffic other than motorised). The full legal width of the route should be accommodated within a wide green corridor and must not be narrowly constrained by overly close fencing or planting. Also:

- Site plan that depicts a yellow dotted link as a footpath – this path will need to be dedicated as a Public Right of Way.
- Cost of legal order is £5,000 to dedicate as a PROW, which will need to be secured via S106.
- The public footpath should connect to RB3 at the north east point of the development, not just the southern point.
- Surface improvements required to RB3 between the north east point of the development site and Church Field Road, secured via S278 agreement.
- South of Church Field Road RB3 continues to the A134, a section approximately 200m requires surface improvements to enable connections into Sudbury, £25,000 will be required via S106 for these works.

### **SCC Public Rights of Way**

No objection – site contains Restricted Byway 3 Chilton. Full legal width of route should be accommodated in a wide green corridor. Require applicant to consider whether there are any unrecorded public right of way (PROW) on the site, applicant/future owner must have private rights to take motorised vehicle over a PROW and make good any damage to any PROW, separate consents may be required for PROW, any application for a PROW to be stopped up or diverted should be made at the earliest opportunity, consider S167 of Highways Act 1980 in terms of any structures near PROW and any hedges must be planted a minimum of 1m from the edge of paths and fencing 0.5m from the edge of paths.

### SSC Strategic Development

No objection, following CIL and S106 requests are made based on 166 dwellings ad care home:

	<b>Infrastructure</b>	<b>Total Contribution (based on 166 dwellings)</b>	<b>Per dwelling</b>
CIL	Primary school expansion @ £18,187 per place 41 pupils arising	£745,667	£3,132.69
CIL	Secondary school expansion @ £25,253 per place 29 pupils arising	£732,337	£3,050.77
CIL	Sixth form expansion @ £25,252 per place 6 pupils arising	£151,518	£631.19
CIL	Early years expansion @ £18,187 per place 15 places arising	£307,620	£1,361.15
CIL	Libraries improvements & books etc @ £216 per dwelling	£48,816	£216.00
CIL	Waste Improvements @ £269 / dwelling	£44,654	£269.00
S106	Monitoring fee for each planning obligation trigger is applicable	£412	-

A new Household Waste Recycling Centre is proposed at Chilton Woods site to replace the existing Sandy Lane Recycling Centre.

[officer comment: due to the time that has elapsed, should Members be minded to grant permission contrary to officer recommendation, then updated figures should be sought]

### SCC Lead Local Flood Authority

No objection subject to conditions.

### SCC Fire and Rescue Service

No objection subject to conditions for fire hydrants.

### SCC Archaeological Services

No objection subject to conditions – site lies in an area of archaeological potential. The site partially includes the site of a Late Bronze Age/Iron Age settlement enclosure. This enclosure, where it lies within the site, has already been archaeologically excavated. Archaeological investigations to the south of the application area has demonstrated that settlement evidence extends beyond the confines of the enclosure and are likely present within the application area. A prehistoric trackway also potentially crosses the site. The proposed development area also lies in close proximity to the medieval Church of St Mary, an associated medieval green and Chilton Hall. Early medieval settlement evidence has been excavated in an adjacent field and a medieval trackway crosses part of the site (ESF21827). 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.

The settings impact upon the Grade I Church and II\* hall will also need to be properly assessed. We would advise consulting Historic England with regards to this at the earliest opportunity.

To inform the application, we would advise that an archaeological Desk Based Assessment should be commissioned, which draws together the results of previous archaeological work at this site and compares that to proposed development plans to identify the ongoing archaeological requirements for the project. We would be happy to provide advice regarding the expected scope of the archaeological Desk Based Assessment upon request.

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

### **Suffolk Police (to original proposal for 190 dwellings and care home only)**

Comments relating to detailed layout – parking and central large alleyway, urge developers to adopt Secure by Design principles to prevent crime and ensure safety of future residents. Concern for anti-social behaviour to the rear of properties on the northern side of the site.

### **Internal Consultee Responses**

#### **Babergh and Mid Suffolk District Councils (BMSDCs) Strategic Planning Policy and Infrastructure**

In summary: whilst an infrastructure solution can be found, the application is not considered consistent with policy (current and draft) and therefore is not supported by planning policy.

The site is allocated under policy EM02 for a General Employment area within the current Babergh Local Plan, with the allocation saved under the adoption of the Babergh Core Strategy 2014. The emerging Joint Local Plan (JLP) has removed the allocation for employment and the site is no longer within the Sudbury settlement boundary.

Evidence has been provided with the application on the demand for employment land, and a study commissioned by the council (MENTA, Grow on Space Supply and Demand Analysis, October 2019) identified a lack of incubation and start up space and that this site would be suitable for such use. However, the district's evidence for employment land demonstrates that the District wide level there is a surplus of employment land. This does not negate the need to consider EM24, rather it evidences the need to retain those sites which are suitable and deliverable for employment use. Any proposals for net additional employment land are required to demonstrate enhancement of the overall economic position and will not jeopardise the ongoing retention of existing employment sites.

The site at present is allocated for employment use and the Council is of the opinion that the proposed development for residential use would be in conflict with the Babergh Local Plan Policy EM24.

Through the JLP process the site was appraised for housing use within the Babergh and Mid Suffolk Strategic Housing Land Availability Assessment (SHELAA, reference SS0590). Taking account of the identified constraints the SHELAA concluded the site is *potentially considered suitable for residential development, taking identified constraints into consideration. However only part development (road frontage along Waldingfield Road and Church Field Road) recommended to mitigate heritage impact.* The SHELAA estimated a dwelling yield of 25. It is noted that Historic England and heritage colleagues have made representations on this application on heritage constraints and sensitivities. Whilst it is acknowledged that the proposed development would have the potential to boost housing supply it is not proposed for residential use in the submitted JLP 2020.

In accordance with the NPPF paragraph 48, the local planning authority may give weight to the JLP and the supporting evidence in the determination of the application. This includes, where relevant, Part 1 strategic policies, Part 2 delivery policies and Part 3 place and allocation policies (specifically LA035) and have regard to the evidence base as appropriate in the determination of the above application.

#### *Infrastructure position*

The proposed development is not part of the proposed site allocations of the submitted JLP 2020. There are a number of consented major residential planning applications and emerging allocations in the area of Sudbury, Chilton and Great Cornard.

Education: Early Years and Primary education – capacity at new Chilton Woods primary school and pre-school. S106 contributions would need to be secured toward this new facility. For Secondary and Post 16 education provision can be made through school expansion at Ormiston Sudbury Academy and Thomas Gainsborough Academy. CIL contributions would be expected towards expansion of the existing schools.

Transport: Site specific contributions have been requested from Suffolk County Council (SCC) Highways and Public Rights of Way teams. Travel Plan and PRoW improvements and contributions are still being resolved to the satisfaction of SCC.

Health: The Clinical Commissioning Group, the NHS Property Services and the NHS Foundation Trust are assessing the different options for additional provision for the Sudbury area. Currently, the existing health provision in this area includes the Siam Surgery (the Sudbury Community Health Centre) adjacent to the site, and the Cornard Surgery with other surgeries in the Hardwicke House Group. Options are currently being explored as to how this would be developed across the affected surgeries for the Hardwicke House Group. The response from the West Suffolk Clinical Commissioning Group of the 30/03/2021 also specifies that developer contributions via CIL are required to meet the cost of additional capital funding for health service provision arising in relation to the Hardwicke House Group.

Waste: CIL contributions will be sought towards the provision of a new Household Waste Recycling Centre at the Chilton Woods development.

Libraries: CIL contributions will be sought towards the expansion of the existing library network.

#### **BMSDCs Economic Development**

The Economic Development team would like to register their strong objection to this application.

The Churchfield Road site is a strategic employment allocation which is located directly adjacent to the largest industrial area within Sudbury and therefore offers excellent connectivity with existing businesses and an unparalleled opportunity to facilitate further growth of the Sudbury and South Suffolk economy.

This application in respect of a residential development, on what is currently allocated as employment land has failed to demonstrate any reason or viability issue that would prevent commercial development coming forwards.

In order to understand current commercial trends, our team commissioned a Grow on Space Supply and Demand Analysis which concluded that there is demand and supply shortfall for incubator space, and significant demand for grow on space. What's more the applicant and the Council have subsequently commissioned several studies in an attempt to understand commercial viability options for this site and all reports have found that not just is commercial land suitable and viable to deliver, but that there is active demand for space that this site could deliver on.

Babergh saved policy EM24 would require this site to be marketed to establish commercial interest and to connect with potential occupiers, yet this exercise has not been carried out, leaving the market no opportunity to express an interest in occupation and development of this site for commercial use.

The economic development team are currently aware of multiple enquiries for commercial land in Sudbury and have been directly approached by a planning agent with multiple enquiries for employment land and for which this site has been identified as their preferred location, but the lack of any marketing leaves these businesses and their agent with no route to progress their enquiries.

Our objections to this proposal are not limited to the lack of marketing and compliance with Policy EM24, but with the potential harm that siting not just residential properties, but potentially vulnerable people in a care home next to the significant industrial area in Sudbury.

The businesses on the Chilton Industrial Estate provide an enormous amount of employment to the local and regional population and offer an incredibly diverse range of industrial, manufacturing, and commercial uses together with all of the associated noise, lighting, operating hours and commercial traffic that you would expect as part of a thriving industrial area. There is significant concern that siting residential uses here could become an agent for change, threatening the commercial amenity of long established employers with the introduction of the conflicting needs and expectation of residential occupancy, leading to complaints and challenges over the impact of one use against another.

The recent NPPF revision continues to recognise the value of a strong and competitive economy asking that the conditions for businesses to invest, expand and adapt are supported, and that significant weight is placed on the need to support economic growth and productivity. However, the limited availability of commercial land currently available to support business expansion and inward investment in Babergh is evidenced by the very recent loss to another region, when a significant local employer was forced to locate their business expansion elsewhere, as they failed to find commercial land within the Sudbury industrial area. This is an unacceptable loss to the district particularly when there is allocated commercial land lies undeveloped in a prime position adjacent to the industrial estate.

#### **BMSDCs Environmental Health Land Contamination**

No objections subject to condition.

#### **BMSDCs Environmental Health Air Quality**

No objection - Concur with the findings of the report that the existing good air quality at the site is unlikely to be compromised by the proposed development nor is the application in an area that is of poor air quality so we are not introducing new receptors to an area of concern. On that basis I can confirm that I have no objection to the proposed development from the perspective of local air quality management. I would note that the application site is very close to a proposed gas fired grid balancing facility which is currently within the planning process but has yet to be determined. Should this application be approved then we would request that we are reconsulted to ensure that this is taken into consideration in the determination of this (20/1094) application.

*Members will note that the aforementioned gas-fired grid balancing facility application was refused planning permission, ref: DC/21/00357 but allowed on appeal. The EHO has been re-consulted and views are awaited; an update will be provided at Planning Committee.*

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

13<sup>th</sup> April 2021

Noise

Existing noise at the site is characterised predominantly by traffic noise from Waldingfield Road and Church Field Road, along with some noise from commercial units to the East (described as vehicular movements and loading). The existing noise levels on site are, in part, slightly above those given in the World Health Organisation (WHO) Guideline Values for Community Noise and also BS8223:2014 Guidance on Sound Insulation and Noise Reduction in Buildings, meaning that attenuation will be needed to provide adequate noise levels. To the west of the site an acoustic screen is proposed to attenuate noise for plots nearest to the road. I would recommend that a condition be attached to any permission to the effect that, prior to occupation of any dwelling, an acoustic screen with a minimum height of 2.5m and a minimum surface mass of 20kg/m<sup>2</sup> should be installed as shown in Appendix E of the report 'Proposed residential and Care Home Development, Land North of Church Field Road, Sudbury, Environmental Noise Assessment, prepared by H&H Acoustic Technologies, dated 18<sup>th</sup> February 2020'(reference HHAT/Q18759/01/IRF). Elsewhere on the site, external noise levels, particularly if properties closest to the roads are orientated so that gardens are 'shielded' by houses, are likely to be below the 55dB limit to avoid 'serious annoyance', with the majority being below the 50dB limit to avoid 'moderate annoyance'.

In terms of internal noise levels, the ENA determines that dwellings along the western element of the site (adjacent to Waldingfield Road) and those overlooking Church Field Road will require a glazing package comprising of a minimum of 6mm glazing – cavity – 6mm glazing with standard trickle vents (equivalent open area of 8000mm<sup>2</sup> or less) in order to meet BS8223 and WHO internal noise levels. The areas of the development requiring this package is shown in Appendix E. Dwellings in this area will be expected to keep windows shut (other than for purge ventilation) in order to enjoy a good acoustic environment. Dwellings elsewhere in the development will be able to have windows open and still enjoy a good acoustic environment. I would recommend that a condition be attached to any permission to the effect that, prior to commencement of residential development of each phase, a scheme for acoustic glazing and ventilation (to meet the performance standards as outlined in sections 4.9 – 4.10 and table 4.3 of the report 'Proposed residential and Care Home Development, Land North of Church Field Road, Sudbury, Environmental Noise Assessment, prepared by H&H Acoustic Technologies, dated 18<sup>th</sup> February 2020'(reference HHAT/Q18759/01/IRF) for each dwelling shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented in respect of each dwelling prior to the first occupation of that dwelling.

It is of note that the introduction of residential dwellings to this area will place restrictions on any future industrial/employment uses which might come to the area as well as the development opportunities for those existing units in the vicinity, as a noise assessment, based on BS4142 will be needed to determine the effect of any new industrial noise (such as the installation of mechanical plant such as air handling units, or unit expansion) on the proposed dwellings.

Given the size of the site and its proximity to existing dwellings on Waldingfield Road, I would suggest that a noise assessment to take into account the construction phase should be undertaken so as to ensure that these properties are properly protected from adverse impacts of noise, particularly if piling is proposed. This could be required either at this stage, or by means of enhancing the construction management plan condition I have suggested below.

The Design and Access Statement suggests that Air Source Heat Pumps may be installed. Air Source Heat Pumps can result in loss of amenity due to noise if not located sensitively. For this reason, I would request that, once known, any details for such units – to include precise acoustic specification and location, be submitted to the LPA for approval.

#### *Lighting*

I have had regard to the report 'Land north of Church Field Road, Sudbury, External Lighting Report, prepared by ALH (issue P3, dated 13<sup>th</sup> February 2020). The report identifies that the impact of lighting from outside the site will have minimal impact on proposed dwellings. It also suggests a lighting strategy which



should be used to inform the lighting scheme, once known. This is based on the site being categorised as 'E2' in the Institute of Lighting Professional guidance GN01. I would therefore recommend a condition be attached to any permission to the effect that prior to commencement of development, a written scheme shall be submitted to and agreed in writing by the local planning authority that specifies the provisions to be made for the level of illumination of the site and to control light pollution. The scheme shall be implemented prior to beneficial use of the approved development and maintained for the lifetime of the approved development and shall not be altered without the prior written approval of the local planning authority. The scheme shall follow the principles set out in sections 2.5 n 4.4 of the report Land north of Church Field Road, Sudbury, External Lighting Report, prepared by ALH (issue P3, dated 13<sup>th</sup> February 2020) and be compliant with the values for an E2 site as given in the Institute of Lighting Professionals Guidance Note for the reduction of obtrusive light 2011. The submitted scheme shall include an isolux diagram showing, using contour lines if possible, the predicted luminance in the vertical plane (in lux) at critical locations on the boundary of the site and at adjacent sensitive properties (including those within the scheme where appropriate).

#### *Odour*

I have had regard to the document 'Land North of Church Field Road, Sudbury, Odour Assessment', prepared by BWB, (dated February 2020, document reference LNP2019). The odour assessment identifies that the principle source for odour at the site is from the Nestle Purina pet food factory which is 300m south of the site, Sniff test surveys indicate that the odour from the factory has the potential to 'significantly affect residential amenity at the proposed development site when unabated'. The factory is operated under an environmental permit, issued by the Environment Agency, Section 6 of the report details an investigation into the odour by the Environment Agency which has resulted in a proposed odour abatement solution – however, this will not be in operation until September 2020 (presumably subject to change, given the current situation). I understand from section 6 that the residential development is unlikely to be complete until 2024. If this abatement technology is successful then it is anticipated that the effect of odour on the proposed development will be unlikely to cause an unacceptable level for odour, having reduced odour concentration by approximately 84%. Given that the Environment Agency are the regulating body for the factory, you may also wish to consult them on this proposal.

#### **BMSDCs Environmental Health Sustainability**

No objection subject to conditions.

