

## **Committee Report – with Risk Assessment**

**Item No:** 7A

**Reference:** DC/21/02956

**Ward:** Elmswell & Woolpit.

**Ward Member/s:** Cllr Helen Geake. Cllr Sarah Mansel.

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### **RECOMMENDATION – TO CONSIDER THE RISK ASSESSMENT**

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#### **Description of Development**

Application for Outline Planning Permission (Access to be considered, all other matters reserved Town and Country Planning Act 1990 - Erection of 44 dwellings, including bungalows, affordable housing, open space, landscaping; and associated infrastructure.

#### **Location**

Land East Of Warren Lane And West Of, Cresmedow Way, Elmswell, Suffolk

**Expiry Date:** 27/08/2021

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

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

**Applicant:** JD and RJ Baker Farms Ltd

**Agent:** Mr James Bailey

**Parish:** Elmswell

**Site Area:** 2.88ha

**Density of Development:**

Gross Density (Total Site): 15.2 dwellings per ha

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

This application was presented to committee on the 8<sup>th</sup> December 2021 at which it was resolved to defer in order to seek further information on the impact of the Quarry to the south of Elmswell.

A further update was provided on 9<sup>th</sup> March 2022 following which the application was further deferred to seek a report on the risks of refusal on grounds of traffic, intrusion of development area and housing into the countryside, quarry and housing land supply position, with a member site visit before the application returns.

The case officer no longer works for the Council and officers have prepared this risk assessment on the basis of the Committee Minute of 9<sup>th</sup> 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/21/00802)

This report therefore considers the risks of refusal in respect of traffic, impact on the countryside, the quarry and housing land supply.

A committee site visit was made on 9<sup>th</sup> May 2022

## **Traffic**

The application for consideration is made in outline with all matters reserved except access.

Paragraph 111 of the NPPF confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy T10 requires consideration of the provision of a safe access to and egress from the site, the suitability of the existing roads giving access to the development, whether the amount and type of traffic generated will be acceptable in relation to the capacity of the road network, provision of adequate parking and turning space, provision of requirements for pedestrians and cyclists.

As noted in the original report, Policy T10 is generally consistent with Section 9 of the NPPF on promoting sustainable transport, and therefore is afforded full weight.

Further advice has been sought from SCC Highways in light of the concern raised. They confirm that there is no change to their overall advice. There is sufficient highways land to provide the passing places on Warren Lane. A package of measures for improvements to Warren Lane/Church Road junction as well as a further provision to extend the speed limit on Warren Lane to the south as the site access location coincides with the existing limit of the speed limit are proposed.

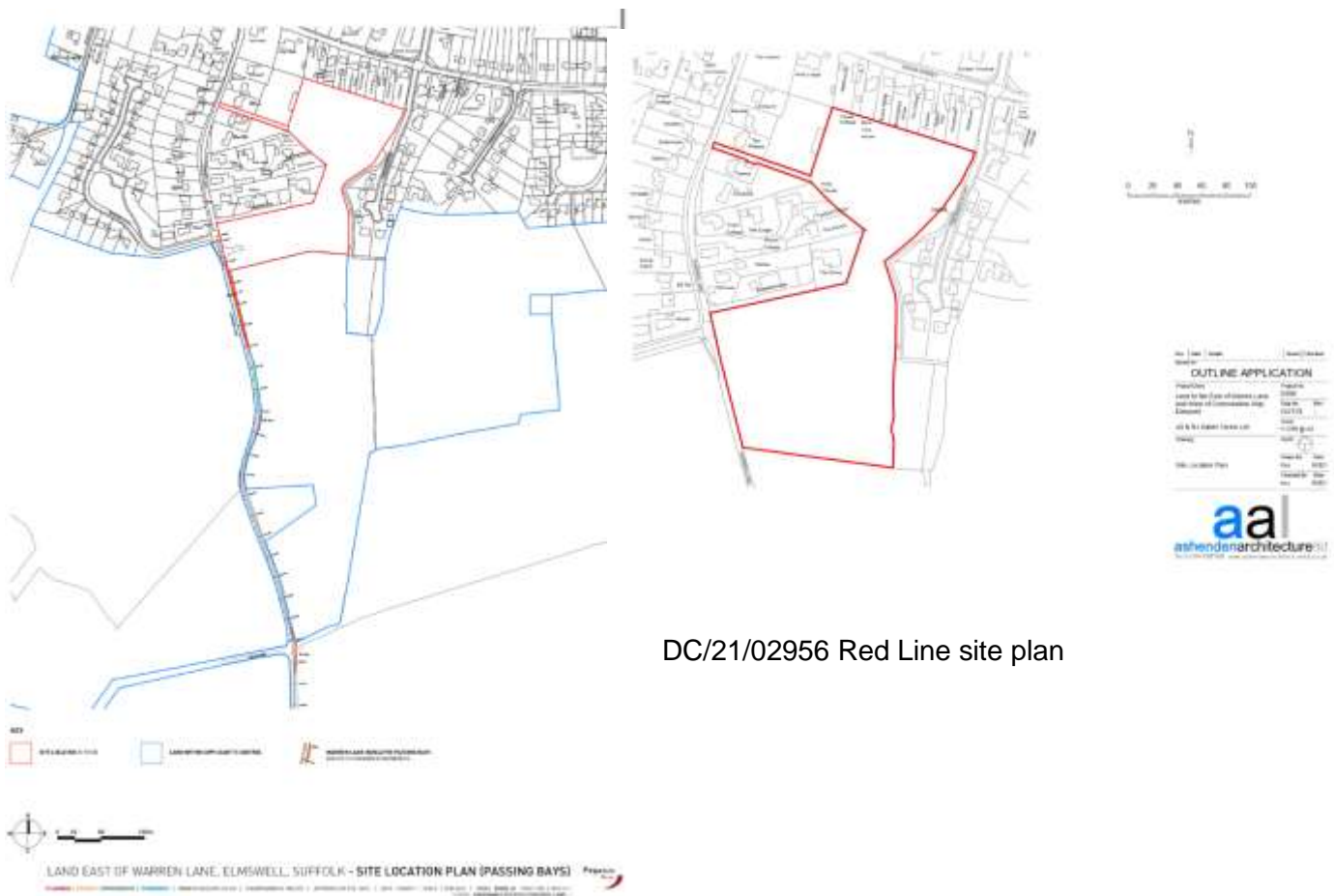
However, they provide further advice with regards to pedestrian trips to amenities to the south of the development site. The level of demand to access the amenities of the takeaway and café on foot is unclear, but it is not considered a suitable pedestrian route or crossing location is available or has been offered as part of the application. As such these amenities would be accessed via motor vehicles by the majority of visitors, given their relatively remote and unsustainable location, but if there is likely to be significant pedestrian movements generated on these routes then SCC Highways raise concerns. They state it may be complex and costly to mitigate (needing a footway and pedestrian refuge at the Warren Lane junction plus a continuous footway along the old A14 to the amenities), and even with those improvements it would still involve pedestrians walking in the road along Warren Lane, which may lead to conflicts given the limited width of the road.