#### **BMSDCs Heritage/Place Services Heritage**

This Outline Planning Application (with access to be considered) concerns the 'Erection of up to 166 residential dwellings, a purpose built care home for up to 60 bedrooms, and associated infrastructure including landscaping, public open-space, car parking and means of access off Church Field Road'.

The issues of Heritage Team concern focus on the impacts of the development on various designated assets in the immediate vicinity which include the Grade I listed C16th Church of St Mary, the Grade II\* listed Chilton Hall, the Grade II listed garden wall and the Grade II listed registered garden. The Hall, its wall and its garden are located to the north east of the site, and the church is to the south east.

This outline for access includes a relatively detailed heights and density plan, sufficient for me to make a judgement on the impacts and harm to the designated assets.

#### *Heritage and Settlement Sensitivity Assessment*

I am aware of the history of the site and the current LPA proposal to deallocate it, based at least partly on the Heritage and Settlement Sensitivity Assessment (HSSA) which suggests that the land around Chilton Hall is 'highly susceptible to development'. For clarity, I take this to mean the land which is defined as forming a positive part of the setting of the Hall is highly susceptible to harm caused by development,

because as a result it could or would diminish the significance of the Hall. The HSSA further states that ‘for future development in these areas [including the church/hall complex] the importance of the siting of these heritage assets and their historic relationship and setting to other assets needs to be preserved’.

### *Applicants’ HIA*

I note the thrust of the applicants’ Heritage Impact Assessment (HIA) concerns the lack of views between the church and the hall, and the ‘somewhat abstract’ nature of the relationship, because of the density of landscape cover and consequent lack of intervisibility. However, the Historic England guidance note, ‘The Setting of Heritage Assets’ defines the setting as the ‘surroundings in which an asset is experienced’, and that setting is influenced by ‘our understanding of the historic relationship between places’. It also states that ‘as screening can only mitigate negative impacts, rather than removing impacts or providing enhancement, it ought never to be regarded as a substitute for well-designed developments within the setting of heritage assets’. Nevertheless, the conclusion of the applicants’ HIA is that ‘on present evidence there is no reason to believe that any of the heritage assets described above will be less significant as a result of the change within their setting arising from the proposed housing development’.

### *Opposing HIA*

I also note the view in a countervailing Heritage Statement that the proposed development of the land ‘to the south-west of the Hall would have a serious impact on the significance of both the Hall and the church such that their significance would be very much reduced. This would amount to substantial harm in the terms of national planning policy...’ (my italics) I am aware of a previous planning committee report in which the chief planning officer considered the level of harm (from a proposed industrial development of the site) to be substantial. However, that was 11 years ago, and apparently only a matter of months after the publication of the NPPF. The fact that this current Heritage Statement continues to rely on the use of this adjective to describe the level of harm that might be caused to the significance of the assets, suggests a lack of awareness of the development of the term ‘substantial’ in relation to harm, in light of the numerous Appeal decisions since the introduction of the NPPF which have helped the reader understand the appropriate use of the terms ‘substantial’ and ‘less than substantial’. Substantial harm is very rare and is usually related to a catastrophic loss of significance, such as the demolition of a listed building, rather than the diminution of those aspects of a setting which contribute to significance - so whilst I consider that the proposed development of the site as illustrated in the accompanying building heights and density plans impinges on the settings of all the assets, I do not consider it would result in a substantial level of harm. Nor however do I consider the development would leave unaffected the significance of any of the assets.

### *LPA Heritage and Design Team*

The landscape surrounding the complex, which includes the proposed development site, certainly contributes to the medieval and early post-medieval agrarian development of the complex. I appreciate the issues around defining setting and defining the extent and location of the registered park and garden (RPG), but I consider that, because of the interrelated cultural, spiritual and probably tenurial nature of the complex the development site, the agricultural land and the formal garden land (to both east and west of the hall) play an important role in the setting of the hall and the church. Notwithstanding the interconnectedness of the assets and the immediate landscape however, my view is there is scope for a limited level of development on the site, situated furthest from the hall, towards the south western corner of the site.

Previous comments I made in relation to the proposed erection of up to 190 dwellings and a 60 bed care home under the same reference, and dated April 8th 2020, remain entirely pertinent, and are copied below for completeness.

'Whilst the detailed layout has yet to be formulated, I consider that the indicative layout and massing would impinge upon the settings of all the assets identified. The landscape in between the Hall, the walled garden, registered park and garden (RPG) and the church is clearly a part of the setting of all the assets and its contribution to the significance is no less than fundamental to all of them. It cannot be separated out from the historic buildings and demoted, despite its recent compromise through development adjacent. The current site is rough grassland and it plays a role in narrating the meanings and evolution of the group and in combination with the fields to the east the historic connection amplifies the experience of all assets. Despite the fact that during my site visit there were no views of the Hall from the churchyard, (and potentially therefore no views of the church or its yard from the Hall or its gardens) the NPPG states that 'buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each'. This is the case in this instance [as I have proposed, above]. To remove the site from the equation because some of the 'historic' character and visual quality of the land adjacent to it has been diminished might suggest that further redevelopment in the settings of listed buildings could be undertaken if a piecemeal reduction in the apparently historic landscape has already occurred.

As I noted at pre-application stage, the level of impact of the indicative layout might be quite limited, with a consequence that it would result in a low to medium level of less than substantial harm – though the final level of harm will be determined by the details provided in the Reserved Matters.

The Heritage Officer who responded to the application, reference B/09/00932, suggested in his report that a smaller scale development nearer to the road which served the industrial estate would be more suitable. He stated that 'the retention of that part of the site nearest the Hall in an undeveloped form is essential to sustaining the significance of the Hall, and also the church'. I agree that the principle of reducing the scale of any development is important. To withdraw the development towards the south west would see the contribution that the landscape plays in the setting of the assets largely sustained, and this could in turn ensure the significance of the assets is preserved'.

Therefore, on the basis of the current proposed development area, and on both the building heights and building density plans, my concern remains. The development continues to be too close to the northern and north eastern tree belt and boundary, and does not appear to have been reduced since preapplication details were discussed (though I am happy to be corrected on this point). Move the dwellings back towards the south western corner and the level of harm will naturally reduce. Furthermore, two storey houses 'up to 10.1m' is excessive. Why so tall? A maximum ridge height for a two storey dwelling should be reduced to nearer 7.5m. Three storey properties should probably be less than 11m. This reduction in scale would help mitigate the effect of the new development, and along with a sensitive materials palette, including hard surfacing and a considered lighting schedule, the impact of the scheme need not be a high level of less than substantial harm.

In summary the current development area, height and density shown within this Outline application will result in a low to medium level of less than substantial harm to the settings and therefore the significance of all the assets described, but may be subject to change on receipt of details provided at Reserved Matters stage.

### **Place Services – Landscape**

*First response dated 1<sup>st</sup> April 2020:*

Site is fairly well screened and views onto the site are limited to a small number of viewpoints, site has ability to accommodate some development. The Landscape Visual Impact Assessment (LVIA) has been prepared following the Guidelines for Landscape and Visual Impact Assessment (GLVIA3) and includes a comprehensive assessment of the proposal and mitigation recommendations. Footpath routes run through the site and the mixed woodland area, the development edge the looks onto the woodland area should be carefully designed with an appropriate boundary treatment to mitigate the negative impacts of the

development along this route. Landscaping Strategy required before we can recommend approval. Recommendations made to be considered at future reserved matters applications.

*Second comments dated 2<sup>nd</sup> June 2020:*

Further to a site visit, following additional comments:

- Views to St Mary's Church should be protected.
- Chilton Hall and St Mary's Church are key landmarks and should be suitably referenced in any proposal.
- The site is well used by the community; informal paths and desire lines within the site are present and should be noted to inform the emerging proposed layout.
- Boundary planting to the north and east should be protected and maintained appropriately to improve its value as a screening planting belt and create woodland habitat. Long term management plans will be required to be submitted.
- Building heights should be informed by the sites context and should be no higher than existing surrounding buildings.
- The sites natural topography should shape the scale, design and height of any future development.

The rural character of the surrounding area has been impacted by recent development, this however should not be used as an argument to devalue the existing local landscape character, landscape features and views to key landmarks. The sensitivity and landscape value of the site should not be underestimated. As previously stated, appropriate green infrastructure, mitigation strategy and layout design should be integrated into any emerging proposal to deliver a good quality development.

St Mary's church tower can be seen from most parts of the site and from a number of nearby PROW. The LVIA identifies the church tower as a key characteristic of the local landscape and refers to the retention of a "view cone" towards the tower of St Mary's Church which will seek to maintain views towards it within the site. As a response to this, the proposed layout design shows development (two storey buildings) within this "view cone. It was clear from my recent site visit that any development within the "view cone" will change the existing landscape character and its relationship with the church. This will remove the key visual connectivity affecting the site's visual experience and landscape value. It is felt that the proposed layout compromises the retention of this view which has not responded appropriately to this historic asset and its surrounding landscape.

A large proportion of planting associated with Chilton Hall is noticeable from various viewpoints across the site including views back towards the site from southeast footpaths and from south and northwest. During my recent site visit, the presence and visual influence of St Mary's Church tower in the local landscape was felt to be very strong. On review and with the benefit of undertaking a site visit the photographs from the submitted LVIA do not reflect this.

There is an informal path that runs outside the existing boundary planting (to the north and east) which is well used by the community suggesting the site is of a certain local and amenity value.

The site itself already benefits from existing vegetation which, if appropriately maintained will add to its landscape and amenity value. However, the proposed development layout backs onto this landscape feature, missing both the opportunities and benefits a natural visual amenity could provide, especially in creating a positive active frontage to the development.

The natural topography of the site area and surrounding landscape allows views of the tower of St Mary's Church together with the industrial buildings and Health Centre from public footpath to the southeast. Any new development higher than the existing buildings will dominate the skyline. New development should be designed to respond to the site topography in order to manage visibility and landscape impact. The proposed care home will clearly dominate the skyline if not designed appropriately (height, materials, massing, scale). Glimpses of the rooftop of houses along Waldingfield Road occur from public footpath 192-5. This area sits on high ground making it visible from distant views from the southeast.

In conclusion and following the site visit and review of the recently submitted information relevant to landscape, it is considered that the proposed development layout and landscape strategy fails to appropriately respond to the landscape setting of the site and the overall landscape context.

In response to the latest proposal we would consider the following are required before the application can be supported:

- 1) Local landscape character around St Mary's Church envelop should be protected from development alongside views to the Church and Chilton Hall. The proposal should seek to deliver this appropriately.
- 2) Existing informal paths and desire lines within the site should be mapped to inform the emerging proposed layout.
- 3) Boundary planting to the north and east should be protected and maintained appropriately to improve its value as a screening planting belt and create woodland habitat.
- 4) Where possible, any proposed development should front onto existing boundary vegetation to benefit from its amenity value, support its protection long term and provide some level of surveillance to existing PROW and informal routes.
- 5) Building heights should be informed by the sites context and should be no higher than existing surrounding buildings.
- 6) The sites natural topography should shape the scale, design and height of any future development. It should also inform the landscape strategy to provide appropriate mitigation.
- 7) The provision of street trees and landscaping will be critical to deliver a good quality integrated green infrastructure and provide effective landscape mitigation.
- 8) Car parking should be well integrated so that it does not dominate the street. In the interest of visual amenity, soft landscaping should be incorporated within car park areas to mitigate the harsh environments these spaces can create and break up parking spaces (for example: soft landscaping strip every three spaces or tree planting to provide height).

#### *Addendum to the LVIA*

The addendum to the submitted LVIA seeks to address concerns raised in reference to landscape character and visual amenity. The addendum also refers to changes made to the updated Indicative Masterplan ref 3898-0310 PO9. The two main changes influencing the layout are;

- a reduction in residential dwellings to 170 units along with a 60 bed care home, including the removal of 4 dwellings to the northern end of the large open space, allowing extension of the open space and greater consideration of the historic alignment and relationship between the Hall and Church.
- retention of a view cone to the tower of St Marys Church and as such the alignment of the built form now ensures that it will be visible from within the site as it is a key landmark feature within the local landscape.

On review of these changes and the updated supporting information, the northern most development parcel seems isolated between the main residential area and the existing natural green arc and woodland further north. The importance also of sustaining the visual link to St Marys Church and the opportunities to retain this visual link remains compromised, as shown on the Landscape Strategy. As a result, we still have reservations about this area of the development and although not insurmountable at this stage, we recognise that the illustrative layout will develop further to address these concerns.

#### *Illustrative Cross Sections*

The illustrative cross sections are useful tool to understand the implications of height and massing across the spread of the site. To avoid any doubt of misrepresentation, we seek clarification that the ground level contour has been sourced from the necessary topographical survey data. The sections also indicate the

need for appropriate landscaping between the site edge and Church Field Road and the parking surround the Health Centre.

#### *Landscape Strategy Plan Revision*

The updated Landscape Strategy Plan provides the landscape framework for the development. The strategy includes the visual connections to St Marys Church as well as indicative locations of play space, structural and screening planting. A consideration for a cycling strategy and active play strategy to address health and wellbeing impacts are current omissions of this work, however, at this outline stage, the information covered is deemed appropriate.

#### **Place Services - Ecology**

No objection, subject to conditions - sufficient information to consider impact on protected species relating to bats, reptiles, badgers and skylarks.

#### **BMSDCs Strategic Housing**

No objection subject to S106 agreement to secured 35% affordable housing, equating to 58.1 dwellings of which 58 dwellings on site and a commuted sum for the remaining 0.1 dwelling.

The applicant has included a 60-bedded care home for this site. It could also come forward as an Extra Care Housing scheme (also known as very Sheltered Housing) which would meet the housing needs of the district more appropriately. Suffolk County Council have advised that there is a net deficit of extra care scheme in Babergh and this site would provide a suitable location for such a scheme. ECH schemes have separate flats for occupants and there is either a tenancy or lease on the individual flats. Again, this would provide employment opportunities in the same way as the applicants Agent has detailed in the planning statement. An ECH would be use class C3 or could be Sui generis.

#### **BMSDCs Public Realm**

Note the number of concerns surrounding the biodiversity net gain associated with this development and are supportive of these concerns. From the perspective of the provision of open space then it is the opinion that the level of public open space and play provision proposed is appropriate and we would offer no objections to this development on the grounds of open space provision.

#### **BMSDCs Arboricultural Officer**

No objections subject to conditions.

#### **BMSDCs Waste Services**

No objection subject to conditions on road surfaces and bin presentation points.

#### **B: Representations**

At the time of writing this report at least 41 letters/emails/online comments have been received. It is the officer opinion that this represents 41 objections. A verbal update shall be provided as necessary.

Views are summarised below:-

- Affects ecology/ wildlife (28)
- Loss of open/green space (25)
- Harm to listed building (Chilton Hall and St Mary's Church) (21)
- Chilton Woods development nearby (21)
- Increased traffic/ highways impacts (19)
- Overdevelopment of the site (14)
- Medical centre overstretched (12)

- Do not need more housing (11)
- Strain on existing community facilities (11)
- Loss of Priority Grassland Habitat (10)
- Out of character with area (9)
- Landscape impact (8)
- Land should be preserved for future medical centre expansion (7)
- Sustainability (7)
- Trees (6)
- Landscape impact (6)
- Loss of employment land (6)
- Inappropriate within Conservation Area (6)
- Conflicts with NPPF (5)
- Inadequate public transport (5)
- Loss of Skylarks (5)
- Inadequate access (4)
- Settlement coalescence (4)
- Need hospital (4)
- Increase in pollution (4)
- Loss of outlook (4)
- Noise (4)
- Heavy car reliance (3)
- Loss of market town (3)
- No local employment (3)
- Health of trees should be managed (3)
- Conflicts with District Plan (3)
- Not reducing carbon emissions (3)
- Boundary issues (2)
- Loss of parking (2)
- Inadequate parking provisions (2)
- Dominating/ overbearing (2)
- Not enough GPs (2)
- Not an appropriate location for a care home (2)
- Inadequate consultation time (2)
- Employment land has not been properly marketed (2)
- Application lacks information
- Health and safety
- Conflicts with Neighbourhood Plan
- Increase Sudbury house prices by becoming a commuter town
- Need dentist
- Need more sheltered housing
- Unskilled jobs
- Construction noise
- Poor design
- Fear of crime
- Increase in anti-social behaviour
- Loss of privacy
- Light pollution
- Sewage works at capacity
- Relocate play area

- Health & Safety
- More open space needed on development

A 'letter of support' was received from the Applicants' new planning agent in September 2022. It has been duly considered and is published on the public planning pages of the website.

A valid petition was received signed by 162 valid signatures. The petition statement reads: 'Proposed development of 235 houses on Churchfield road, Chilton, Sudbury. I the undersigned oppose all housebuilding on this land, and call on Babergh District Council to reject any planning application, other than limited development for special health needs'

(Note: All individual representations are counted and considered. Repeated and/or additional communication from a single individual will be counted as one representation. Again, Members are directed to consider all representations received in full.)

### **C: Other Advice**

During the course of determination, officers have sought independent, external advice on matters of economic impact, noise, and heritage.

To aid Members, those relevant reports are appended but are nevertheless summarised and considered at various points in this report.

- Economic Impact – DLP Strategic Planning Research Unit (September 2020, and addenda January 2021 and June 2021)
- Noise – Sharps Acoustics (October 2022)
- Heritage – Roy Lewis MRTPI IHBC (October 2022)

In short, the economic advice received points to a failure of the application to demonstrate compliance with policy EM24. The application fails to accord with the development plan on this matter alone.

The noise advice sets out that amenity for future occupiers of the development could be adequately safeguarded. This would not stand up as a sustainable reason for refusal, subject to planning condition(s) should Members be minded to grant planning permission.

The heritage advice finds less than substantial harm to the Chilton Hall collection of assets and Church of St Mary; the former is articulated as being a considerable level of harm and the latter would not be far short of substantial. This is a very serious issue and the public benefits of the development do not outweigh that harm. The application fails to accord with the development plan on this matter alone.

### **PLANNING HISTORY**

**REF:** DC/20/01094

Outline Planning Application (some matters reserved, access to be considered) -  
Erection of up to 190 residential dwellings, purpose built care home for up to 60 bedrooms, and associated infrastructure including landscaping, public open-space,

**DECISION:** Pending consideration



car parking and means of access off Church Field Road.

<b>REF:</b> B/11/00830	Erection of a new community health centre.	<b>DECISION:</b> Granted 13.12.2011
<b>REF:</b> B/09/00932	Erection of 2 no. detached industrial buildings (Use Class B1, B2 & B8), centrally located service yard area, surface car parking, landscaping and associated works.	<b>DECISION:</b> Granted 31.01.2014, , but subsequently quashed by High Court judgement [2014] EWHC 3261 (Admin) CO/1126/2014 on 14 <sup>th</sup> October 2014.
<b>REF:</b> B/06/01298	Variation of condition 02 attached to P. P. B/05/00813/ROC - to extend the period of time for application for approval of reserved matters by 2 years to 29th July 2008.	<b>DECISION:</b> Not determined.
<b>REF:</b> B/05/00813	Variation of Conditions 01 and 02 attached to O. P. P. B/01/01747/OUT - to extend the period for application for approval of reserved matters to four years and to permit development of the community hospital to commence in advance of reserved matters being approved for the industrial/commercial development on the remainder of the site.	<b>DECISION:</b> Granted
<b>REF:</b> B/05/00589	Submission of details under O. P. P. B/01/01747/OUT - the siting, design and the external appearance of, and the landscaping of the site for the erection of industrial/commercial development - Classes B1, B2 and B8 and construction of vehicular/pedestrian access, as amended by agents supporting statement received by the Local Planning Authority on 14/04/05, and further amended by agents letter dated 16/08/05 and accompanying information/plans received by the Local Planning Authority on 22/08/05 and as amended by The Noise Impact Assessment submitted under cover of agents letter dated 13/09/05 and further amended by a Noise Impact Assessment from Acoustic Design Consultants received by the Local Planning Authority on 15/11/2005 and further amended by a Noise Impact Assessment from Acoustic Design Consultants received by the Local Planning Authority on the 2nd December 2005 and as further amended by	<b>DECISION:</b> Granted, but decision subsequently quashed)

agents email dated 18/04/06, 2 letters from the agent dated 25/04/06 and further amplified by agents letter dated 24/04/06.

<b>REF:</b> B/01/01747	Outline - Erection of community hospital (north west part of site) and erection of industrial/commercial development - Classes B1, B2 and B8 (on remainder of site) and construction of vehicular/pedestrian access (as amplified by agents letter dated 27/11/01 and revised by agents letter dated 14/12/01 and amended site plan received by the Local Planning Authority on 19/12/01)	<b>DECISION:</b> Granted, but decision subsequently quashed.
<b>REF:</b> B/98/00537	Erection of building to provide warehouse and ancillary offices and alteration to existing vehicular access as amended by plan received 16/06/98	<b>DECISION:</b> Granted
<b>REF:</b> B//97/01482	Erection of building for use as headquarters, administrative facility and training centre.	<b>DECISION:</b> Granted
<b>REF:</b> B/97/01132	Outline – erection of single storey, two storey, and three storey buildings to provide offices, training, warehousing and production facilities for the manufacture of diagnostic equipment with construction of 2 vehicular accesses to Church Field Road.	<b>DECISION:</b> Granted 10.12.1997

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

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### **1. The Site and Surroundings**

1.1 The site is located approximately 1.5km north-east of Sudbury town centre in the parish of Chilton. The site itself is located to the north of Church Field Road, and to the east of Waldingfield Road (B1115). Directly to the south-west of the site is Sudbury Community Health Centre, for which the vehicular access is located on Church Field Road. To the south of Church Field Road is employment land with a number of different commercial uses. There is a public right of way along the boundary of the east of the application site, and paths around and within the application site that are not formal public rights of way.

1.2 To the north-east of the site is the Grade II\* Chilton Hall and gardens (Grade II listed garden wall, and Grade II listed Registered Park and Garden). The Grade I Church of St Mary is also close to the east. Finally, to the west of the application site is existing residential development to the west of Waldingfield Road. The site is outside of but adjoins the built up area boundary as identified in the adopted local plan, which runs along the west side of Waldingfield Road. The site identified as a General Employment Area in the adopted local plan (policy EM02).

1.3 The land identified within the site location plan for this application currently comprises an area of around 11.6ha of undeveloped land, forming grassland and planted woodland part of which is covered by Tree Preservation Orders. The area of land to be developed in the site is 7.8 hectares. The site is

bounded by spindly woodland and vegetation along most boundaries of the site, although there are gaps most notably to the southern boundary of the site around the health centre and associated access. There are also self-set trees scattered within the site.

1.4 The site is relatively level although the land levels fall towards the east of the site i.e. the western area is of a more elevated position. The site is wholly located within Flood Zone 1, where there is a very low probability (less than 1 in 1000 annually) of fluvial - i.e. river - flooding. The site also is identified in the supporting Flood Risk Assessment submitted with the application as having a low probability of pluvial – i.e. surface water – flooding or flooding from sewers or other artificial sources.

1.5 There are no Conservation Areas covering this site or near this site. Nor is it within or adjacent to an Area of Outstanding Natural Beauty or Site of Special Scientific Interest. The site is within the risk impact zones of Sites of Special Scientific Interest, but the type and quantum of development does not require further consultation or mitigation towards these sites. The site is within approximately 2.2km of Sudbury Air Quality Management Area.

1.6 There are no designated heritage assets within the site boundary, however as described above a number of heritage assets are in proximity to the site. Principally, these include:

- Church of St Mary (Grade I) to the east of the site
- Chilton Hall (Grade II\*) to the north-east of the site
- Chilton Hall Garden Wall (Grade II) to the north-east of the site
- Chilton Hall gardens are a Grade II Registered Park and Garden

1.7 A Public Right of Way runs along the east boundary of the site, and well-established but informal paths that run from the west boundary of the site to the east, to the north of the site. There are no sites with nature designations within the site, with the closest site being Sudbury Common Lands Local Nature Reserve which is approximately 1.6km west of the application site and a number of County Wildlife Sites within 2km of the site.

1.8 The site is located in a Nitrate Vulnerable Zone. The agricultural grade of the land is not known across the whole of the site, although part of the site and land to the south-east of the site is shown to be Grade 2 on Defra's website [Magic.gov.uk](http://Magic.gov.uk).

## **2. The Proposal**

2.1. The proposed development is an outline application (all matters reserved except for access points from the public highway) for up to 166 dwellings including 35% affordable housing provision (up to 58 dwellings of the total), and a 60-bed care home, and associated infrastructure including landscaping retaining mature woodland and planting along site boundaries, maintenance of the woodland footpath within the site, public open-space, children's play space, car parking and means of access off Church Field Road.

2.2 The 60 bed care home would cover 2,500sq.m floorspace within use class C2. Information submitted with the planning application indicates that this would generate 50 full-time equivalent jobs.

2.3 Whilst all matters are reserved except for access, the applicants have provided a masterplan for the proposed development to demonstrate how this quantum of development could be accommodated within the site. Parameter plans submitted indicate the development would be two storey across the majority of the site, with indicate plans showing three storey development near the existing three storey health centre adjacent to this site.

2.4 The housing mix of the dwellings has not been indicated at this outline stage but if Members were minded to grant planning permission then conditions/obligations would ensure that an appropriate mix of housing within the open market and affordable housing types is secured at the reserved matters stage. The Applicants are under an impression that a 100% affordable housing scheme is capable of being delivered irrespective of those controls. Officers disagree and this scheme is considered on the basis that it was submitted: up to 166 dwellings, of which a fixed proportion would be 35% affordable, compliant with the policies of the development plan (plainly, the two approaches represent materially different schemes).

2.5 Development parameter plans, building heights, massing (densities), cross sections and an indicative site layout have been submitted to support the outline application. These give broad parameters for where development would be located within the site to the east and centre of the site, where open space and surface water drainage features would be located to the east of the site and broad principles such as height and density of development.

2.6 The building heights proposed would locate two storey development to the edges of the development (of up to 10.1m in height), with three storey (up to 12.8m in height) fronting onto Church Field Road (including the proposed care home) and to the rear of the existing health centre where incidentally the land level is higher. The density of the residential development is proposed to be lower towards the north of the developable area under 30 dwellings per hectare (dph), with development around 30 to 40 dph to the north-west and south-east of the developable area, and over 40 dph to the rear of the health centre and proposed care home. The overall gross density of the site when taking account of the open space is 14.3 dph.

2.7 Access points to the site include two vehicular access points from Church Field Road. The first access comprises of the existing access forming a T-junction to Sudbury Community Health Centre, and a T-junction proposed further to the east along Church Field Road. Pedestrian access to the site includes at the vehicular access points above along with an existing footpath to the west of Sudbury Community Health Centre. An existing public footpath runs along the east and north boundaries of the site between Church Field Road and Chilton Hall, connecting to the wider public footpath network. Informal, but well-established footpaths have been created through areas of woodland on the site. It is intended to retain these on site and create new connections from the developed areas to existing public footpaths.

2.8 The parameter plans indicate that the south-east part of the site would be retained as open meadowland with swales and opportunities for habitat to enhance biodiversity. The indicative masterplan reflected in the parameter plans shows how the development and landscaping have been designed to enable a sightline from the development to St Marys Church, with low level planting and wildflower drifts right across the site from west to east, with a large open meadow area to the east of the site. A landscaped community square has been proposed at the centre of the developable area, which is identified in the proposed parameter plan.

2.9 The application has been subject to amendments, with the original proposals totalling 190 dwellings, 60-bed care home, public open space, landscaping and car parking, with the same points of access as the current proposals. The application was revised to reduce the number of dwellings, provide an additional landscape buffer along the northern boundary of the site adjacent to Sudbury Community Health Centre and further ecological mitigation measures including a pond for great crested newts and an area of relocation of priority grassland within the site.

### **3. Principle of development**

3.1 The starting point for any planning decision is the development plan, as identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004. Determination of any application must be made in

accordance with the plan unless material considerations indicate otherwise. A key material consideration regarding the principle of development is the National Planning Policy Framework (NPPF) 2021.

3.2 Paragraph 7 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. At paragraph 8, this is defined as meaning that there are three overarching objectives which are interdependent and need to be pursued in mutually supportive ways: economic, social, and environmental. The NPPF goes on to state, however, that they are not criteria against which every decision can or should be judged (para. 9).

3.3 Babergh benefits from a five plus year land supply position as required by paragraph 74 of the NPPF. However, paragraph 219 of the NPPF identifies that the weight attributed to policies should be according to their degree of consistency with the NPPF. The closer the aims of the policy are to the NPPF the greater the weight that can be attributed to them.

3.4 The application has been assessed against the development plan as a whole. However, having regard to the application and nature of the development proposed, alongside the locational context and responses received through the consultation, and the key issues identified, the most important policies for the determination of the application are considered to be:

- CS1 - Applying the presumption in Favour of Sustainable Development in Babergh
- CS2 - Settlement Pattern Policy
- CS15 - Implementing Sustainable Development
- CS18 – Mix and Types of Dwellings
- EM02 - General Employment Areas - Existing and New Allocations
- EM24 - Retention of Existing Employment Sites
- CN06 - Listed Buildings - Alteration/Ext/COU
- CN14 - Historic Parks and Gardens - National

3.5 Taken in the round, these are the most important policies for the determination of this application and are up to date when viewed as a whole, although as explained below policy CS2 is afforded less than full weight.

### **Emerging Joint Local Plan**

3.6 The Babergh and Mid Suffolk Joint Local Plan ('JLP') was formally submitted to the Secretary of State for Housing, Communities and Local Government for independent examination on 31st March 2021.

3.7 Following an exploratory meeting with the examining Inspectors on 16th December 2021, it has been proposed to progress the JLP as a 'Part 1' local plan. This will be followed by the preparation and adoption of a 'Part 2' local plan as soon as possible. Main modifications on the JLP Part 1 are awaited but it has been anticipated that public consultation on those proposed modifications will be undertaken in Autumn 2022, to be followed by further hearing sessions over the Winter. The recently agreed Local Development Scheme anticipates adoption in Spring 2023.

3.8 Overall the JLP is not considered to play a determinative role in the consideration of this application at the present time. This is because, whilst of somewhat advanced preparation, a significant number of policy modifications to the Part 1 plan are required and the outcome of consultation and the Inspectors' views on those modifications are not yet known. Further policy revisions may be necessary and additional hearing sessions are likely. The Part 2 JLP is not anticipated to be ready for submission until Winter 2024. Prematurity as a reason for refusal is therefore not presently a factor in this case.

3.9 In any event, whilst on the one hand the submitted JLP proposes to deallocate the site for employment purposes, it also does not allocate it for any other use either. Thus, that consideration neither supports nor detracts from the current application and its ultimate assessment. Put another way: whilst a newly-adopted plan might remove employment safeguarding as an in-principle concern (because the site would no longer be an employment allocation), the application proposes a significant amount of housing in a location where such development would not be supported.

### **The National Planning Policy Framework**

3.10 The National Planning Policy Framework (“NPPF”) sets out the Government’s planning policies for England and how they should be applied. It is a material consideration for decision-taking purposes and can affect the weight to attach to policies of the development plan. It cannot, however, alter whether there is a conflict with the development plan nor undermine the statutory primacy that a development plan holds.

3.11 For the purposes of taking decisions, the policies of the NPPF should be considered as a whole (including its footnotes and annexes). However, the following are of particular and direct relevance to this application noting the key issues at hand:

- Paragraphs 8 and 9 (achieving sustainable development)
- Paragraphs 11 and 12 (the presumption in favour of sustainable development)
- Paragraph 38 (decision making – approve sustainable development)
- Paragraphs 48, 49 and 50 (policies in emerging plan, weight to policies and prematurity)
- Paragraph 60 (boosting supply of homes)
- Paragraph 81 (need to support economic growth)
- Paragraph 83 (specific locational requirements of different sectors)
- Paragraphs 92, 93 and 100 (healthy and safe communities)
- Paragraphs 104, 105, 110, 111, 112 and 113 (promoting sustainable transport and considering planning applications)
- Paragraphs 119 and 122 (making effective use of land)
- Paragraph 124 (achieving appropriate densities)
- Paragraph 126, 130 and 131 (achieving well-designed places)
- Paragraph 154 (meeting challenge of climate change)
- Paragraphs 167 and 169 (flood risk and sustainable drainage systems)
- Paragraphs 174 and 180 (natural environment, habitats and biodiversity)
- Paragraph 183 (ground conditions and pollution)
- Paragraph 185 (effect of pollution on health, living conditions and the natural environment)
- Paragraph 186 (air quality)
- Paragraph 187 (new development and existing businesses)
- Paragraph 188 (acceptable use of land/pollution control regimes)
- Section 16 (conserving and enhancing the historic environment)
- Paragraph 219 (Annex 1: implementation)

3.12 The NPPF is supported and complemented by the PPG. The guidance provided by the PPG is advice on procedure rather than explicit policy and is an online reference as a living document. It too is an important material consideration alongside the NPPF.

3.13 The operation known as the “tilted balance” (under paragraph 11d of the NPPF and policy CS1) engages where, inter alia, the most important policies for determining an application are out of date. This cannot apply here: there are relevant policies engaged in the determination of this application, the Council can demonstrate a deliverable housing land supply of over 5 years and a positive delivery record

when measured against the 'housing delivery test' and taken in the round the most important policies for determining the application are considered to be up to date and consistent with the NPPF.