However, SCC Highways nonetheless do not consider that a recommendation of refusal against NPPF 111 based on walking to those amenities, as other alternative and more significant amenities are located to the north of the site and there is no evidence to suggest that this proposal would generate a significant number of those specific trips.

Planning officers are less sanguine about that position because the employment opportunities and services available to future residents would be within walking distance and the power of their attraction is likely to lead to residents attempting to make those journeys by foot. Members are entitled to consider that to be an unacceptable situation contrary to local and national planning policy. Such a position would not in officers' opinion be unreasonable or incapable of being defended at appeal. The applicant has been made aware of these concerns, but no proposal has been put forward to deal with them.

## Intrusion of development area and housing into the countryside

The application site is located on much the same area as land as the approved 4909/16. However, it projects further to the south, as shown in the red line site plans below.



4909/16 Red Line site plan

This projection beyond the built form of the surrounding settlement is further demonstrated by the original masterplan for 4909/16 and current proposed site layout, provided below. This layout, whilst indicative, shows the consented development extending essentially no further than neighbouring properties, whilst the current application site and indicative masterplan show built form extending to the edge of the nearby small wooded area.

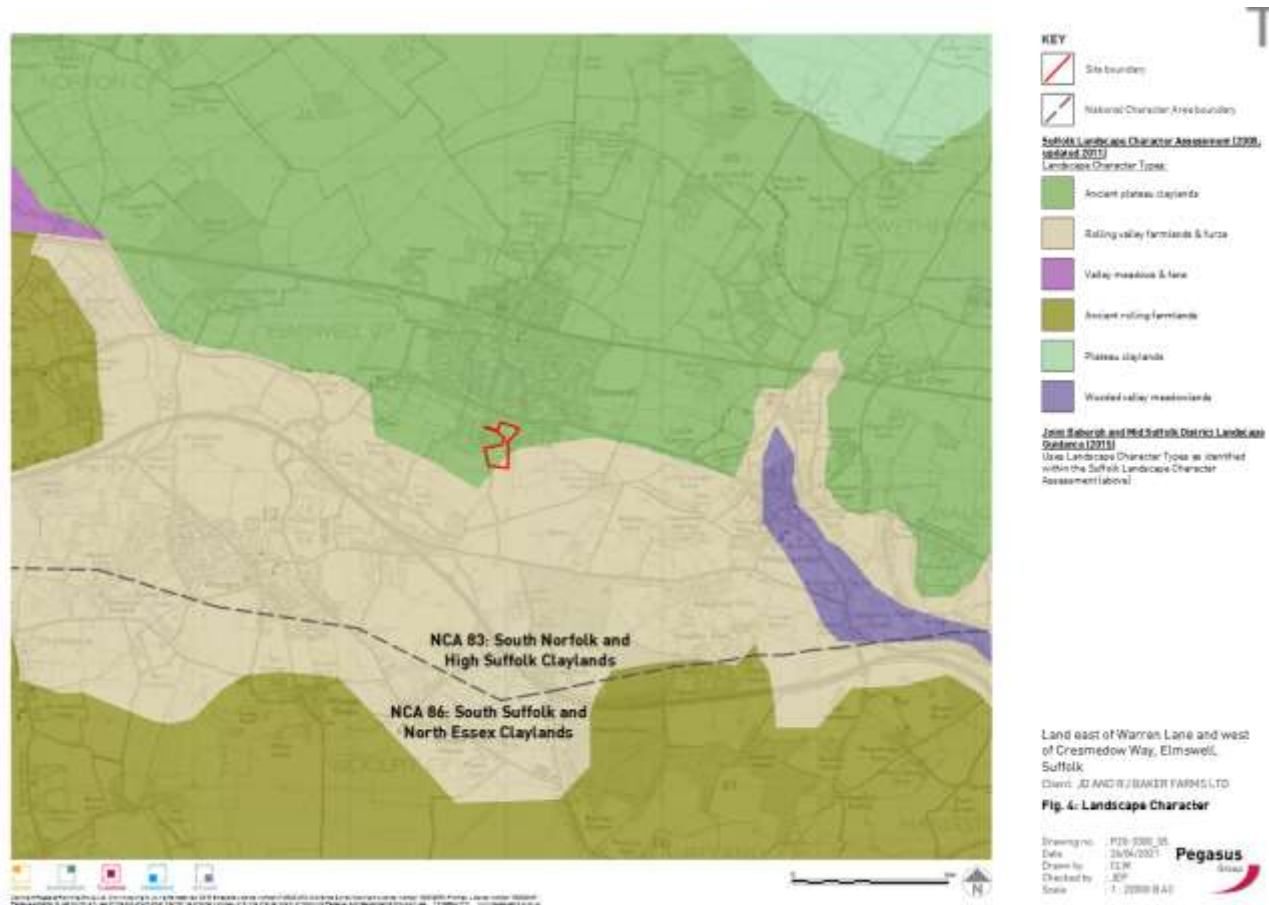


The proposal has been considered by our specialist landscape consultants, who raise no objection, subject to securing conditions. Further advice has been sought on the risk of refusal in respect of landscape from consultants Guarda Landscape.

They advise that there would be a risk to refusal on landscape grounds, in that there is no significant harm to the character and appearance of the site and its surrounding landscape. Guarda acknowledge that any development will give rise to change in the landscape of the area and the views of receptors. The degree of visual harm is not considered to be significant, and will not influence the judgement on acceptability of the scheme when balanced with the increased landscape benefits and other benefits delivered by the scheme. Guarda conclude that there would be high risk of refusing the application in relation to landscape and visual issues as the adverse visual impacts of the proposal do not significantly and demonstrably outweigh the landscape benefits.

This weighting is itself subjective, and the benefits and disbenefits must be clearly weighed across the scheme to consider the overall outcome. Furthermore the projection of development beyond the settlement could be considered to have wider than landscape implications. The development projects into the countryside beyond the current built form, and could be considered to have a wider impact on the character of the countryside in terms of encroachment and impact on the settlement pattern, and whether this would be out of character with the locality.

This wider impact and concern with settlement pattern begins from the landscape setting, on the edge of the plateau claylands, and top of rolling valley farmlands, as shown below:



The result of this is that the site sits in an elevated position, and development into this site would project the built form out into the countryside, and particularly down the slope, with a dominating effect on the rolling valley farmlands, notwithstanding the landscape mitigation. Currently the edge of the settlement sits in a position at the edge of the slope, and does not descend down the slope, further into the view as shown below.



Whilst landscape mitigation is proposed to screen the development, ultimately it will encroach upon the open countryside, and this can be considered to weigh against the balance of the proposal to a degree.

Core Strategy Policy CS5 seeks to maintain and enhance the environment and retain the local distinctiveness of the area. In addition it confirms that the Council will protect and conserve landscape qualities taking into account the natural environment and the historical dimension of the landscape as a whole, protecting the District's most important components and encouraging development that is consistent with conserving its overall character.

There would inevitably be a risk with regards to this issue in going against professional advice, which has considered landscape and visual amenity, if not the overall impact on the character of the area. However the concern raised was in respect of the intrusion of development and housing into the countryside and resulting impact on the overall character of the area and local distinctiveness than to landscape harm per se. This harm is weighed in the balance of the decision below because, even if not a reason for refusal in its own right, the inevitable harm that would arise from the development of the greenfield site needs to be factored into account.

### **Impact on Quarry**

As noted below in the update for the previous committee the site is not within the current safeguarding zone, but will be partly within the future expanded area that SCC has provided. The indicative plans submitted do show some housing in that area with majority of that affected area being landscaping, SuDs and highway.

A planning application must be determined on its own merits, and with consideration given to the policies in place at the time. SCC as Minerals Authority consider that the housing will not prejudice the operation

of the quarry, and it will be for any future application to expand the quarry, if this occurs, to consider the amenity of existing residents and consider any mitigation

On the basis of the above, along with the confirmation that the site is not within the current safeguarding zone a proposed reason for refusal on the basis of housing within a future safeguarding zone would not be reasonable, and would apply a possible future policy, not yet in place to a current application.

Officers therefore advise that a reason for refusal on this basis would not be sustainable at appeal.

### **Housing Land Supply Position**

The original principle assessment of the application is provided in full in the report below. Essentially consideration was given to the previous approval reference 4909/16, granted 21<sup>st</sup> June 2018, which whilst expired was still considered to be given weight as the Local Plan and Core Strategy remained applicable between the determination of the cases. However, in the intervening period the land supply position has changed significantly and as such resulted in greater weight being given to local plan policies, which weight has been recognised at recent appeal decisions.

Officers also advise that the original planning permission has lapsed with a failure to bring forward any related reserved matters and no end developer identified. Due to the change in circumstances, officers do not consider that there is a 'fall back' position and would afford very little weight to that previous decision.

Likewise, the previously proposed allocation (LA063) for the development of the site has fallen away, with site allocations to form part of the JLP 'Part 2'. Again, officers would afford very little weight to that previous draft allocation.

Officers also afford limited weight to the emerging Elmswell Neighbourhood Plan at this time. It is also not clear whether, in light of the above circumstances, the proposed settlement boundary revision that would include the site (which in any event is consistent with the lapsed permission and not the present proposal) will fall away i.e., that in light of the lapsed permission and removal of LA063 the settlement boundary will be re-drawn to exclude that land. Reg 14 consultation was undertaken over the Summer, but no further formal progress has been made (save for screening out the need for a SEA or HRA).

As such reconsideration has been given to the full consideration of principle:

Policy CS1 states: 'The majority of new development (including retail, employment and housing allocations) will be directed to towns and key service centres, but also with some provision for meeting local housing needs in primary and secondary villages, in particular affordable housing'.

The application site is situated outside of the settlement boundary of Elmswell (a key service centre), and as such within the countryside.

Policy CS2 of the Core Strategy extends from CS1 and restricts development in the countryside to defined categories. Policy H7 of the Local Plan also seeks to restrict housing development in the countryside in the interests of protecting its existing character and appearance. In countryside locations development will be restricted to particular types of development to support the rural economy, meet affordable housing, community needs and provide renewable energy. The proposal is not for one of these exceptions. As such

the proposal is for new residential development in the countryside, contrary to H7 of the Local Plan, and CS1 and CS2 of the Core Strategy.

The exceptional circumstances test at Policy CS2 applies to all land outside of the settlement boundary, as does saved Policy H7. This blanket approach is not considered to be entirely consistent with the NPPF, which favours a more balanced approach to decision-making in light of the datedness of the existing settlement boundaries and lack of a further allocations document to plan for future needs. The NPPF does contain a not dissimilar exceptional circumstances test, set out at paragraph 80, however, it is only engaged where development is isolated.

The definition of isolation with regards to this policy has been shown to relate to remoteness of a site from a settlement. Given the functional and physical proximity of the application site to Elmswell, as well as close proximity to existing residential dwellings, the development is not considered to be isolated and paragraph 80 of the NPPF is not engaged.

The Council can currently demonstrate a significant 5-year housing land supply position, currently measured at 10.88 years. As such the tilted balance embedded within the NPPF does not engage for this reason.

Given the age of the adopted Development Plan with regards to the NPPF and the fact that both the Core Strategy and Local Plan pre-date the first publication of the NPPF, consideration must be given to their level of compliance with the provisions of the NPPF and the level of weight that can accordingly be attributed to them as required by paragraph 219 of the NPPF.

Policies CS1 and CS2 jointly set out the spatial strategy for the district in directing how and where new development should be distributed. They are not expressly prohibitive of new development in the countryside and allow for new development that is in accordance with them. Read together the policies provide a strategy for the distribution of development that is appropriate in recognising local circumstances and their overall strategy remains sound. This is because they take a responsible approach to spatial distribution, requiring the scale and location of new development to take into account local circumstances and infrastructure capacity. These elements are consistent with the NPPF.

However, as seen within the recent appeal decision with regards to development at Haughley, inconsistency is identified with regards to policies CS1, CS2 and H7 with regards to the NPPF. In this instance, CS1 and CS2 do not allow for the weighting of the benefits of an application, applying a blanket approach to development not reflected within the NPPF. H7 sets an expectation that new housing will form part of existing settlements but does allow for exceptions to be made such as where development may be located adjacent to existing settlements. 'On the ground' this leads to some inconsistency with the NPPF/concern of some out-of-datedness, because there is no formal plan in place to deal with future housing needs (though, of course, this will be overtaken by the JLP in the near future), notwithstanding the considerable housing land supply position and an observation that the housing needs for the District over the next plan period have in effect already been met by virtue of the sheer volume of committed developments that exist. Naturally, this has a bearing on the weight to be afforded to the aforementioned policies and offers would afford them a substantial weighting in light of these circumstances. The Council also continues to pass the HDT, with the latest result being 125%.