3.14 Paragraph 219 states that existing policies should not be considered out of date simply because they were adopted prior to the 2021 iteration of the NPPF. It goes on to state that 'due weight should be given to [development plan policies], according to their degree of consistency with this Framework'.

3.15 Policies CS1, CS15, CS18, EM02, EM24, CN06, and CN14 are all considered to be consistent with the NPPF and so they should be afforded full weight.

3.16 In letters of representation, local plan policy EN04 – Semi Natural Habitats has been identified as a relevant policy to this proposed development. This policy looks to protect and retain semi-natural features on site, including rivers, streams, ponds, marshes, woodlands, hedgerows, trees, features of geological interest, and also including wildlife corridors and green wedges. This policy however was identified in Appendix 1 of the Babergh Core Strategy as being replaced by core strategy policy CS15, and Core Strategy Objectives 4, 5 and 6, and NPPF paragraph 17, 117-118 in the 2012 version (which have broadly continued through the 2021 version in the forms of paras 8, 174, 179 -180.) Policy EN04 is therefore not considered to be a policy engaged in the determination of this application.

#### **4. Assessment against CS2, CS1, CS15 and CS18 of Core Strategy**

##### **Policy CS2 Settlement Pattern Policy**

4.1 Policy CS2 identifies Sudbury (and Great Cornard) as a town/urban area. Chilton is a parish settlement that is neither a Core nor Hinterland Village but shares the settlement boundary with Sudbury and Great Cornard. Policy CS2 requires that in the countryside, outside the towns / urban areas, Core and Hinterland Villages, development will only be permitted in exceptional circumstances subject to a proven justified need. The site is outside the town / urban area and settlement boundary for Sudbury/Chilton and policy CS2 therefore applies.

4.2 Policy CS2 has previously been examined through the plan-making process as being consistent with national policy, forming part of the Core Strategy as a post-2012 NPPF development plan document. It provides a strategy for the distribution of development that is appropriate in recognising local circumstances and its overall strategy remains sound. However, in the absence of an allocations document and settlement boundaries review (which has been absent for several years but has in practice been overtaken by the preparation of the emerging Joint Local Plan) it should be afforded less than full weight.

4.3 A momentum in favour of securing development that satisfies the objectives of sustainable development, and the need for a balanced approach to decision making, are key threads to Policy CS1 and CS15 of the Core Strategy. Unlike Policy CS2, these policies are consistent with the NPPF, carry full weight and alongside other policies provide an assessment framework as it applies to the subject application.

##### **Policy CS1 Presumption in Favour of Sustainable Development**

4.4 Policy CS1 takes a positive approach to new development that seeks to secure development that improves the economic, social and environmental conditions in the Babergh district. Consistent with the NPPF it also applies the 'presumption in favour of sustainable development' which is an operation engaged as a consideration under certain circumstances.

##### **Policy CS15 Sustainable Development**

4.5 Policy CS15 sets out how the Council will seek to implement sustainable development and requires development to demonstrate the principles of sustainable development. It is a long, criteria-based policy and not every criterion is automatically engaged by a given application, dependent on the circumstances. This policy identifies the following areas for consideration, that are numbered separately for ease of reference.

## **5. Landscape and heritage**

5.1 Policy CS15 states:

*“In particular proposals should protect and where possible enhance the landscape and heritage areas including habitats and features of landscape, historic, architectural, archaeological, biological, hydrological and geological interest. Adaptation or mitigation will be required if evidence indicates there will be damaging impacts if a proposal is otherwise acceptable and granted planning permission.”*

*i) respect the landscape, landscape features, streetscape / townscape, heritage assets, important spaces and historic views;*

5.2 The NPPF emphasises as a core principle the need to proactively drive and support sustainable development to deliver homes. It states that both the intrinsic character and beauty of the countryside should be recognised and that pursuing sustainable development involves widening the choice of high quality homes. The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

5.3 Furthermore, policy CS15 of the Core Strategy requires development proposals to protect the landscape of the district. The Planning Practice Guidance advises that ‘The opportunity for high quality hard and soft landscaping design that helps to successfully integrate development into the wider environment should be carefully considered from the outset, to ensure it complements the architecture of the proposals and improves the overall quality of the townscape or landscape’.

5.4 The site lies within the landscape character type of Ancient Rolling Farmlands, which has an overall objective to retain, enhance and restore the distinctive landscape and settlement character.

5.5 The site itself due to local topography and vegetation along with existing adjacent development leads to key views being within close proximity to the site. The development would no doubt have an impact on the landscape character of the site but have little influence on the character of the wider landscape (as opposed to issues of distinct heritage nature, considered further later in this report).

5.6 The visual effects of the development would be greatest at locations directly adjacent to the site, including users of Church Field Road and the health centre. Users of the public rights of way, residents of Waldingfield Road, users of the footpaths within the site and users of Church Field Road Industrial Estate would also be key visual receptors.

5.7 In purely landscape character terms, the impact on the overall character of the site would be moderate to minor adverse at construction to minor adverse by 15 years after completion. The land use would be permanently altered by the proposed development resulting in a moderate adverse harm to the land use. The key visual receptors affected would be users of Church Field Road which would have a moderate to minor adverse effect, the users of the health centre which would have a moderate adverse reducing to minor adverse 15 years after completion, and moderate adverse effect to users of the public rights of way at construction reducing to negligible by 15 years after completion. There would be a negligible impact to the wider landscape.



5.8 Further assessments of additional viewpoints were provided by the applicant, which are views from public rights of way further east of the site, including PRow W-192 006/0, 005/0 and 008/X. The visual impact to 006 is negligible, but the visual impact to 005 and 008 is moderate adverse. These harms must be considered in the wider planning balance, but it should be noted that the harms occur in a relatively small extent of the wider landscape and the site is not within a valued landscape. Heritage matters are considered separately.

5.9 The council's Landscape Architect has provided comments to this application. Concerns have been raised relating to the views to St Mary's Church that should be protected, that Chilton Hall and St Mary's Church are key landmarks that should be suitably referenced in any proposal, the site is used by the community with informal paths and desire lines within the site and should inform the proposed layout, boundary planting to the north and east should be protected and maintained with long term management plans submitted, that building heights should be no higher than existing surrounding buildings and the site's natural topography should shape the scale of development. It is noted that the rural character of the surrounding area has been impacted by recent development, but this does not give cause to devalue the landscape further. The tower of St Mary's Church is a key characteristic of the local landscape.

5.10 Revised plans to reduce the development from the original proposal of 190 dwellings down to 166 dwellings sought to remove development from the 'view cone' of St Mary's Church from the site. The revised plans are considered to reduce the incursion into this view cone to a degree but the visual link between the site and the church is still affected. Cross sections provided have demonstrated the relationship of the proposed development with the church and existing built form.

5.11 It was also noted by the council's Landscape architect that existing informal paths and desire lines should inform the layout of development. It is difficult to insist upon this point however as the informal paths are not designated rights of way, and the applicant has indicated there is no agreed public access to the site.

5.12 Other matters such as site layout to ensure the final development responds well to the existing landscaping, e.g. the woodland belt to the north and north-west of the site, provision of landscaping within development and integration of car parking into good design can be determined at the reserved matters stage.

5.13 The council's Landscape Architect raises concerns and reservations at the outline stage, but concludes that these are no insurmountable and the illustrative layout will develop further to address the concerns. Further work to the illustrative layout, appropriate landscaping between the site edge and Church Field Road and the parking area surrounding the Health Centre, cycling strategy and active play strategy all require further consideration at the reserved matters stage. If Members were minded to grant planning permission then conditions would be recommended relating to a landscaping scheme, revised landscaping strategy and landscape management plan.

5.14 In conclusion to landscape considerations, as a worst-case scenario the application development is likely to pose a moderate adverse effect to the land use and a minor adverse effect to the character of the site by 15 years after completion. The land use would be permanently altered by the proposed development resulting in a moderate adverse harm to the land use. There would be moderate adverse impacts from some viewpoints, but such effect is likely to be limited and relatively localised to the site and its immediate surroundings. As a matter of judgement, the application is therefore considered to accord with this discrete element of policy CS15. This is because officers are satisfied that the local landscape characteristics and features have been dealt with appropriately, or there is sufficient comfort that matters can be adequately addressed through reserved matters and conditions. It is important to re-state that whilst there is no landscape objection to the application, this does not mean that there is no issue as

pertaining to the land as it falls within the setting of designated heritage assets. That matter is dealt with later in this report.

### *Agricultural Land Classification*

5.15 The site is currently undeveloped land but designated for employment use. The Best and Most Versatile (BMV) agricultural land is sought to be retained under paragraph 174 and 175 of the NPPF. An assessment has not been submitted to identify the agricultural grade of this land, and does not appear to have been in agricultural use in recent years. The site is under 20ha in size and so there is no requirement to consult Natural England on these proposals in this regard. It is not known whether the site forms BMV land and is a potential harm of the scheme. However, this land is designated for employment use which establishes the principle of the loss of this land from agricultural use to a degree. But given the small scale of the loss, even if the site comprised all Best and Most Versatile land and when taken cumulatively with other consented schemes in the locality, would be minimal to the wider agricultural land available and so would not be sufficient to merit a reason for refusal for this development.

### *Trees*

5.16 A supporting Arboricultural Impact Assessment has been submitted with the application. The council's Arboricultural Officer has reviewed this report and has no objections subject to conditions. The proposals entail the following works or removal of trees on the site:

- Group G5 – trees to the north-west of the site, forming category C trees.
- G3 - trees along eastern section of site closest to the proposed development, as a group representing category B trees.
- G4 – removal of trees to the edge of group forming category B trees.
- G2 – removed to accommodate eastern proposed access road on southern boundary of site

5.17 Groups G3 and G3 are part of wider group of trees which are subject to a Tree Preservation Order (BT375 W1). The removal of trees from G3 and G4 would be minimal to the overall group of trees. The loss of trees to enable the access in G2 and removal of self-sown trees in G5 is regrettable, but must be balanced against the proposed tree planting within the application.

5.18 All trees proposed to be removed within the site are of lower quality. The layout ensures the retention of the significant body of trees within the site. If Members are minded to grant planning permission contrary to officer recommendation, then conditions are recommended to require a detailed arboricultural method statement and tree protection plan as part of future development.

5.19 Landscaping is proposed to be strengthened and increased as shown in the illustrative plans. An appropriate landscaping scheme could be secured through condition to ensure a high standard of landscaping is provided, as required by local plan policy CR07, and it is not considered any hedges of amenity or landscape significance would be adversely affected by the small extent of removal proposed and suitable replacement planting more than mitigates the impact of the hedges removed. Policy CR08 is therefore considered to be complied with. Conditions would be recommended in the event of an approval, including a landscape management plan, landscaping strategy as detailed above in the Landscape section of this report, further details of soft and hard landscaping details, adherence to the arboricultural method statement and tree protection plan. The balance of this moderate adverse harm is considered further in the planning balance/conclusion to this report where it is accepted that the harm identified would not be sufficient in its own right to direct that permission should be refused; hence, whilst falling on the adverse side of the balance it does not form a reason for refusal in its own right.

## *Heritage*

5.20 The site is not located in or near a conservation area, but there are a number of listed buildings and heritage assets near the site and potential for archaeological interest on the site. There are a number of listed buildings in the vicinity of the application site as noted above, but the heritage assets materially impacted by the proposals are the Church of St Mary Grade I listed building and Chilton Hall Grade II\* listed building. The walled garden at Chilton Hall is also Grade II listed and a Grade II Registered Park and Garden.

5.21 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the listed buildings Act") states: "in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority ... shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses" i.e. having special regard to the desirability of keeping designated assets from harm.

5.22 Members are now well-versed in understanding that such a principle is a matter of considerable importance and weight, and that where harm is identified there is an inherent strong presumption that planning permission should be refused.

5.23 The development plan policies directly applicable to this application in heritage terms are policies CN06, CN14 and CS15. They are among the most important for the determination of this application, where they specifically reference the historic environment.

5.24 Policy CN06, among other things, applies to new development within the setting of a listed building. It is engaged because the development is within the setting of Chilton Hall and garden wall, and the Church of St Mary. Policy CN06 requires that relevant development should be *'of an appropriate scale, form, siting and detailed design to harmonise with the existing building and its setting'* and *'respect those features which contribute positively to the setting of a listed building including space, views from and to the building and historic layout'*.

5.25 Policy CN14 also identifies *'Development in or adjacent to parks and gardens of historic of landscape significance (listed in the National Register of statutorily protected historic parks and gardens) which would lead to the erosion of their character, appearance or setting will be refused'*.

5.26 As already noted, policy CS15 is a long, criteria-based policy but the criteria i. and ii. are directly engaged, stating that development should:

- "i. respect the landscape, landscape features, streetscape / townscape, heritage assets, important spaces and historic views.*
- ii. make a positive contribution to the local character, shape and scale of the area."*

5.27 Policy CS15 goes on to state that:

*'Proposals for development must ensure adequate protection, enhancement, compensation and / or mitigation, as appropriate are given to distinctive local features which characterise the landscape and heritage assets of Babergh's built and natural environment within designated sites covered by statutory legislation, such as AONBs, Conservation Areas, etc. and local designations such as Special Landscape Areas and County Wildlife Sites, and also local features and habitats that fall outside these identified areas. In particular proposals should protect and where possible enhance the landscape and heritage areas including habitats and features of landscape, historic, architectural, archaeological, biological, hydrological and geological interest.'*

5.28 The NPPF of 2021 contains the planning policies pertinent to the historic environment under Section 16, *'Conserving and enhancing the historic environment'*, with relevant definitions provided within its Glossary.

5.29 The NPPF defines "heritage assets" (of which listed buildings and conservation areas are designated heritage assets under the listed buildings Act) as being:

*'A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including local listing).'*

5.30 "Significance" is defined by the NPPF as:

*'The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. For World Heritage Sites, the cultural value described within each site's Statement of Outstanding Universal Value forms part of its significance.'*

5.31 "Setting" is defined as:

*'The surroundings in which a heritage asset is experienced. Its 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.'*

5.32 Within section 16 of the NPPF, paragraph 194 states that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance.

5.33 Paragraph 194 of the NPPF states that, when determining applications, local planning authorities should require applicants to proportionately describe the significance of the heritage assets affected and any contribution made by their setting. Whilst the onus is therefore placed upon an applicant to satisfy that requirement, it is no less useful within the context of this committee report.

5.34 Paragraph 195 is relevant to decision-taking and states:

*'Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.'*

5.35 Paragraph 199 transposes the requirements of the listed buildings Act and states that when considering the impact of a proposed development upon the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). The great weight should be given irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

5.36 Paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

5.37 Paragraphs 201 and 202 address the balancing of harm against public benefits, whether that be “less than substantial harm” (para. 202) or “substantial harm” (para. 201). As will be made clear it is only the paragraph 202 test that applies to this application.

5.38 Paragraph 202 states:

*‘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...’*

5.39 Policies CN06 and CN14 do not explicitly import a balance for resolving heritage conflicts in the manner of NPPF paragraph 202. To that extent it might be said that they are inconsistent with national planning policy and should be afforded less than full weight as result (noting NPPF para. 219). Officers disagree. Firstly, they are entirely consistent with NPPF paras. 199 and 200. Secondly, and in that respect, they are consistent with the duties laid out within the listed buildings Act which have the force of statute: the Council cannot choose to afford such duties limited weight, as a matter of law they must be followed. Thirdly, it is considered inherent within the policies that there must be a means to resolve heritage conflicts as otherwise it would not be possible to find development acceptable in circumstances where harm was unavoidable; as ever, a planning balance is required though noting the considerable importance to be attached to the finding of any heritage harm identified.

5.40 Regardless, in light of the clear and methodical bundle of policies set out within the NPPF, Members are directed to work through them as set out above. This is because, if properly applied, Members can be satisfied that they will have adhered to national planning policy, satisfied their statutory duties, and thus will have also complied with the policies of the development plan (which embrace those duties).

5.41 Having regard to the statutory duties imposed by the listed buildings Act, any harm found when assessing this application requires compelling justification and sets a strong presumption that the application should be refused. Nevertheless, it is considered useful to identify and articulate where on a spectrum such harm would lie bearing in mind the relationship between less than substantial and substantial harm and the different requirements for decision taking depending on which policy paragraph is engaged; not least because, as will be summarised, the breadth of expert heritage opinions submitted in support of, and against, this application. Moreover, it will assist with the exercise to be undertaken in accordance with NPPF paragraph 202 and the final s38(6) planning balance. The greater the harm, the greater the force of the presumption against granting permission. The notion of articulating where on a spectrum harm would lie is also supported in the PPG.