A further recent appeal decision in Elmswell confirms that the Core Strategy and Local Plan policies still direct development to sustainable settlements where there are facilities, services and employment accessible by sustainable transport. This is in accordance with Framework policy that indicates significant development should be focused on locations which are or can be made sustainable. The appeal concludes that despite Framework inconsistencies, significant weight can be attached to a proposals policy conflict.



Economically, the proposal would generate a minor benefit for local trade and predominately arise during the construction phase which would be short term. The benefit to the community and society of the application in this regard is minimal, however, more benefits in this regard would accrue from the economic spend of the future occupants within the village.

In respect of the social strand, the proposal would produce new dwellings, which would provide a contribution to housing. Additionally, affordable housing is being delivered within the site which is an additional benefit of the scheme. However, at the current time the Council has in excess of 10 year housing land supply, and whilst this is not a cap on development it is nonetheless clear that more than sufficient housing land can be delivered, such that the weight of this benefit is minor.

With regards the environmental strand, there are two main elements, landscape/environment and moving to a low carbon economy, taking each in turn.

As noted above the proposal has been assessed by our Landscape Consultant, who concludes that the proposal can be mitigated to address landscape harm. However this relates to the landscape element, not to the impact of the encroachment into the countryside, and the impact on local distinctiveness that is of concern. This impact is considered to weigh negatively in the balance with regards to the landscape, in that the proposal fails to protect and enhance the natural environment.

The site is located adjacent to the settlement boundary of Elmswell, and has access along Cresmeadow Way and Warren Lane. As a key service centre Elmswell has many facilities and services, including a primary school, railway station, food shop and library, to name but a few. Journeys either on foot, noting the above highway review, or by bicycle would be possible, and where these are by car the journeys short, and likely to support local services. However, trips to amenities to the south would risk harm to pedestrian safety, which weighs negatively in the balance.

In light of the additional issues raised by Members, including the highway and landscape issues, this also widens the ambit of policies 'most important' for the determination of the application. Overall these would include policies FC1, FC1.1, CS1, CS2, H7, CS5, and T10. Taken in the round that basket of most important policies is considered to be up to date.

Therefore, if Members were to exercise that judgement, which officers consider would be entirely reasonable, then the "tilted balance" could not engage for this reason either.

### **Conclusion and Recommendation of Risk Assessment**

As set out above the proposal is not considered to warrant refusal with regards to the quarry itself, however harm is identified in respect of the intrusion into the countryside and traffic concerns. Whilst these might not in themselves explicitly warrant refusal, following an up to date consideration of principle they do weigh negatively in the balance.

As set out above the principle assessment can no longer rely on an expired previous consent, and furthermore the policy background to the proposal has changed through recent appeal decisions, and the land supply position, which are material considerations. Due to the issues identified by Members, it would also not be unreasonable to determine that the basket of policies most important for the determination of this application are up to date.

In the light of this the consideration of the balance of sustainability is such that the economic benefits during construction and occupation are minimal, and would result from development within the current 10 year

land supply in the district. Similarly with social benefits the Council has sufficient land supply to deliver these benefits, such that there is only a minor benefit attributed here.

In terms of the environmental strand, it is considered that there is harm with regards to the encroachment into the countryside, notwithstanding the landscape mitigation. Furthermore, whilst the site is within reach of services in Elmswell which can be reached by sustainable means it nonetheless brings development closer to amenities to the south, and such trips would risk harm to pedestrian safety, which weighs negatively in the balance.

With so little in favour of the development and harm as a result of both the intrusion of built development and pedestrian safety the proposal cannot be considered to fall within the definition of sustainable development. Even if the “tilted balance” were engaged, permission could reasonably be refused in accordance with paragraph 11 d) ii) in that the adverse impact of granting permission would significantly and demonstrably outweigh the benefits.

**Accordingly the recommendation to committee is amended as set out below:**

**(1) That the Chief Planning Officer be authorised to REFUSE Planning Permission based on the following reasons and such other reasons as he considers fit:**

The proposed form of development would intrude into the countryside, and would not add to the overall quality of the area but would foreseeably impact on the character and appearance of the rolling countryside location, having regard to the introduction of new buildings and activity on the valley side.

On this basis the proposal would be contrary to paragraph 126 and 130 of the NPPF and contrary to policy CS5 of the adopted Core Strategy which seeks to safeguard local distinctiveness. The development of this countryside location would moreover be contrary to policy H7 of the adopted Mid Suffolk Local Plan 1998 which seeks to control development outside settlement boundaries in the Plan in order to safeguard the character and appearance of the countryside.

Furthermore the proposal risks harm by reason of risk to pedestrian safety, and as such fails to comply with the requirements of NPPF paragraph 110 b) and 112 c).