#### Guidance – National Planning Practice Guidance

5.42 Where the NPPF does not define “substantial harm”, the PPG provides assistance and is current Government guidance. Officers afford it great weight. It makes clear that where harm is identified:

*‘...it needs to be categorised as either less than substantial harm or substantial harm (which includes total loss) in order to identify which policies in the [NPPF] apply’*

5.43 In respect of substantial harm, within the same paragraph the PPG states:

*‘In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset’s significance rather than the*

*scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting.*

*While the impact of total destruction is obvious, partial destruction is likely to have a considerable impact but, depending on the circumstances, it may still be less than substantial harm or conceivably not harmful at all, for example, when removing later additions to historic buildings where those additions are inappropriate and harm the buildings' significance. Similarly, works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all. However, even minor works have the potential to cause substantial harm, depending on the nature of their impact on the asset and its setting.'*

5.44 The courts have also defined "substantial harm" as "*an impact which would have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced.*" Having regard to that guidance and case law, it is therefore important to emphasise that substantial harm is characterised as an impact which would have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced. For example in relation to works affecting a listed building, it is important to consider whether the adverse impact seriously affects a key element of the significance of the asset.

5.45 The PPG also provides further advice in respect of the meaning of "significance" i.e., the value of a heritage asset because of its heritage interest. The NPPF definition further states that in the planning context heritage interest may be archaeological, architectural, artistic or historic. The PPG expands upon those heritage interests with guiding definitions as follows:

*- 'archaeological interest: As defined in the Glossary to the National Planning Policy Framework, there will be archaeological interest in a heritage asset if it holds, or potentially holds, evidence of past human activity worthy of expert investigation at some point.*

*- architectural and artistic interest: These are interests in the design and general aesthetics of a place. They can arise from conscious design or fortuitously from the way the heritage asset has evolved. More specifically, architectural interest is an interest in the art or science of the design, construction, craftsmanship and decoration of buildings and structures of all types. Artistic interest is an interest in other human creative skill, like sculpture.*

*- historic interest: An interest in past lives and events (including pre-historic). Heritage assets can illustrate or be associated with them. Heritage assets with historic interest not only provide a material record of our nation's history, but can also provide meaning for communities derived from their collective experience of a place and can symbolise wider values such as faith and cultural identity.'*

#### Guidance – Historic England

5.46 The document *Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment* (2008) predates the current policy framework applicable to this application and a revised version remains outstanding following consultation in 2017 and 2018. Its aims and objectives do, however, remain extant and it is helpful to recognise significance as falling within four, distinct categories of value: evidential, historical, aesthetic, and communal. It also defines "harm" as being: '*Change for the worse, here primarily referring to the effect of inappropriate interventions on the heritage values of a place.*'

5.47 Since 2008, Historic England has produced a number of Good Practice Advice Notes ("GPA"), including:

- GPA2, Managing Significance in Decision-Taking in the Historic Environment (2015); and
- GPA3, The Setting of Heritage Assets (2nd Edition, 2017).

5.48 GPA2 makes clear that the first step for the preparation or determination of any application affecting heritage is to understand the significance of any affected heritage asset and the contribution of its setting to its significance. It also advises that:

*'Change to heritage assets is inevitable but it is only harmful when significance is damaged. The nature and importance of the significance that is affected will dictate the proportionate response to assessing that change, its justification, mitigation and any recording which may be needed if it is to go ahead.'*

5.49 It is therefore clear that the identification of change within a heritage asset's setting must not be confused with harm to that asset; thus, impact as opposed to effect. Instead, the question which should be asked is whether the change (the impact) would result in a diminution – or indeed enhancement – of its significance as a heritage asset (the effect).

5.50 GPA3 is relevant because the development in this case impacts upon the setting of adjacent heritage assets which are Grade II\* and Grade I listed buildings. The guidance within GPA3 is consistent with the NPPF and the two documents share the definition of "setting". GPA3 also emphasises that "setting" is not a heritage asset, nor a heritage designation. Its importance lies in what it contributes to the significance of the heritage asset. It therefore follows that one cannot harm a setting; rather, inappropriate development might alter the setting of an asset such that its significance is affected.

5.51 Within this section officers provide an assessment as to the impacts and resultant effects of the proposed development upon the heritage assets identified: the Church of St Mary, Chilton Hall, Chilton Hall garden wall and Chilton Hall gardens. That assessment has been prepared having regard to the policy and guidance framework set out above.

### Assessment

5.52 Having regard to the various expert opinions expressed, it is apparent that the task to be exercised by Members, in reaching a judgement on heritage impacts, is not clear cut. However, it is considered that the general consensus is that the development would be harmful to the significance of the listed buildings Chilton Hall, Chilton Hall garden wall, Chilton Hall gardens and St Mary's Church.

5.53 The level of harm attributed to the significance ranges from no harm (applicant), to less than substantial harm at the lower to medium level (Heritage Officer), less than substantial harm at the higher end (Historic England and other heritage bodies) and substantial harm (Chilton Parish Council and neighbouring resident). Although arguably some consultants have 'skin in the game', no opinion has been approached with a view to seeing it as being more or less important than any other. That said, it is recognised that the views of statutory consultees are particularly important and should be afforded great weight.

5.54 To assist Members, and officers in the drafting of this report, an independent external review has been sought. Members are directed to read the full content of that review appended to this report (Roy Lewis MRTPI IHBC, October 2022) and reach their own conclusions. However, having considered matters very carefully and paying attention to all the representations and opinions received, officers accept the external review as being robust and the preferred position for the determination of this application (which itself finds the opinion of Historic England to be most reliable). The final conclusions of that review are copied below:

*“5.12 In relation to the degree of less than substantial harm, I consider the conclusions of HE and HB&P that the proposal would result in a considerable amount of less than substantial harm to be the most reliable. These assessments do not differentiate the assets. As Chilton Hall, its listed walled garden and its registered park and garden are heavily inter-related, I consider it reasonable to conclude that the impact on all three assets would be the same. However, the Church of St Mary is located a considerable distance from the Hall and its setting has suffered a much greater adverse impact as a result of the industrial development that has taken place in recent decades to the immediate south. In my view, the cumulative impact of the proposed development together with the existing industrial development would be greater than the impact on Chilton Hall and its grounds. The adverse impact on the Church would be reinforced by the loss of views towards the grade I listed building across its open setting from the higher level western parts of the application site. Consequently, I consider that the level of harm to the significance of the Church of St Mary would be greater than that assessed for Chilton Hall and its grounds. In my view the level of harm to the significance of the Church would be not far short of substantial.*

*5.13 In summary, I consider that the proposed development would cause a considerable amount of less than substantial harm to the significance of the grade II\* listed Chilton Hall, its grade II listed garden wall, and its grade II registered park and garden, and a level of less than substantial harm to the significance of the grade I listed Church of St Mary not far short of substantial.*

*5.14 It should be noted that all harm, whether substantial or less than substantial should be afforded considerable importance and weight in the planning decision (see Barnwell Manor [2014] EWCA Civ 137 (26) and (28-29) and Jones v. Mordue and others [2015] EWCA Civ 1243 at (28)).”*

5.55 It is officers’ opinion that the level of harm identified to the various assets is within the range of ‘less than substantial’, though clearly at a very high and serious level as articulated by Mr Lewis.

5.56 For the avoidance of doubt, any harm requires clear and convincing justification and great weight should be given to the conservation of a heritage asset (and the more important the asset, the greater the weight should be). The assets in play in this case are very important and include both Grade II\* and Grade I assets among others.

5.57 There is a strong presumption that planning permission will be refused. It is a rebuttable presumption but there must be compelling countervailing considerations which provide clear and convincing justification for the development proposed.

5.58 Where less than substantial harm has been found, NPPF para. 202 requires that harm to be weighed against the public benefits of the proposal. The PPG defines public benefits as:

*‘Public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives as described in the National Planning Policy Framework (para. 8). Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits, for example, works to a listed private dwelling which secure its future as a designated heritage asset could be a public benefit.’*



5.59 With that in mind, it is necessary to address those benefits and they are set out as follows:

- Housing – of itself this relates to a basic need and poses inherent social, and economic (through construction and occupation) benefits.
- Provision of affordable housing – again provides inherent social benefits
- Care home – social benefits for future residents and economic benefits through employment of staff, and contributing towards meeting an unmet need.
- Open space – that would formalise the provision of public open space and the formalisation of an existing informal footpath to a PRoW, whereas at present the provision within the site is informal and not secured in perpetuity for public use.
- Biodiversity net gain – an improvement on the existing biodiversity value of the site

5.60 The above benefits, particularly in relation to specialist accommodation providing care, are of some notable significance when viewed in the round. That said, the benefit of general housing must be viewed in the context of the healthy land supply position that the Council is able to demonstrate (and strong delivery record).

5.61 In the interests of transparency further benefits would accrue through the New Homes Bonus and collection of Council Tax payments. While such considerations are inherently positive they are afforded no material weight in this decision; the PPG is clear that it is not appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body. The development would also generate a return in terms of CIL receipts for the market dwellings provided. The primary purpose of the CIL is to mitigate the impact of new development and is not considered to be a benefit of the scheme.

5.62 In respect of the balance set out under NPPF para. 202 it is not clear if the harm identified in respect of all identified heritage assets should be treated as independent balancing exercises between the assets harmed, or together i.e. as a cumulation of heritage harms; it is assumed from the language of the policy that each asset must be treated in turn. For sake of prudence, however, the para. 202 test has been considered all ways but the outcome nevertheless remains the same each time: the public benefits do not come close to outweighing the harm that has been identified to heritage assets including those which are highly graded.

#### Conclusion – Heritage

5.63 The proposed development would cause a considerable amount of less than substantial harm to the significance of the grade II\* listed Chilton Hall, its grade II listed garden wall, and its grade II registered park and garden, and a level of less than substantial harm to the significance of the grade I listed Church of St Mary not far short of substantial.

5.64 The finding of harm attracts great weight, or considerable importance and weight, in any balancing exercise. There is a strong presumption against planning permission being granted, especially where assets of particular importance are involved.

5.65 In accordance with NPPF para. 202 the harm identified has been weighed against the public benefits posed. When viewed in totality the public benefits are of some significance but do not come close to outweighing the considerably high levels of harm that have been identified, whether that harm is taken individually by asset or cumulatively.

5.66 Consequently, the policies of the NPPF direct that permission should be refused, and the application also conflicts with development plan policies CN06, CN14<sup>1</sup>, and CS15 such that it fails to accord with the development plan as a whole for this reason alone.

### *Archaeology*

5.67 A desk based archaeological assessment has been submitted with the application, which identifies the site has potential for archaeological deposits from late prehistoric, a Bronze Age and Iron Age settlement, and medieval activity across the site, but particularly to the south-east of the site. There is considered to be high potential for below-ground heritage assets of archaeological importance. However there are no grounds to consider refusal in order to achieve preservation in-situ of any important heritage assets. Whilst part of the site has been subject to previous archaeological investigation there are some areas that have not been investigated. Whilst the comments of the Council of British Archaeology are noted, Suffolk Archaeology Service raise no objection to the scheme subject to appropriate conditions. If minded to approve this application, a condition would be recommended to record and advance understanding of the significance of any heritage assets before it is potentially damaged or destroyed, to be in accordance with paragraph 194 and 205 of the NPPF. This again would ensure that no harm is caused to archaeological assets.

## **6. Design, Open Space and Green Infrastructure**

*ii) make a positive contribution to the local character, shape and scale of the area;*

*ix) make provision for open space, amenity, leisure and play through providing, enhancing and contributing to the green infrastructure of the district;*

*x) create green spaces and / or extend existing green infrastructure to provide opportunities for exercise and access to shady outdoor space within new developments, and increase the connectivity of habitats and the enhancement of biodiversity, and mitigate some of the impacts of climate change e.g. enhancement of natural cooling and reduction in the heat island effect, provision of pollution sequestration for the absorption of greenhouse gases, and through the design and incorporation of flood water storage areas, sustainable drainage systems (SUDs);*

6.1 Local plan policies CN01 on design and CN04 on designing out crime are also key considerations albeit the application effectively remains in outline form except for access. The character and layout of the proposed development is indicatively shown in plans supporting the application. The proposed development has been designed around the landscaped green open spaces and woodland. It is proposed the south-east corner of the site would be retained as open meadowland with swales for surface water runoff and provide further opportunity for wildlife habitat. The proposed development seeks to provide spacious and attractive street scenes with sufficient space for street trees and pedestrian and cycle routes. The resulting indicative layout shows development set back from Waldingfield Road and from the existing landscaping to the north of the site, with lower density towards the north and east of the site. The proposals attempt to address the setting of the heritage assets, but for the reasons assessed by Mr Lewis officers do not consider that it would be possible to 'design away' the harm identified because it runs to the principle of the development proposed on the site.

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<sup>1</sup> Whether policy CN15 is engaged or not is of no material difference to the outcome of this application bearing in mind policy CN14 expressly deals with nationally protected historic parks and gardens, and CN15 deals with locally listed/important sites, in exactly the same way.

6.2 Sight lines of St Mary's Church from inside the site have sought to inform the indicative layout of roads and public space as considered earlier in the Landscape section of this report. Those steps are positive, at least in strict design terms, but one's overall experience of the heritage setting, and significance of affected assets would be irrevocably transformed. Open space within the site and low level planting and wildflower drifts would enable views from the west to the east. A landscaped community square is proposed at the centre of the development to provide a focal point for the development, and a safe open space away from roads within the development.

6.3 The revised scheme does lead to an area of development to the north of the site that appears somewhat detached from the remainder of the development, however the reserved matters stage could finalise the layout of any development at which time an appropriate design solution could be found within any agreed parameter plan.

6.4 A variety of house types and sizes have been suggested in the indicative mix including single storey bungalows, and higher three storey development adjacent to the existing health centre which is of similar scale. A maximum of two storey development would be sited around the edges of the site. The indicative density of the scheme is shown to be greater than 40 dph near the existing health centre, 30-40 dph towards the east and north-west of the site, and less than 30 dph along the north-east boundary adjacent to the existing woodland. The average density across the residential area proposed would be 27 dwellings per hectare. Materials have indicatively been identified as brick, render and Suffolk pantiles but all would be secured at the reserved matters stage.

6.5 It has been questioned why the proposed three storey care home cannot be provided to the rear of the existing health centre, on land owned by the NHS. Whilst the land ownership is not a material planning consideration, the design impacts are a consideration. The siting of the care home in this location would lead to a large building and mass of development that would be significantly higher and greater in bulk than the surrounding development. It would stand out visually whereas the current proposed location would be nearer existing larger scale development on Church Field Road.

6.6 The height of the care home has also been questioned. It is understood that future potential operators have expressed a preference for a three storey building rather than a two storey building over a larger footprint, with 60 beds being a required quantum of places to operate a care home. The position of the care home on the site has also been questioned with future operators apparently expressing a view to the applicants that a presence on Church Field Road was preferred. Officers do not consider that its overall siting makes a significant amount of difference in determination of the application; a smaller scale, and siting behind the health centre would not overcome the heritage harm identified, for instance.

6.7 Consideration has been given to the provisions of Section 17 of the Crime and Disorder Act, 1998, in the assessment of this application but the proposal does not raise any significant issues. The NPPF, at Paragraphs 92 and 130, states that developments should be "safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion". In accordance with the preceding section addressing Design there is no reason to consider that the scheme could not be presented acceptably at the Reserved Matters stage so as to meet those policy requirements relating to crime and safety.

6.8 Open space and public rights of way have been provided and enhanced through the parameter plan provided with the application. The development seeks to provide a mix of dwellings of one, two and three storeys, and at the reserved matters stage can seek to ensure affordable housing would be well integrated into the development. Detailed matters of design would be considered at the reserved matters stage, but sufficient information has been provided in the indicative site layout and parameter plans to ensure the proposals can lead to a high quality development and compliant with policies CN01 and CN04 (notwithstanding the heritage harms identified).

6.9 Policy CS14 requires green infrastructure to be a key consideration and central to the character and layout of development. *“All new development will make provision for high quality, multi-functional green infrastructure appropriate to the scale and nature of the proposal. Particular consideration will be given to ensuring new provision establishes links with existing green infrastructure, providing a well-connected network of green infrastructure in urban and rural areas.”*

6.10 The open space proposed on site would provide a sufficient level of open space as required by local plan policy HS31 Public Open Space and a play area, which would be secured through a Section 106 agreement. The applicant has confirmed that 1.1ha would be public open space, which exceeds the requirement of 10% of the gross site area. The application also take opportunities of formalising existing informal paths that provide wider connections to the public rights of way network, which is explored further below in the Highways section to this report. Matters relating to surface water are considered further in the Flooding and Surface Water section to this report.

## **7. Economy and employment**

*iii) protect or create jobs and sites to strengthen or diversify the local economy particularly through the potential for new employment in higher skilled occupations to help to reduce the level of out-commuting, and raise workforce skills and incomes;*

7.1 The development of 166 dwellings and care home would create short term employment opportunities during construction, and longer term employment opportunities through the care home. The future residents of the dwellings would also support local services in the town.

7.2 A key issue for consideration for the proposed development is the current designation of the site in employment use, under local plan policy EM02, and the loss of this designated employment land.

7.3 The proposal for residential development and care home would lead to a loss of employment land. Whilst the care home would provide an element of employment, it is only part of the proposed development and can be argued to be more residential in nature than employment generating. It is therefore reasonable to state that the proposed development would lead to a loss of designated employment land.

7.4 The current local plan policy EM24 seeks to only allow the development of existing or vacant employment land for non-employment policies if either sub-sections 1 or 2 of the policy below are met:

*Planning applications to redevelop or use existing or vacant employment land, sites and premises for non-employment purposes, will only be permitted if the applicant can demonstrate that their retention for an appropriate employment use has been fully explored. This may be undertaken in one of the two following ways:*

- 1. by an agreed and sustained marketing campaign, undertaken at a realistic asking price; or*
- 2. where agreed in advance, the applicant can demonstrate that the land, site or premises are inherently unsuitable or not viable for all forms of employment related use.*

7.5 The compliance with this policy is explored further below.

### **Material considerations**

7.6 The NPPF also provides material considerations relevant to this application. Paragraph 81 identifies that significant weight should be given to the need to support economic growth:

*“Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation<sup>42</sup>, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.”*

7.7 Paragraph 81 relates to planning policies, but is relevant when considering the degree of consistency of EM24 with the NPPF. This identifies:

*“Planning policies should:*

- a) set out a clear economic vision and strategy which positively and proactively encourages sustainable economic growth, having regard to Local Industrial Strategies and other local policies for economic development and regeneration;*
- b) set criteria, or identify strategic sites, for local and inward investment to match the strategy and to meet anticipated needs over the plan period;*
- c) seek to address potential barriers to investment, such as inadequate infrastructure, services or housing, or a poor environment; and*
- d) be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices (such as live-work accommodation), and to enable a rapid response to changes in economic circumstances.”*

7.8 Paragraph 83 goes on to consider specific locational requirements of different sectors:

*“Planning policies and decisions should recognise and address the specific locational requirements of different sectors. This includes making provision for clusters or networks of knowledge and data-driven, creative or high technology industries; and for storage and distribution operations at a variety of scales and in suitably accessible locations.”*

7.9 Paragraph 122 requires consideration to be given to changes in demand for land and need for regular review of land:

*“Planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:*

- a) it should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped); and*
- b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.”*

*Justification submitted with planning application*

7.10 In terms of policy EM24, the applicants have chosen to try and address limb ii) of the above policy. The applicant has not submitted any evidence relating of a marketing campaign as identified under the first limb of this policy. The second limb of this policy requires the applicant to demonstrate that the land is inherently unsuitable or not viable for all forms of employment related use.

7.11 The applicant has submitted two reports to demonstrate that the site is not suitable or viable for employment. In turn the council has sought independent expert advice on these reports to assess the proposals against EM24.

7.12 A report was also separately commissioned by Babergh and Mid Suffolk Economic Development Officers with Menta titled Economic and Employment Study for Development at Church Field Road, Sudbury (March 2020).

7.13 A summary of these reports is provided below;

Employment Land Report - Fenn Wright October 2019 (obo applicants)

7.14 This report concludes that the site is inherently unsuitable and not viable for B class uses for the following key reasons:

- Modern requirements of occupiers, and site not being capable of meeting their demands
- Site constraints, including topography and proximity to heritage assets limiting the potential scale, type and location of employment development
- Greater supply of commercial land than required
- Low demand for employment space coupled with low rents and capital values making the site unviable
- Demand for office accommodation poor with high vacancy rates.

7.15 The report refers to the then position of the JLP in proposing to deallocate the land and supporting evidence documents, concluding that the site is not suitable for B class employment uses or viable. It identifies that the proposals would provide some employment, but that it would fall outside of B class uses. The report also identifies that identifying non-B class uses (i.e. care home) is fully compliant with paragraph 120 (now paragraph 122 of the NPPF 2021).

Economic and Employment Study for Development at Church Field Road – Menta (2020)

7.16 The overall finding of this report is that there is demand for smaller employment units (1,000sq.ft to 3,000 sq. ft.), with a number of businesses occupying several sites as they have grown and wanting to stay in the area. It goes on to note that developments are coming forward, but they are hindered by build costs versus the return on the investment, and the cost of infrastructure requirements. It considers that working with the local authority or the Local Enterprise Partnership to assist with the high upfront costs, such as accessing loans such as the New Anglia LEP Growing Business Loans. Alternatively a mix of residential along the B1115 and remainder of the site being developed for employment could help funds for the initial infrastructure needs.

7.17 The report goes on to identify there is a local pent up demand, with questionnaires sent to businesses identifying a desire to grow, but barriers include a lack of finance and lack of availability (of sites/premises). It is considered that an established industrial area that is vibrant creates a connected and ambitious business community.

7.18 It considers that the additional traffic movements from employment use on the land would not have an adverse impact on the wider road network, but any housing on this site would likely have a poor standard of amenity.

7.19 The existing mix of businesses on the estate identifies the contribution the existing area makes to the local economy. The lack of supply of premises in the Sudbury area, in particular the Chilton Industrial Estate means that speculative development is expected to be well received. It is noted there are

challenges around build costs and infrastructure, but other developments in Suffolk have shown that these issues can be overcome.

7.20 It concludes the site is very suitable for employment and there is strong demand for commercial space in this location. It considered the strong demand would result in a speculative development coming forward, particularly if the development focussed on small industrial units for mixed use.

Review of Employment Land Need and Viability – DLP/Strategic Planning Research Unit (SPRU) September 2020

7.21 To review the above submitted Employment Land Report, the Council instructed DLP/SPRU to review the submitted information and provide an independent appraisal of the evidence relating to the site-specific issues of employment land need, suitability and viability.

7.22 The overall conclusion of this report was that the Fenn Wright report (2019) did not provide clear advice that the site was not suitable for each employment use (B1, B2 and/or B8) or a detailed site-specific viability assessment, in particular B1 office use as either all office or a mixed use development. The report raises the issue of low rents/sales values, restriction on the size of units due to site constraints and high infrastructure and construction costs, along with the oversupply of available commercial land reflected in the JLP evidence base. Available alternative sites are referred to, although the suitability of those sites in comparison with Church Field Road is not assessed.

7.23 It also noted that the Menta report (2020) did not provide any explicit conclusions on the suitability of the site for B class or other uses, and no detailed costed site-specific viability assessment if provided. No evidence of planned units or units under development, or quantitative evidence of current floorspace demands is provided, with no alternative, suitable sites identified.

7.24 In conclusion, the report identifies that there is insufficient information to demonstrate that the site is inherently unsuitable for all forms of employment related uses, and that no site-specific viability is provided.

Review of Employment Land Need and Viability Addendum Report - DLP/SPRU (January 2021)

7.25 Fenn Wright produced a viability assessment to respond to the above report, which initially was submitted on an informal basis. This report was later incorporated into the wider report submitted on the application by Fenn Wright dated February 2021, which is detailed further below.

7.26 The comments DLP made to this initial report were that in the respect of the demand and availability of suitable alternative sites, the addendum still did not provide a quantitative comparison of existing employment floorspace demand versus supply. Also based on the viability information submitted, the DLP report identifies the scheme is viable for delivering either B2/B8 uses or serviced employment land.

Addendum to Employment and Land Viability Report – Made in response to comments from DLP 01/21 - Fenn Wright (February 2021, obo applicants)

7.27 Contest findings of DLP report dated January 2021, and note specific issues with the site and that the need for employment in Sudbury and the entire district for the next 20 years would be met through the mixed use development permitted at Chilton Woods including 15 hectares of unconstrained employment land. Fenn Wright also consider that incorrect information has been relied upon when reaching a conclusion on viability, giving the wrong impression that the site is viable. It considered that DLP (and by inference Rider Levett Bucknall RLB who assisted DLP in producing their report) had erred in their approach to understanding both developer profit and interest calculations, and had no regard for

timeframes to sell serviced plots. It concludes that the site is not suitable or viable for either entirely employment or a mixed use site.

Review of Addendum to Employment Land and Viability Report by Fenn Wright 02/21 – by DLP (June 2021)

7.28 The final report on this matter by DLP continued to state the position that the applicants had not demonstrated the site was inherently unsuitable, and that it was viable for employment uses. The irregular shape of the site and proximity to residential uses were not considered sufficient to render the site unsuitable for all employment uses. The demand for employment sites and consideration of alternatives has not been sufficiently demonstrated.

Conclusion of employment

7.29 There remains a conflict with policy EM24, as it has not been adequately demonstrated that the site is not suitable or viable for employment uses. There is a conflict with this local plan policy. It is important however under para 219 of the NPPF to consider the weight that can be attached to this policy in terms with its consistency with the NPPF.

7.30 The NPPF references the importance of economic growth in para 81, with significant weight needing to be placed on the need to support economic growth. Para 81 goes on however to direct planning policies to be flexible and enable a rapid response to economic circumstances. Para 122 also identifies that planning policies and decisions should reflect changes in the demand for land, informed by regular reviews through development in plans. It goes on to note where there is no reasonable prospect of land coming forward for the allocated use a plan should be updated to reflect updated needs and in the interim planning decisions allowing alternative uses should be supported, where the proposed use would contribute to meeting an unmet need.

7.31 EM24 follows the same principles of seeking to fully explore opportunities to retain employment before enabling other uses to come forward on designated employment land such as this site. This approach is placing significant weight on supporting economic growth and is considered to comply with para 81 of the NPPF. The requirement of paras 81 and 122 for policies to be flexible and enable a rapid response to economic circumstances and consider other uses that provide for unmet needs, also chimes with the requirements of the policy to allow other uses to come forward if it is demonstrated through a marketing campaign the site will not come forward OR the site is not suitable OR the site is not viable (for all forms of employment related uses). The policy shows flexibility in this regard and therefore complies with the NPPF.

7.32 It is therefore considered that EM24 is consistent with the NPPF and should be given full weight. The breach of the policy is a serious matter and represents a failure to accord with the development plan as a whole, for this reason alone. The application also does not comply with policy CS15 to this degree.

**8. Services and accessibility**

*iv) ensure an appropriate level of services, facilities and infrastructure are available or provided to serve the proposed development;*

*v) retain, protect or enhance local services and facilities and rural communities;*

*vi) consider the aspirations and level and range of support required to address deprivation, access to services, and the wider needs of an aging population and also those of smaller rural communities;*



8.1 The nearest bus stop to the site is located approximately 300m from the site. The site is in close proximity to Sudbury which could enable future residents from the site to cycle as an alternative to using a private car. The accessibility of the site is considered further in the Site Access and Highways section below but this aspect of the development is acceptable.

## **9. Ecology and Biodiversity**

*vii) protect and enhance biodiversity, prioritise the use of brownfield land for development ensuring any risk of contamination is identified and adequately managed, and make efficient use of greenfield land and scarce resources;*

9.1 Policy CS15 of the Core Strategy seeks to protect and enhance biodiversity. These requirements are considered to be supported by the relevant paragraphs in the NPPF, including 174 and 180 on minimising impacts on and providing net gains for biodiversity, 180 which seeks to avoid, mitigate, or compensate for adverse impacts or lastly refusing harmful development, and looking for opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity. Therefore the above development policies are considered to carry full weight. In assessing this application due regard has been given to the provisions of the Natural Environment and Rural Communities Act 2006, in so far as it is applicable to the proposal and the provisions of Regulation 9(3) of the Conservation of Habitats and Species Regulations 2017 that requires all 'competent authorities' (public bodies) to have regard to the requirements of the Directive. For a Local Planning Authority to comply with regulation 9(3) it must engage with the provisions of the Habitats Directive.

9.2 The site is within 2km of Sudbury Common Lands Local Nature Reserve, and whilst the application is within several Impact Risk Zones for Sites of Special Scientific Interest, the development type and amount does not meet any qualifying criteria for further consultation or mitigation. There were also several county wildlife sites within 2km of the site, the closest being Waldingfield Airfield Arable Margins at 460m north of the application site. A number of supporting reports have been submitted with the application including a Preliminary Ecology Appraisal and surveys/reports relating to protected species including badgers, skylarks, reptiles, Great Crested Newts, bats and dormouse, along with surveys reports relating to botanical and priority habitat on site, landscape management plan, biodiversity strategy, along with calculations for Biodiversity Net Gain for the proposed site.

9.3 These reports have identified that the site supports breeding skylarks, common lizard and is terrestrial habitat for great crested newts. Foraging and commuting bats and a badger sett is present close to the boundary.

9.4 In 2017 the site was assessed by Natural England as supporting priority grassland habitat. A botanical survey was submitted with the application which identified priority habitat to the south-east of the scheme and an arc across the southern boundary of the existing trees and woodland along the north and east boundary of the site. The site contains both CG7 with Lowland Calcareous Grassland Priority Habitat and MG1e with Lowland Meadow Priority Grassland.

9.5 A small amount of habitat is required to be removed due to the proposed site access and development to the north of the site. It is proposed to translocate some of this priority habitat to the proposed open space on the site. Further information to justify the translocation of priority habitat on the site, which forms Lowland Calcareous Grassland was requested from the applicants, and information on how the translocated turfs would be managed to ensure successful relocation of this priority habitat. Further mitigation measures also identified the retention of a large area of neutral grassland to provide scope to enhance the overall grassland interest of the site and the diversification of species.

9.6 Recommended enhancements from the submitted ecology reports also include retention and enhancement of boundary planting, scrub planting, woodland management, creation of a pond for newt habitat, wildflower grassland creation, reptile mitigation area, nest box provision and skylark mitigation area. Any scrub, hedgerow, tall ruderal or tree management or clearance work should be undertaken outside of bird breeding season, with any unavoidable works in such areas during this season requiring a further nesting bird survey prior to any works being carried out.

9.7 The reports have been reviewed by Council's Ecology Consultant who agreed with the report's findings to enable consideration of the likely impacts on designated sites, protected species and Priority species and habitats. With the identified mitigation measures identified that could be secured by condition the development is considered to be acceptable in respect of ecological impacts.

9.8 Suffolk Wildlife Trust had requested further surveys for Hazel Dormouse prior to determination. It is considered that the woodland boundaries and scrub do appear to contain optimal habitat for this European Protected Species and is indicated that Hazel dormice were recorded on the site of application (B/15/01718/OUT), albeit the landscape is relatively fragmented from the adjacent site. Nevertheless, it is not reasonable that a survey for Hazel dormice is required for this application given that the majority of the boundary habitat will be maintained.

## **10. Land contamination**

10.1 A Phase 1 Desktop Contamination Report supports the application. Environmental Health raise no objection to the proposed development from the perspective of land contamination subject to a condition in the instance that any unknown contamination is found. The proposal complies with criterion vii of Policy CS15 insofar as it relates to land contamination.

## **11. Sustainability and climate change**

*viii) address climate change through design, adaptation, mitigation and by incorporating or producing sources of renewable or low-carbon energy;*

*xiv) minimise waste (including waste water) during construction, and promote and provide for the reduction, re-use and recycling of all types of waste from the completed development;*

*xv) minimise the energy demand of the site through appropriate layout and orientation (passive design) and the use of building methods, materials and construction techniques that optimise energy efficiency and are resilient to climate change (e.g. resilience to high winds and driving rain);*

11.1 Along with the above provisions of CS15, policy CS13 on Renewable/Low Carbon Energy seeks to ensure all new development minimises dependence on fossil fuels. This policy sets a target of 10% for renewable, decentralised or low carbon energy, but on Strategic Allocations and Broad Locations for growth identified in the Core Strategy. This site does not fall within either of these so this target cannot be insisted upon in this application.

11.2 The sustainability of the location has been considered with good access to local services and employment, the potential for homeworking through Superfast Broadband provision and good accessibility to green infrastructure (such as the open space and connections to wider public rights of way provided with the development).

11.3 The application is supported by a Design and Access Statement, that identifies whilst the sustainable and energy usage technology will be determined at a reserved matters stage, these could include the use of air or ground source heat pumps, photovoltaics, wastewater heat recovery, combined

heat and power, whole house ventilation or mechanical and heat recovers. Rainwater harvesting and reduced water use fittings are also suggested.