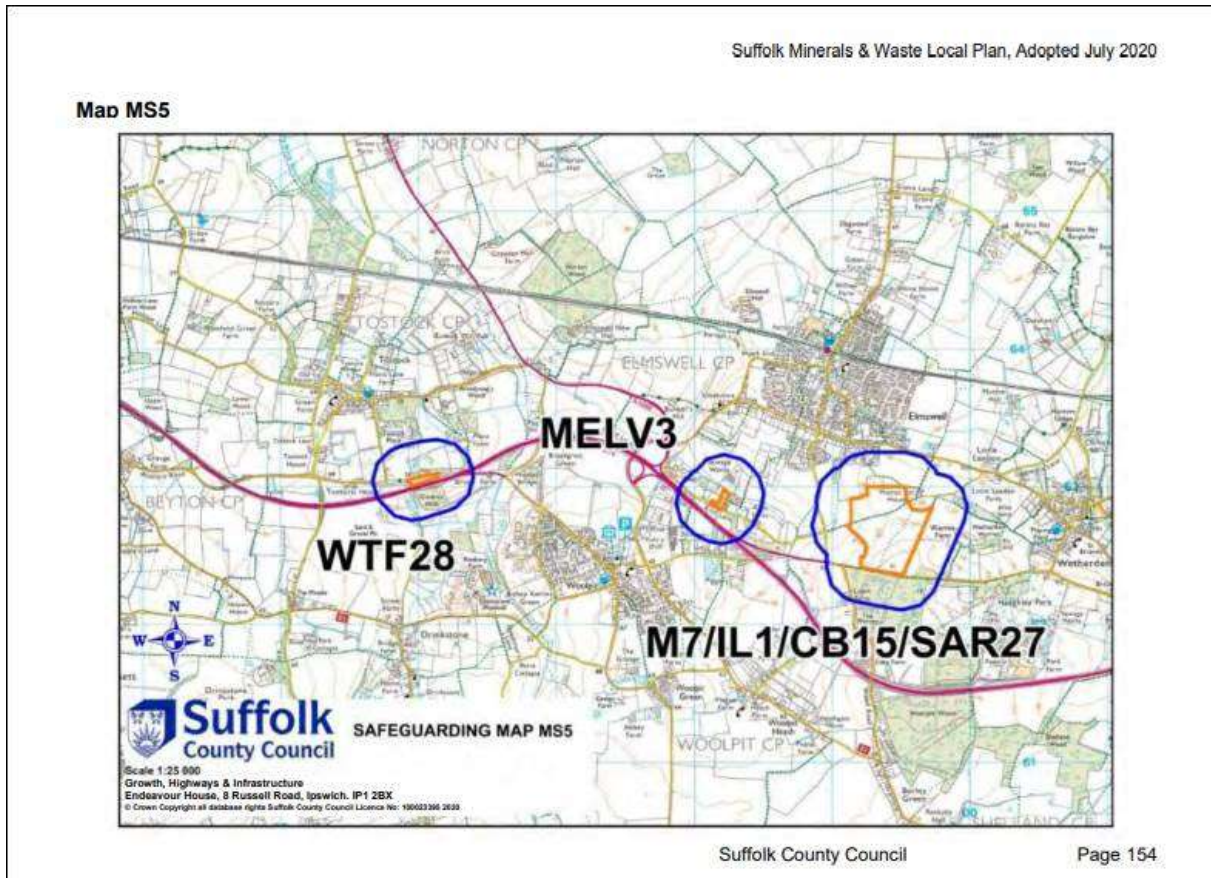
By reason of harm resulting from the intrusion into the countryside, and harm to pedestrian safety, the proposal fails to fulfil the requirements of sustainable development. As such the proposal would be contrary to the requirements of Core Strategy CS1 and CS2.

As such the proposal is not acceptable in principle, being contrary to paragraphs 8 and 11 of the NPPF (2021), Policy H7 and T10 of the Mid Suffolk Local Plan (1998), Policies CS1, CS2 and CS5 of the Core Strategy (2008) and Policy FC1 and FC1.1 of the Core Strategy Focused Review (2012). The harms identified would significantly and demonstrably outweigh the very modest benefits.

**Update following Committee 8<sup>th</sup> December 2021, Committee 9<sup>th</sup> March 2022**

**Impact of the Quarry**

The Suffolk Minerals & Waste Local Plan, Adopted July 2020 provides policy for the expansion and safeguard of the quarry as shown below.

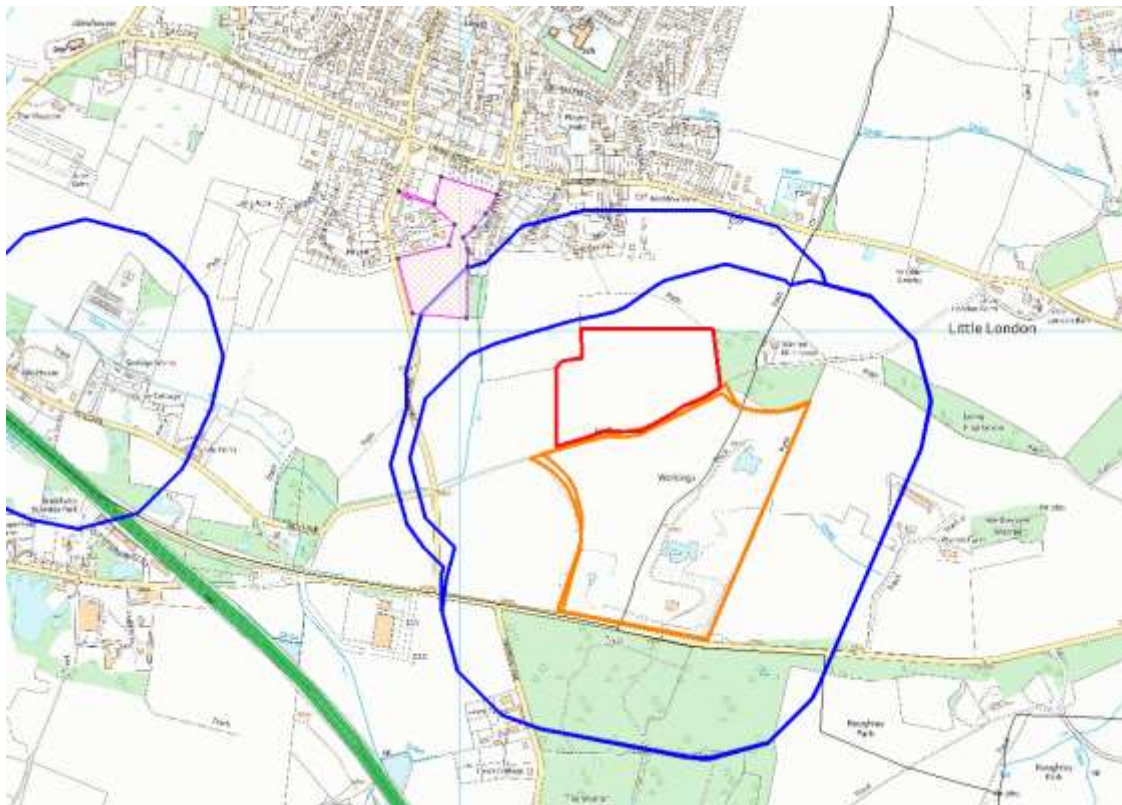


The 250m safeguard zone is not designated to stop development or refers to noise and dust impact. It is there to provide a zone to consider how a development may be prejudicial to the extraction of minerals as detailed in SCC policy MP10.

In terms of the expansion, the plan recognised the existing properties and the need for a buffer bund on all three boundaries (west, north and east). The 240 dwellings approved much closer to the quarry than this proposal also considered the quarry, and a SCC required a 100 metre buffer (much of this is the open space part of the development).



Consultation from SCC minerals and waste has been received since the last committee and includes a more detailed plan of the existing and expanded safeguarding zone (both blue).



SCC Minerals and Waste have also provided (below) a response to this application.

*“A planning application on the quarry extension allocation has not yet been submitted to SCC as the minerals planning authority. There are existing properties within the safeguarding area as well*

*as dwellings under construction off Wetherden Road in the Safeguarding area. The existing dwellings are closer to the quarry allocation than the dwellings in this application would be. The southwest corner of the application site is approximately 200m from the allocated extension with existing properties being between approximately 120m from the boundary of the allocation. When allocated it was considered that the quarry site could mitigate significant amenity impacts at this distance, therefore we do not expect that the additional housing in this application would prejudice the delivery of the quarry extension, or that new residents would be significantly impacted.”*

The SCC Obligations Manager was included in the above response and went on to ask the following question:-

*“If the new housing scheme is granted planning permission and built out prior to the quarry extension, the developer will have disappeared off the scene. This would leave individual home owners/occupiers with the responsibility to mitigate (currently unknown) impacts. But you go on to say that existing homes would have any impacts mitigated by the quarry. If the new homes effectively become existing homes, then wouldn't responsibility also fall on the quarry to mitigate impacts? I'm unclear why there is a safeguarding map if we are content for development to occur inside it - won't new development inside this area potentially prejudice the future quarry extension?”*

SCC Minerals response to this question was as follows and this is included to as members may have similar considerations:-

*“Neil, on your point about the onus being on the developer to mitigate impacts, I was setting out the expectation of the policy as to what might be expected of a developer in a safeguarding zone – if we believed there would be additional impact on the delivery of the quarry then we would expect mitigation, but in this case we don't foresee that there will be. The safeguarding zones are not strictly speaking “no go zones” but are there to flag the presence of planning applications near minerals or waste sites. We then assess the sites in question to identify if there is any impact on amenity of new residents/users of the new development, or prejudice to the operation of the minerals and waste site. In this case we do not believe that there will be but the answer will differ depending on the circumstances.”*

**In conclusion your officers summaries the following:-**

- That the SCC as Minerals Authority consider that the proposed housing development will not be prejudice to the operation of the quarry.**
- It will be for the future application to expand the quarry (if and when) to consider the amenity of existing residents and consider any mitigation, but SCC does not consider this being likely to be necessary. (Your officers also note that the expansion will likely continue the 3-5 metre high bund around the quarry and note the distance and woodland between)**
- The site is not withing the current safeguarding zone, but will be partly within the future expanded area that SCC has provided. The indicative plans submitted do show some housing in that area with majority of that affected area being landscaping, SuDs and highway.**

## **Obligations Update**

Since the last committee SCC Obligation manager has updated the SCC position in respect of this application and discussions on the infrastructure requirements have taken place.

SCC will see a number of items through CIL, including local primary school expansion, secondary school expansion, sixth form expansion, Libraries improvements and household waste.

For a Section 106 the following is confirmed as sought and the recommendation is updated by officers.

- Early years new provision @ £20,508 per place. £82,032
- Secondary school transport £42,175
- Elmswell/Woolpit new footway/cycleway contribution @ £850 per dwelling. £37,400

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

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

The development is a major development of 15 or more residential units and outside the scope of current delegation arrangements.

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**PART TWO – POLICIES AND CONSULTATION SUMMARY**

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**Summary of Policies**

CL08 - Protecting wildlife habitats  
CL09 - Recognised wildlife areas  
CS01 - Settlement Hierarchy  
CS02 - Development in the Countryside & Countryside Villages  
CS05 - Mid Suffolk's Environment  
CS09 - Density and Mix  
FC01 - Presumption In Favour Of Sustainable Development  
FC01\_1 - Mid Suffolk Approach To Delivering Sustainable Development  
GP01 - Design and layout of development  
H03 - Housing development in villages  
H07 - Restricting housing development unrelated to needs of countryside  
H13 - Design and layout of housing development  
H14 - A range of house types to meet different accommodation needs  
H15 - Development to reflect local characteristics  
H16 - Protecting existing residential amenity  
HB01 - Protection of historic buildings  
Elmswell Neighbourhood Plan  
T10 - Highway Considerations in Development  
NPPF - National Planning Policy Framework  
NPPG-National Planning Policy Guidance

**Neighbourhood Plan Status**

This application site is within a Neighbourhood Plan Area.

The Neighbourhood Plan is currently at Stage 2:-

- Stage 1: Designated neighbourhood area
  - Stage 2: Preparing a draft neighbourhood plan
  - Stage 3: Pre-submission publicity and consultation
  - Stage 4: Submission of a neighbourhood plan
  - Stage 5: Independent Examination
  - Stage 6: Referendum
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## Stage 7: Adoption by LPA

Accordingly, the Neighbourhood Plan has little weight at this time.

### **Consultations and Representations**

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

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

[Click here to access Consultee Comments online](#)

<b>Consultee</b>	<b>Support/Object/Holding Objection/Other</b>
Town/Parish council (Appendix 3)	
Elmswell Parish Council	Recommend refusal and these matters are considered in the assessment.
National Consultee (Appendix 4)	
Suffolk Wildlife Trust	We have read the Ecological Assessment (Ecology Solutions, May 2021) and we are satisfied with the findings of the consultant.
Natural England	Refer to standing advice only.
Anglian Water	Advise that the foul water capacity would need to be increased and they will take steps required. No conditions recommended and no objection.
Historic England	Confirm that the LPA do not need to notify or consult Historic England under the relevant statutory provisions.
County Council Responses (Appendix 5)	
SCC Highways Authority	Recommends planning conditions. Some of these relate to layout and need to be imposed at reserved matter stage. Those that apply to this outline and the access are recommended.
SCC Obligations Manager	SCC has set out the consideration for CIL and S106 monies. This is considered further in the assessment.
SCC Archaeology Team	No objection – recommend standard archaeology condition.
SCC Fire and Rescue	Recommend standard fire hydrant condition
SCC Flood Team	SCC finds the assessment of flood risk acceptable. The method for the disposal of surface water run off is also found acceptable. SCC do have a holding objection for two reasons. 1) The scheme is not a preferred full open SuDS scheme, 2) Annotations to be added to plans