11.4 The application is in outline form, sustainability and renewable energy features can be secured at the reserved matters stage. Sustainable design and construction standards with renewable/low carbon energy sources are identified under policies CS12 and CS13 of the core strategy. However, the Written Ministerial Statement on Housing Standards (reference HCWS488) made on 25th March 2015 is clear that requirements should not be set over revised Building Regulations Part L1A and Part G that came into force in 2015. Meeting revised Building Regulations is considered to provide a good standard of construction, carbon dioxide emissions rate, energy performance of buildings and reduced water usage of 125 litre of water per person per day. With the required compliance with Building Regulations the proposed development is considered to meet the requirements of paragraph 152 and 154 of the NPPF which seeks to reduce greenhouse gas emissions. The Council's Environmental Health officer has no objection to the application. Conditions would be recommended for a Sustainability and Energy Statement to detail the measures to be taken and for ducting for Broadband infrastructure.

## **12. Flooding, surface water and foul water disposal**

*xi) minimise the exposure of people and property to the risks of all sources of flooding by taking a sequential risk-based approach to development, and where appropriate, reduce overall flood risk and incorporate measures to manage and mitigate flood risk;*

*xii) minimise surface water run-off and incorporate sustainable drainage systems (SUDs) where appropriate;*

*xiii) minimise the demand for potable water in line with, or improving on government targets, and ensure there is no deterioration of the status of the water environment in terms of water quality, water quantity and physical characteristics;*

12.1 Criteria xi and xii of saved Policy CS15 require development to minimise the exposure of people and property to all sources of flooding and to minimise surface water run-off and incorporate sustainable drainage systems (SUDs), where appropriate. Paragraph 154 of the NPPF seeks to avoid increasing vulnerability to impacts of climate change, with development needing to demonstrate it does not increase flood risk elsewhere. Paragraph 174 of the NPPF also seeks to ensure new development does not contribute to water pollution, and as this site is in a Nitrate Vulnerable Zone so the water quality of surface water run-off is a key issue.

12.2 The application is accompanied by a flood risk assessment (FRA). The site is in Flood Zone 1 where there is a very low probability (less than 1 in 1000 annually) of fluvial - i.e. river - flooding. Site investigations have been carried out to see whether infiltration would be possible for surface water disposal. This has indicated that for the majority of the site this may not be possible, but would be subject to further testing at the reserved matters stage. There is no watercourse in the vicinity of the site but there is a surface water public sewer. The intention is to discharge surface water at an agreed rate as detailed below to this sewer in agreement with Anglian Water. Whilst the details of the surface water drainage strategy would be fully designed at the reserved matters stage there is sufficient information to demonstrate that surface water could be attenuated on site with runoff post-development at the same rate as the current greenfield run-off rate. This includes up to a 1 in 100 year rainfall event, with a 40% allowance for climate change. Suitable ongoing maintenance and management can be agreed via planning condition. The Sudbury and Great Cornard Surface Water Management Plan has been considered in arriving at the proposed surface water strategy. The Lead Local Flood Authority raise no objection subject to conditions.

12.3 Foul water would be disposed of via a connection to the public sewer network on Church Field Road Great Cornard Water Recycling Centre which Anglian Water have identified have available capacity for these flows. No conditions have been requested by Anglian Water in this regard. Informative Notes

### **13. Air Quality**

*xvii) protect air quality and ensure the implementation of the Cross Street (Sudbury) Air Quality Action Plan is not compromised;*

13.1 Policy CS15 seeks to minimise the need to travel by car using alternative means and improving air quality. The site is approximately 2.2km northeast of Sudbury Air Quality Management Area, which is designated for the potential exceedance of the annual mean nitrogen dioxide air quality objective. An Air Quality Assessment has been submitted with the application which has been produced in accordance with the relevant guidance. This has considered dust during the construction phase and road traffic emissions for the duration of the lifetime of the development. It is identified that with a dust management plan secured through condition the impact of dust emissions would not be significant in accordance with the Institute of Air Quality Management guidance. The road traffic emissions were modelled at identified sensitive receptor locations, using the relevant guidance from Defra and the Institute of Air Quality Management. This identified the development would not lead to any exceedance of the relevant air quality objectives and the impact of the development on local air quality would be negligible.

13.2 The site is well connected in highway connectivity terms. The proposal will generate vehicle trips for travel to employment and other services not provided in the surrounding town. The future proposed development has been considered against these existing air quality conditions but it is not considered that the level of traffic movements would necessitate further air quality assessments or adverse impact to air quality or the Cross Street. A condition to ensure electric vehicle charging points are installed in the new dwellings has been recommended. The promotion of sustainable transport modes is also considered further in the Highways section to this report. The development is considered to meet the requirements of paragraph 186 of the NPPF.

### **14. Accessibility and sustainable transport**

*xviii) seek to minimise the need to travel by car using the following hierarchy: walking, cycling, public transport, commercial vehicles and cars) thus improving air quality;*

*xvi) promote healthy living and be accessible to people of all abilities including those with mobility impairments;*

*xix) where appropriate to the scale of the proposal, provide a transport assessment /Travel Plan showing how car based travel to and from the site can be minimised, and proposals for the provision of infrastructure and opportunities for electric, plug-in hybrid vehicles, and car sharing schemes.*

14.1 CS15 also seeks to minimise the need to travel by car using alternative means and improving air quality. The site is well connected in highway connectivity terms. As acknowledged above, the proposal will generate vehicle trips for travel to employment and other services not available in the immediate vicinity of the site. This said, Sudbury has many day to day services and employment opportunities in walking and cycling distances.

### **15. Policy CS18 and assessment of principle of care home**

15.1 The principle of the proposed care home use also requires consideration against policy CS18. This policy identifies that residential development that provides for the needs of the District's population, particularly the needs of older people, will be supported where the needs exist.

15.2 The needs for residential accommodation for older people in Babergh, specifically specialist accommodation is set out in the Ipswich and Waveney Housing Market Areas Strategic Housing Market Assessment Volume 2 (2017). This document identifies the need for 1,369 specialist accommodation units by 2036. The proposed care home would provide towards this identified need for older people.

15.3 The site is also in an accessible location for visitors and staff for the care home (and future residents, depending on the nature of care and level of independence for residents any future operator provides), with good access to services and public transport connections as explored further in the Highways section to this report below.

15.4 The care home would front onto Church Field Road and adjacent employment area and the amenity of future residents of the care home requires careful consideration. This matter is explored further below.

15.5 The proposed care home is considered to meet an unmet need for the District in relation to specialist accommodation and be in an accessible location. This is a benefit of the scheme.

## **16. Conclusion on CS15**

16.1 Whilst scoring positively in some respects, the application fundamentally fails to accord with policy CS15 when taking into account the loss of protected employment land and the considerable levels of harm posed to the historic environment.

## **17. Ownership of land**

17.1 One of the applicants is West Suffolk NHS Foundation, who own part of the site, behind the existing Sudbury Health Centre adjacent to this application site. The Siam Surgery, one of two GP practices serving Sudbury, is located on the ground floor of Sudbury Health Centre. A supporting report to this application has been submitted by the applicants titled 'NHS Health Strategy'. Within this document it outlines background as to why the land owned by the West Suffolk NHS Foundation Trust was identified as surplus to requirements in 2009. The applicants have advised in a supporting report that the land has been on the NHS Surplus Land Register since 2011 (although this fact is disputed by Chilton Parish Council) and a recent Estates and Facilities Strategy dated 2018 has confirmed the land continues to be surplus to requirements.

17.2 The report goes on to identify the background work that has contributed towards the decision that the land is no longer required. In the report 'Five Year Forward View' (2014) followed up by 'Next Steps on the Five Year Forward View' (2017), specific reference is made to estate and facilities management services, including the modernisation of primary care facilities, the sharing of facilities between organisations and the improving of estates and facilities and the splitting of emergency/urgent care from planned surgery clinical facilities. Further reviews including the Lord Carter Review and Naylor Review went on to consider effective estate management and disposal of surplus estate, and that the NHS must manage and use its estate more efficiently. This of itself is not a material consideration for this planning application.

17.3 The provision of adequate health infrastructure is however a material planning consideration. West Suffolk NHS Foundation Trust have been involved with the West Suffolk Alliance Strategy (2018) and prepared an Estates and Facilities Strategy, and are working with One Public Estate which is an initiative to provide hubs integrating public sector services in six key towns, including Sudbury.

17.4 The Hardwicke House Group Practice recently confirmed that it had reached an agreement to buy land at Station Road in Sudbury from Babergh District Council, and launched a public consultation for a 1,9000sq.m health centre at the site. The proposals look to cater for the area's expanding population and

replace its branches in Stour Street, Meadow Lane and The Cornard Surgery in Pot Kiln Road. That proposal has subsequently been granted planning permission.

17.5 The NHS/West Suffolk Clinical Commissioning Group (CCG) have confirmed in their response to the planning application that sufficient capacity to accommodate the future residents from this development can be met through CIL monies directed to increasing capacity at a surgery in the Hardwicke Group. The potential relocation of the Cornard Surgery to a new surgery is not considered to alter the position previously stated in the CCG's response.

17.6 In the supporting report to this application the capacity and use of the Sudbury Health Centre is also considered. The range of tenants who occupy that site were identified as the Siam Surgery GP practice, acute and community services, phlebotomy, physiotherapy, mental health services, community dental services along with services from Suffolk GP Federation and Suffolk County Council. The level of utilisation at the health centre has been identified to not be at capacity as the NHS moves to a 7 day working week and extended working days, and so additional capacity has been identified to be available for future development of these services. The report therefore concludes that the proposed planning application will not prevent facilities and services from being provided at the Sudbury Health Centre in the future. The rest of the land is therefore identified to be disposed of and proceeds from the sale be reinvested in services in accordance with the West Suffolk Alliance Strategy and Estates and Facilities Strategy.

17.7 Ultimately the matter to be considered by Members is whether there is sufficient health infrastructure to accommodate the proposed development. With CIL monies that would be subject to a bid at the appropriate time by the NHS it is considered that sufficient infrastructure would be provided in accordance with CS21 of the core strategy, as detailed further in the Planning Obligations/CIL section to this report.

17.8 It has also been raised in letters of representation that the applicant Caverswall Enterprises Ltd may not be able to enter into a S106 legal agreement due to outstanding proceedings regarding liquidation, involving persons within the company and the company they previously were involved in: Caverswall Holdings Ltd. Should any legal agreement not lawfully be able to be completed then planning consent would not be issued. This is not a reason in itself to refuse planning consent, though the present lack of legal agreement/undertaking to secure necessary obligations, is.

## **18. Site Access, Parking And Highway Safety Considerations**

### *Highway network capacity and site access*

18.1 Paragraph 111 of the NPPF states that development may be prevented or refused on highway grounds where there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The proposed development has been considered in terms of impact on the wider road network through the Transport Assessment submitted with the application. The site access and impact on the wider road network have been considered as has road capacity and highway safety. Paragraph 113 of the NPPF also seeks Travel Plans for development that generate significant amounts of movements.

18.2 The proposed development could impact on a number of road junctions. In discussion with the local highway authority, the applicants considered the following junctions and modelled the potential impact from the proposed development:

- B1115 Waldingfield Road / Church Field Road;
- B1115 Waldingfield Road / A134 Northern Road;
- A134 Northern Road / Milner Road;

- A134 Northern Road / Shawlands Avenue
- B1115 East Street / A131 Girling Street; and
- The site access

18.3 The results of the modelling were that all junctions except the proposed site access would operate over capacity with the proposed development. In response to each junction the following has been suggested by the applicants:

- B1115 Waldingfield Road / Church Field Road; A junction improvement scheme is proposed through the development of 'Chilton Woods' under planning consent B/15/01718 which would improve the junction and bring it back to within capacity.
- B1115 Waldingfield Road / A134 Northern Road; S106 contribution towards sustainable transport measures to mitigate impacts.
- A134 Northern Road / Milner Road; A mitigation scheme has been proposed to include a ghost right turn lane. Secured via S106 contribution and planning condition.
- A134 Northern Road / Shawlands Avenue; A scheme has been designed as part of the above Chilton Woods development.
- B1115 East Street / A131 Girling Street; Signal timings have been demonstrated to potentially be optimised. SCC would undertake this optimisation suggested by the applicants.

18.4 To promote sustainable transport and giving priority to pedestrian and cycle movements a contribution of £80,000 would be secured to deliver a toucan crossing at the B1115/Church Field roundabout to enable a safe route to catchment primary and secondary schools. Also improvement of the footway on the north side of Church Field Road to this roundabout could be secured via planning condition. A contribution of £50,000 is also requested to enhance demand responsive public transport services in the area.

18.5 Further improvements to provide raised bus stops kerbs and shelters could be secured via planning condition and Section 278 agreement with the Highway Authority. A fallback position is also required to secure £25,000 to deliver these improvements to bus stops if the works are not completed as part of a S278 agreement. Further to this improvements to the surrounding public rights of way are sought as detailed further below.

18.6 Two vehicular site accesses are proposed, first the existing access to the medical centre and a second further to the east along Church Field Road. The proposed junctions and spine road have been designed to an acceptable level with appropriate visibility splays which are to be secured through planning condition.

18.7 SCC as Local Highway Authority are content with the above mitigation there would not be a severe impact on the road network, either in relation to this development or cumulatively with other surrounding consented and committee development.

#### *Travel Plan*

18.8 A travel plan is required which can be secured through planning condition and S106 contribution of £409.47 per dwelling (£67,972 for 166 dwellings for implementation of the travel plan by SCC is required). This will promote sustainable transport options to new residents and provide opportunities to use methods of transport other than private car, in accordance with Policy TP16. A travel plan will also be required for the care home.

#### *Public Rights of Way*

18.9 A Public Right of Way runs along the eastern boundary of the site between Church Field Road and Chilton Hall, Restricted Byway 3 (RB3). There are informal footpaths that connect to this Public Right of Way, which then run into the areas of woodland on the site. These are proposed to be retained and extended to create walking routes around the site and create new connections from the site onto existing footpaths.

18.10 SCC Public Rights of Way team have requested that the proposed footpath to be formalised within the woodland area to the east and north of the site be dedicated as a Public Right of Way which would create a circular walk around the east, north and west of the site boundary. The legal process to establish the PRow would need to be completed prior to construction with a S106 contribution of £5,000 to SCC to cover the cost of this legal order.

18.11 It is proposed to create a new section to this footpath to the west of the site within the landscaping along Waldingfield Road, to connect the path to the health centre site which then connects onto Waldingfield Road. The proposed PRow within the site connects to RB3 at the south-east of the site. It has been suggested that RB3 and the proposed PRow should also connect to the north-east of the site, the current plans do not indicate this but it is proposed to secure this connection via condition to ensure it is delivered at the reserved matters stage.

18.12 Surface improvements are required to RB3 between the north-east point of this development site and Church Field Road, and will be secured via condition and Section 278 agreement. South of Church Field Road, RB3 continues to connect with the A134. A section of this footpath of approximately 200m requires surface improvements to promote the use of this link into Sudbury. A contribution of £25,000 is required to secure these works.

18.13 Subject to the identified improvements secured via planning condition and a S106 contribution totalling £30,000, it is considered that suitable improvements can be secured to the PRow, promoting not only walking and cycling from this site into Sudbury but also the wider benefits that active travel bring to health and wellbeing in line with policies CS14 and CS15.

#### *Parking and refuse storage*

18.14 Saved Policy TP15 of the Local Plan seeks to ensure parking provision for new development complies with the Suffolk Parking Standards. This development plan policy is given full weight as it is considered to align with paragraphs 107 and 108 of the NPPF in providing minimum parking space standards unless compelling reasons justify otherwise. The site layout plan shows parking and garage spaces can be provided for each dwelling. Parking can be secured at the reserved matters stage to meet the minimum requirements for both the residential dwellings and care home. The Highway Authority have raised no objection to the parking proposed, subject to a condition to secure parking (including electric vehicle charging points). The development complies with local plan policy TP15.

18.15 Sufficient cycle parking for two cycles per dwelling plus visitor cycle parking could be provided within garages of dwellings or through covered and secure storage units in rear gardens of flats and as required for the care home. Also refuse bins storage and presentation points would also be identified at the reserved matters stage and secured through condition.