	(Officer note: These are considered unnecessary for the outline).
SCC Travel Plan Team	On reviewing the planning application documents I have no comment to make, as the size of the development does not meet the threshold of requiring a Travel Plan in accordance with the Suffolk Travel Plan Guidance.
Internal Consultee Responses (Appendix 6)	
Place Services Landscape (On behalf of MSDC)	Support – recommend conditions - Arboricultural Method Statement - Landscaping and management (not recommended as this would be a reserved matter) - Details of SuDs (This is also picked up by SCC Flood Team and recommended) - Details of play equipment (A matter for 106 agreement along with open space)
MSDC Housing	The housing team have set out what they may wish to see in terms of affordable and market housing mix. Affordable housing shall be secured via the 106 and market housing is conditioned, including tenure and size. The appearance and layout of the housing is reserved and so comments on layout can be dealt with at a later stage.
Place Services Ecology (On behalf of MSDC)	We are satisfied that there is sufficient ecological information available for determination.
MSDC Heritage	On the basis of the submitted information I consider that the proposal would not result in sufficient heritage impacts to warrant the Heritage Team's involvement.
Environmental Health - Air	I can confirm that the scale of development, at 44 dwellings, is not likely to be of a scale of that would compromise the existing good air quality at, and around the development site
Public Realm	Elmswell currently has a deficit in child play provision when compared to local standards (Babergh and Mid Suffolk Open Space Provision Report) and the location of existing provision is distant from this development. Public Realm Officers would like to see either some on site play provision provided within the planned open space or a contribution made to enhance existing play facilities located off site. (Officer note – this is secured).
Environment Health - Contamination	I have no objection to the proposed development subject to a condition to secure the provisions of the Phase I Report by Nott Group (ref : 73100/R/001 dated 6/5/21)

MSDC Tree Officer	There are no significant arboricultural features within this site. Notes mature trees along the boundary that will require protection during the course of any development works. This can be dealt with under condition via an appropriately specified Tree Protection Plan.
MSDC Waste Management	No objection

## **B: Representations**

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

Views are summarised below:-

<b>Planning Matters</b>
Increase in traffic and related matters
Use of Warren Lane
Increase area of development beyond that set before should be resisted.
Loss of wildlife and ecology potential
Need for improvements to Warren Lane (includes zebra crossing)
Light pollution
Impact on infrastructure (school places, shops and services)
Potential loss of privacy
Potential flooding and drainage issues from new housing

Other matters include need of housing and expression of too many houses in Elmswell. Loss of views. Private legal matters.

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

## **PLANNING HISTORY**

**REF:** 4909/16

Outline Planning Permission (Including access with all other matters reserved), development of up to 38 dwellings inclusive of affordable housing, with associated vehicular and pedestrian accesses and links. infrastructure, open space, landscaping and green infrastructure.

**DECISION:** GTD  
21.06.2018

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

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

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CLASSIFICATION: Official

1.1. The proposal site comprises of agricultural land on the eastern side of Warren Lane, Elmswell. The site lies to the southern edge of the village of Elmswell and is predominately bounded by residential development to the north, east and west and agricultural land to the south. The proposal site is located within The Countryside; however, lies adjacent and opposite to the settlement boundary of Elmswell.

1.2. The red line plan below shows the location of the field. Officers have added the green line to indicate the point of the previous approval for this site that will be explained further in this report. To allow context, an aerial plan is included below and officers have added an indicative red line to assist.






## 2. The Proposal



2.1. This is an outline application with access for consideration. The proposal is for 44 dwellings, including bungalows, affordable housing, open space, landscaping; and associated infrastructure. Affordable housing will be 35% in accord with policy, and this would result in 15 affordable homes.

## 3. The Principle Of Development

3.1. This application is required to be considered on its merits, however for the majority of the site area development has been approved previously under reference 4909/16 granted 21.06.2018 and while this expired last year it is considered by officers that should be given weight as the Local Plan and Core Strategy remain applicable. This previously site area is also an allocation within the emerging joint local plan, but that document is undergoing significant changes at this time and is given limited weight at the time of writing this report. This position may change and updated as needed. For information, the proposed area is larger than the approved development in terms of the allocation text within the JLP, but not as shown on the JLP allocation plan itself. It is likely that the intended area was 1.86ha in this regard. A comparison is considered useful.

### 3.2. Comparison

	<b>Previous Approval 4909/16 Granted 21/06/2018 (outline with access)</b>	<b>Current Application DC/21/02956 (outline with access)</b>	<b>Allocation JLP (Reg 19 Latest under review)</b>
			
No of Dwellings	38	44	38
No of Affordable Dwellings	13 secured	15 secured	35% = 13 sought
Site Area	1.86ha	2.88ha	1.86ha on map, but 2.62ha allocation text. Policy confirms this needs to be reviewed.

Density	20.43 dwellings per ha	15.28 dwellings per ha	20.43 or 14.5 dwellings per ha depending on text or map site area.
SuDS?	Yes, but elements not shown on the indicative plan and not demonstrated as achievable on plan. Would not be in accord to current guidance.	Yes, details prove SuDS can operate and shown on the indicative plan. Preference of SCC for fully open scheme is noted.	None secured via allocation and other policy only state when appropriate.
Open Space	 <p>Not secured. Indicative plan (only showing 19 of the 38 units approved) appears to show very limited open space likely available beyond landscape buffer and attenuation.</p>	 <p>Given the increased area, details of all 44 dwellings and SuDs, landscape and open space is more likely as demonstrated on indicative plan.</p>	None referenced / sought in allocation.
Obligations/ Condition	A. Junction improvements to Warren Lane with Church Road/Cross Street secured.	A. Junction improvements to Warren Lane with Church Road/Cross Street would be secured.	A. Junction improvements to Warren Lane with Church Road/Cross Street sought.
	B. Provision of passing places on Warren Lane secured.	B. Provision of passing places on Warren Lane would be secured.	B. Provision of passing places on Warren Lane sought.
	N/a	C. Contribution to change speed limit of Warren Lane would be secured.	N/a
	N/a	D. A pedestrian access to Cresmedow Way	N/a
	N/a	E. Early years new provision @ £20,508 per place. £82,032	N/a
	N/a	F. Secondary school transport £42,175	N/a

	N/a	G. Elmswell/Woolpit new footway/cycleway contribution @ £850 per dwelling. £37,400	N/a
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3.3. The previous approval is material, but this proposal is larger in site by around 1ha and increases the development by 6 units. While the number of units is slightly increased, the density of development drops significantly due to the greater area and with the prospect of a more open space, consideration of rural landscape character and SuDS compliant development demonstrated.

## Policy Position

Stage 1 – What is the policy position.

3.4. Current Local Plan/Core Strat and Focussed Review: The current adopted local plan and the important policies for the provision of new (net gain) housing within the local plan area would not support housing in this location.