18.16 The Highway Authority have raised no objections subject to the mitigation measures and details to be secured through the S106 (for a new toucan crossing, sustainable transport improvements, travel plan implementation and public rights of way improvements) and conditions if minded to grant. Conditions would include visibility splays, details of access, provision of footway improvements to Church Field Road and bus stop improvements, details of estate roads, parking to include electric vehicle charging points, refuse storage and construction management plan. With the proposed mitigation through S106



agreement and conditions, the development is considered capable of meeting the requirements of both paragraphs 111 and 113 of the NPPF and policies TP15 and TP16 of the local plan ensuring there is not a severe impact on the road network, promotion of sustainable transport methods including walking and cycling, provision of safe access and egress from the site, the safe and free flow of traffic and pedestrian safety, suitable capacity in the road network, and adequate parking and turning for cars and service vehicles and pedestrian and cycle links that can be secured at the reserved matters stage.

## **19. Affordable Housing and Market Housing Mix**

### *Affordable dwellings*

19.1 Policy CS19 required 35% affordable housing to be provided. The proposals include provision of 35% affordable housing. No affordable housing mix has been stated by the applicants, but the required mix from the Council's Strategic Housing team (on an assumption of the full quantum of housing being proposed) is as follows:

Affordable rented (44 dwellings):

- 4 x 1 bed 2-person flats @ 50 sqm NDSS minimum
- 4 x 2 bed x 4p flats @ 70sqm minimum
- 20 x 2 bed 4-person houses @ 79 sqm minimum
- 4 x 2 bed 4-person bungalows @ 70 sqm minimum
- 10 x 3 bed 5-person houses @ 93 sqm minimum
- 2 x 3 bed 6-person houses @ 102sqm minimum

Shared Ownership dwellings (14)

- 10 x 2 bed 4-person houses @ 79sqm
- 4 x 3 bed 5-person houses @ 93 sqm

19.2 A commuted sum will be required for the remaining contribution of 0.1 dwelling, which based on a 2 bed housing need this equates to £7,593 and would need to be secured via a S106 agreement.

19.3 Development would need to be tenure blind and dispersed within the development, which can be determined at a reserved matters stage. In accordance with the NPPF 2019, 10% of the overall scheme should be made available in the form of affordable home ownership products. The proposed development is considered to be in accordance with CS19 subject to detailed submitted at reserved matters and securing the required affordable housing via Section 106 agreement.

### *Market Housing Mix*

19.4 Under Policies CS15 and CS18 the mix, type and size of the housing development will be expected to reflect established needs in the Babergh district. No mix of housing types are given for the market housing. The market housing mix required in Babergh over the next 18 years identified by the council's Strategic Housing Team is as follows:

- One bedroom 12.2%
- Two bedrooms 36.1%
- Three bedrooms 30.2%
- Four or more bedrooms 21.5%

19.5 A condition would be recommended to be attached to any outline consent to require the market housing mix to be submitted and agreed, and to reflect the current housing market needs in line with policy CS18. As discussed earlier in this report, should planning permission be granted then controls would be imposed to ensure an acceptable market and affordable housing mix, consistent with the planning balance being undertaken. A subsequent proposal for 100% affordable housing would be a

materially different scheme and would require a further permission; this has been explained to the applicants albeit they do not accept this.

## **20. Lighting, Noise and Odour - Impact on Residential Amenity and Existing Employment Area**

20.1 Paragraph 130 of the NPPF sets out a number of core planning principles as to underpin decision-taking, including, seeking to secure a high standard of amenity for all existing and future occupants of land and buildings.

### *Lighting*

20.2 Supporting information has been submitted with the application to consider the impact of existing light sources on proposed end occupiers of the dwellings and care home, and the impact of proposed lighting. It is not considered that lighting from the existing healthcare centre would adversely affect future residents, with the main source of light from street lighting on the access road to the health centre. Lighting from the adjacent Chilton Industrial Estate is considered to be localised and unlikely to adversely affect future residential amenity.

20.3 Proposed lighting on the scheme would need to be carefully designed to protect the amenity of future residents but also to protect overspill to ecological sensitive edges to the site. A suitably worded condition could address this, but it is important to note that the heritage harm identified is based upon the nature of the development proposed within the setting of highly graded assets; the urbanising quality of housing development and the artificial lighting that naturally comes with it, are interrelated.

### *Noise*

20.4 Noise from surrounding uses to the end occupiers of the proposed dwellings and care home on site has been considered, as has the impact of noise-sensitive development to existing and future employment uses in the nearby employment area and the impact of the proposed development on existing residents.

20.5 The source of noise for future residents would be both traffic noise from Waldingfield Road, and traffic and employment uses on Church Field Road. A Noise Assessment submitted with the application has identified two areas of the development where noise mitigation measures would be required. These are to the west of the development near Waldingfield Road and dwellings and the care home facing onto Church Field Road.

20.6 In these locations two forms of mitigation are proposed. Standard non-acoustic trickle ventilation windows are proposed throughout the development and if used in combination with standard double glazed units noise level criteria would be met. For a number of plots ventilation via openable windows is also suitable. An acoustic fence to the west of the site would be required also to mitigate traffic noise from Waldingfield Road/B1115. Both these mitigation measures could be secured via condition. It is noted that the care home could provide accommodation for individuals who may have health conditions that make them more vulnerable to excessive noise. There are however suitable mitigation measures in place that can be provided to ensure an acceptable standard of amenity within the care home building.

20.7 The report submitted with the planning application identifies that the proposed development should not prove prohibitive to future developments of commercial/industrial nature. Concerns however have been raised by the council's Environmental Health Officer in relation to noise, and potential future restrictions on existing employment uses due to the proposed sensitive use proposed at this application site.

20.8 Para 187 of NPPF seeks to ensure new development does not lead to restrictions on existing businesses:

*“Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.”*

20.9 In respect of this particular question, and concerns regarding the potential for noise issues more generally due to the proximity of the industrial estate to the application site, an independent external noise consultant was commissioned. An advantage of this process was that the external consultant (Sharp Acoustics LLP) was able to undertake their own surveys of the site and background noise levels as well as reviewing the information submitted by the applicants. The consultant considered noise from the existing adjacent uses and potential noise from possible future uses in order to consider whether, if the proposed residential and care home development were to go ahead, this would impose an unreasonable restriction on adjacent uses and prospective adjacent uses. Subject to typical controls and planning conditions Sharp Acoustics concluded that *“desirable noise levels can be achieved at the proposed development without affecting the operation (or potential operation) of existing nearby commercial and industrial uses.”*

20.10 It is therefore considered unlikely that the siting of residential and care home development in this location would lead to restrictions being placed on businesses. Change of uses and planning applications for existing or proposed employment uses would need to consider the proximity of the proposed residential use, and whilst it is noted that the proposals would bring noise-sensitive uses closer to the employment area, there are existing dwellings around the health centre and on Waldingfield Road that also would be sensitive to such noises at present. Any employment use would need to consider the impact on amenity of those existing residents in any case. In the absence of evidence of a likelihood of restrictions being placed on businesses or preventing businesses from opening in the employment area, there is not considered to be sufficient reason to refuse the application on this basis.<sup>2</sup>

20.11 Noise from the future residential uses and care home uses have been considered in terms of impact on existing residents. There would be some sources of noise and lights associated with residential use and care home, but given the distance to the nearest residential properties it is not considered there would be a loss of amenity to existing residents. The proposed three storey dwellings near the existing health centre would look towards the health centre, but again there would be a sufficient separation to ensure adequate amenity for the proposed residents and no loss of privacy to potentially sensitive health care uses.

20.12 There would be disruption during the construction phase of the development, but the adverse effects would be temporary in nature and would be able to be controlled through planning condition. Specific reference is made by the Environmental Health Officer to require further details of noise and vibration management, and if piling is propose this construction method should be specifically assessed for impact on residential amenity of nearby residents.

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<sup>2</sup> That is not to say, however, that there would not be a perceived conflict and a diminution of attractiveness of the adjacent employment land due to the proximity of the residential development. Of itself that might undermine the success of the established industrial estate and its ability to attract further investment over time.

20.13 The proposed care home could also lead to noise disturbance to proposed residential dwellings in this application, through vehicle movements for supporting services to the care home and potentially plant relating to kitchens. The distance to the nearest residential dwelling would be assessed at the reserved matters stage but it is considered that there is sufficient space for suitable separation to be reached.

#### *Odour*

20.14 The site is adjacent to a number of employment and industrial uses, notably 300m north of the Nestle Purina pet food manufacturing factory. Surveys were undertaken in accordance with Air Quality Management guidance to consider the potential of odours. This identifies that there is a significant potential influence on residential amenity from odours at this factory, due to the frequency and intensity of odours detected during the surveys and due to the number and locations of odour complaints. Odour abatement technology is due to be installed at the factory, and is subject to an Environmental Permit monitored and enforced by the Environment Agency (EA).

20.15 At present the current level of odour has the potential to significantly affect residential amenity at the proposed development site if left unabated. Under the current permit the EA has actively investigated this odour issue which has resulted in an odour abatement solution. The last response from the EA indicated that works have been delayed due to Covid-19 but are still underway as of May 2021.

20.16 Para 188 of the NPPF is clear that planning decisions should focus on whether a proposed development is an acceptable use of land, rather than the control of processes or emissions where these are subject to separate pollution control regimes. It goes on to identify that '*Planning decisions should assume that these regimes will operate effectively.*' In this instance there is a pollution control regime, and further to this there is an active investigation and odour abatement actions underway in discussion with the permitting authority. It should be noted that there is no certainty that the proposed odour abatement measures would be sufficient to fully mitigate potential impacts to future residents. However, the NPPF is clear that planning should not seek to duplicate other consenting regimes. It is therefore difficult to substantiate a reason for refusal on this basis in terms of adverse impact on residential amenity under para 130 of the NPPF.

#### *Conclusion of residential amenity*

20.17 Paragraph 130 of the NPPF sets out a number of core planning principles as to underpin decision-taking, including, seeking to secure a high standard of amenity for all existing and future occupants of land and buildings. This matter has been extensively considered in terms of noise and odour for future residents in particular. The amenity of existing residents could be adversely affected during the construction phase, but through use of appropriate conditions it is considered an acceptable level of amenity would be achieved for this temporary disruption. Whilst there would be some effect to neighbouring residents from noise and light from the proposed development, there is considered to be sufficient separation between this site and those neighbouring residents to not lead to an unacceptable level of amenity subject to conditions on lighting and noise.

20.18 The amenity of future residents of the site in terms of adequate amenity for outlook, privacy, daylight and sunlight would be determined at the reserved matters stage, but there is sufficient information to consider this can be suitably addressed. There are a number of noise mitigation measures proposed for future residents along the west and south-east of the site. In the presence of suitable noise mitigation that can be secured through condition it is not considered reasonable to refuse the application on these grounds. The siting of noise-sensitive development in close proximity to an employment area has also been considered in detail further, considering the 'agent of change' principle and potential future restrictions on existing and new employment uses that move into the remaining employment area.

Considering the likely course of action of any statutory noise complaints it is not considered likely that restrictions would be placed on any employment uses considering the current character of the employment area. Again, there is not sufficient evidence to suggest that this residential development would be an agent of change that places future restrictions on existing or future commercial development and does not merit a reason for refusal on this ground.

20.19 The impact of noise from any surrounding employment uses to the future residents of the proposed care home has also been considered. Suitable noise mitigation measures have been identified to ensure that internal noise levels would be acceptable and within acceptable ranges. The external amenity space however would not be possible to control to the same degree. It is also noted that residents of the care home may be vulnerable to noise due to their healthcare needs. Whilst it may not be considered ideal to locate a care home in a place where there may be audible noises, given that internal noise levels can be adequately achieved it is not considered a sufficient enough reason to refuse the application. Officers are mindful of their Public Sector Equality Duties under the Equality Act 2010 (as amended) to ensure no harm to any group with protected characteristics, but for the above reasons this duty is considered to be met in this instance.

## **21. Planning Obligations / CIL**

21.1. As required by various policies listed in the above report and policy CS21 of the core strategy, the application, if approved, would require the completion of a S106 agreement to secure the required number of affordable dwellings, along with mix and tenure, the provision of open space and future management of, and highway mitigation measures, public rights of way contributions, travel plans, skylark mitigation strategy and priority habitat management, all as detailed above in this report.

21.2 Also CIL monies have been identified for education contributions, libraries, waste. Whilst the final bids would relate to the total floorspace brought forward at reserved matters for the residential phase, an indication of the CIL bids have been provided by SCC which are:

- Primary school expansion - £707,988
- Secondary school expansion - £689,475
- Sixth Form expansion - £142,650
- Early year new build - £307,620
- Library improvements - £48,816
- Waste improvements - £28,024

21.3 SCC Strategic Development have indicated that CIL monies would go towards expanding capacity at other primary schools within the proximity of the application site, and Ormiston Sudbury Academy and Thomas Gainsborough Academy in Sudbury.

21.4 It is considered that appropriate infrastructure can be secured to support the proposed development, in line with policies CS19, CS21, paras 110 and 111 of the NPPF. In the absence of a legal agreement or undertaking to secure those items not related to the CIL, however, this would be a reason for refusal.

21.5 A number of requests were identified to be secured via S106 in the response from Chilton Parish Council, and request for a draft legal agreement to be circulated prior to planning committee. Taking the last point first, there is no draft legal agreement, and the application is recommended for refusal. The following further requests are noted:

- appropriate contributions from the developer to the maintenance and upkeep of St Mary's Church and its adjoining churchyard;
- future maintenance and management of structural landscaping on eastern and northern boundaries, with transfer of ownership of those areas to Chilton Parish Council with a sum for maintenance in perpetuity.

## **22. Equalities Act 2010**

22.1 As identified earlier in the report, there is an identified need for specialist accommodation to address the needs and age profile of the district of Babergh. The provision of a 60-bed care home would be of benefit in that regard.

22.2 The detailed design at the reserved matters stage will be able to address any requirements that can be addressed through the planning process to meet the duties for groups with protected characteristics as identified under the above Act.

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## **PART FOUR – CONCLUSION**

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### **23. Planning Balance and Conclusion**

23.1 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Planning law also requires decision-takers to have special regard to the desire to keep designated heritage assets from harm.

23.2 The circumstances of this application are not exceptional, and it is without a proven justifiable need, proposing development in the countryside where inevitably a degree of landscape harm would result. Furthermore, the application proposes the development of land safeguarded for employment purposes, where no sustained marketing campaign has been undertaken at a realistic asking price, and where the applicant has failed to demonstrate that the land is inherently unsuitable or not viable for all forms of employment related use, contrary to policy EM24.

23.3 The considerable levels of heritage harm identified are not outweighed by the public benefits of the development, thereby reinforcing the lack of clear and convincing justification; the application therefore also conflicts with policies CN06, CN14, and CS15. The application does not represent sustainable development as advocated under policy CS1.

23.4 Whether taking those issues together or independently, the application conflicts with the development plan when taken as a whole.

23.5 Assessed against the policies of the NPPF, national policy also directs that permission should be refused also noting that the heritage harms provide a clear reason for refusing the development proposed.

23.6 The proposed development would be contrary to the development plan and national planning policy and there are no material considerations that justify a departure from those policies; the harm that has been identified significantly and demonstrably outweighs the benefits.

23.7. Members are therefore invited to refuse planning permission.

## **RECOMMENDATION**

1. That the application be REFUSED planning permission for the following reasons:-
  - i. The application proposes residential development in the countryside where contrary to policy CS2 the circumstances of the application are not exceptional and there is no proven justifiable need for the development proposed.

Furthermore, the application proposes the development of land safeguarded for employment purposes, where no sustained marketing campaign has been undertaken at a realistic asking price, and where the applicant has failed to demonstrate that the land is inherently unsuitable or not viable for all forms of employment related use, contrary to policy EM24.
  - ii. The proposed development would lead to a considerable level of harm to the significance of the designated heritage assets at Chilton Hall (comprising Grade II\* Chilton Hall, Grade II Garden Wall to East of Chilton Hall, and Grade II Chilton Hall registered park and garden) and a level of harm to the significance of the Grade I Church of St Mary that would be not far short of substantial.

The development would not respect the features that contribute positively to the setting and significance of those assets, contrary to policies CN06, CN14, and CS15. Furthermore, the public benefits of the scheme are not considered to outweigh the less than substantial harm identified, making the proposal contrary to the heritage policies of the NPPF and independently providing a clear reason for refusal on this ground.
  - iii. In the absence of a signed s106 Agreement or similar undertaking to provide for appropriate obligations, there would be an unacceptable impact on local infrastructure and lack of affordable housing, contrary to policies CS19 and CS21.
  - iv. The application development conflicts with the development plan when taken as a whole and there are no material considerations which indicate that a decision should be taken other than in accordance with the development plan.
2. In the event that an appeal against the refusal of planning permission is received, delegate authority to the Chief Planning Officer to defend that appeal for the reasons set out under 1. above, being amended and/or varied as may be required.