3.5. Neighbourhood Plan: Elmswell does not have an adopted Neighbourhood Plan.

3.6. Emerging Joint Local Plan JLP: The emerging joint local plan policy position is considered to support a development for part of the site given the allocation, but this is under review.

Stage 2 – What is the policy status, and which are most important for determining for the application?

3.7. The NPPF is a material consideration as national policy, and it has a bearing on the current development plan position. In summary, Para 11d provides “where the policies which are most important for determining the application are out-of-date”, permission shall be granted unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed;

or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Accordingly, in examination of Para 11d we must ask if the Mid Suffolk policies important for determining the application are out of date?

There are essentially two criteria to judge this:

1) The NPPF provides under Para 11 footnote 7 that the LPA must have a deliverable housing supply in excess of 5yrs (with associated criteria). Currently the LPA complies with the provisions of footnote 7 and has a sufficient housing supply above requirements of the NPPF. On this basis the current Development Plan policies important for making this decision are not out of date.

2) The NPPF provides that new development plans need to accord with the NPPF to be considered sound (ref para 35 and other paras). There is no requirement stated in the NPPF that an “old” development plan policy must conform with the NPPF.

NPPF Para 11 footnote 7 provides the criteria for considering a development plan policy as out of date “includes” the housing supply as assessed under point 1) above. However, the word “includes” implies there might be other reasons for considering policies as out of date, but these are not stated under Para 11.

Therefore, we look elsewhere in the NPPF for any provision to consider the Development Plan as out of date. Para 213 suggests that one of the reasons to consider a development plan policy as out of date could be if adopted/made prior to the publication of the NPPF. However, it also provides that this may not necessarily be the case. It is taken that due weight should be given in terms of their degree of consistency with the NPPF to form this judgement and the full text of this paragraph is copied below.

*Para 213 states “However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”*

3.8. On this basis it could be considered that the current development plan policies are out of date depending on the degree of consistency with the NPPF. If the development plan policies are judged to be so inconsistent to be out of date and these are the most important policies as a whole to judge the proposal, then the tilted balance to grant as set out in Para 11d(i)(ii) engages.

Stage 3 – Are the development plan policies consistent with the NPPF and what weight should be applied?

3.9. Inconsistent Policies which cannot therefore be given full weight:

Given the provisions of Para 213 we must consider the policies and judge their consistency with the NPPF and consider due weight in terms of the proposal. A number of appeal cases within the District have helpfully established a position on a number of policies. H7, CS1, CS2, CS5 as well as FC01 and FC01\_1 that are the most important policies in terms of the principle of housing development in this proposal have been determined not to conform with the NPPF previously in a number of appeal cases that remain relevant (Woolpit Appeal APP/W3520/W/18/3194926 being one). Furthermore, policy H15 is not considered to be consistent with the NPPF nor should be given full weight as it sets prescriptive design requirement and a cap on density that could be considered to limit housing.

3.10. Consistent Policies which attract full weight:

GP1 as a general design policy has been previously judged at appeal (Woolpit Appeal APP/W3520/W/18/3194926) to be consistent with the NPPF and so is given full weight. H13 provides design criteria for housing development that is considered to accord to the design aspirations of the NPPF and so is considered consistent and given full weight. H16 and T10 seek to protect the amenity and highway safety and with consideration of the provisions of the NPPF are considered to be consistent and given full weight.

Stage 4 – Engagement of the Tilted Balance

3.11. Based on the assessment above given the inconsistent policies important for this application, the tilted balance is considered to engage. On this basis, despite any development plan position not to support the development, we must instead consider granting permission unless:-

Para 11D (i). the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed;

or Para 11D (ii). any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

On this basis, we must look at these elements.

3.12. Firstly, Para 11D(i) is not considered to apply. Protected area or assets of particular importance are identified by Para 11D Footnote 6 and related to habitats sites, sites listed in NPPF paragraph 176, and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 63); and areas at risk of flooding or coastal change. None of these apply to this site.

3.13. Looking at Para 11D (ii) the NPPF advises that we should grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. Lastly, the definition of isolation in the context of this policy has been shown within court judgements to relate to physical isolation only. The subject land is not physically isolated, and it must follow that paragraph 79 of the NPPF does not engage.

Stage 5 – Impacts and Benefits considered against the policies of the NPPF.

3.14. The case officer has reviewed the NPPF as a whole and these elements are assessed within this report in the sections below. The NPPF seeks sustainable development taken as a whole and the principle of development in this location abutting a key sustainable centre for economic and social services is considered acceptable subject to the material considerations below. It is noted that there could be an aspect of sustainability that a development may not be able to achieve, but other aspects may be more significant and then on balance it is concluded to be sustainable.

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

4.1. Policy T10 of the Local Plan requires the Local Planning Authority to consider a number of highway matters when determining planning applications, including the provision of safe access, the safe and free flow of traffic and pedestrian safety, safe capacity of the road network and the provision of adequate parking and turning for vehicles. Policy T10 is a general transport policy which is generally consistent with Section 9 of the NPPF on promoting sustainable transport, and therefore is afforded considerable weight.

4.2. Paragraph 111 of the NPPF confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

4.3. The main vehicular access will be to Warren Lane and pedestrian accesses to both Warren Lane and Cresmedow Way (a pedestrian access to Cresmedow Way was not included in the previous scheme). The Highways Authority does not object to the proposed access arrangement that is the same vehicular access as the previous approval for 38 dwellings. The proposal also includes a package of measures for improvements to Warren Lane/Church Road junction (included previously) as well as a further provision to extend the speed limit on Warren Lane to the south as the site access location coincides with the existing limit of the speed limit. This will reduce the speed limit for part of the road and was not secured previously for the 44 units now proposed. The access arrangements are considered safe and suitable for all users, consistent with paragraph 110 of the NPPF.

4.4. Sufficient parking and manoeuvring space is demonstrated in the indicative plan as possible and can avoid potential issues such as triple parking once reserved matters are put forward. There are no public rights of way affected.

4.5. The SCC obligations team has requested 106 monies for a range of matters and this has been updated since Committee to reflect the adopted "Babergh and Mid Suffolk CIL and S106 Guidance Note, September 2019". Also, since the last committee there has been a significant change in the policy



position of the emerging local plan and this is under review. However, the housing allocations are to be reviewed much later and so are considered to have less weight at this time and do not conflict as they did previously with the requests sought by SCC. In this regard, your officers have reviewed the SCC obligations sought and agree to all requests including the cycle link monies given the further justification received.

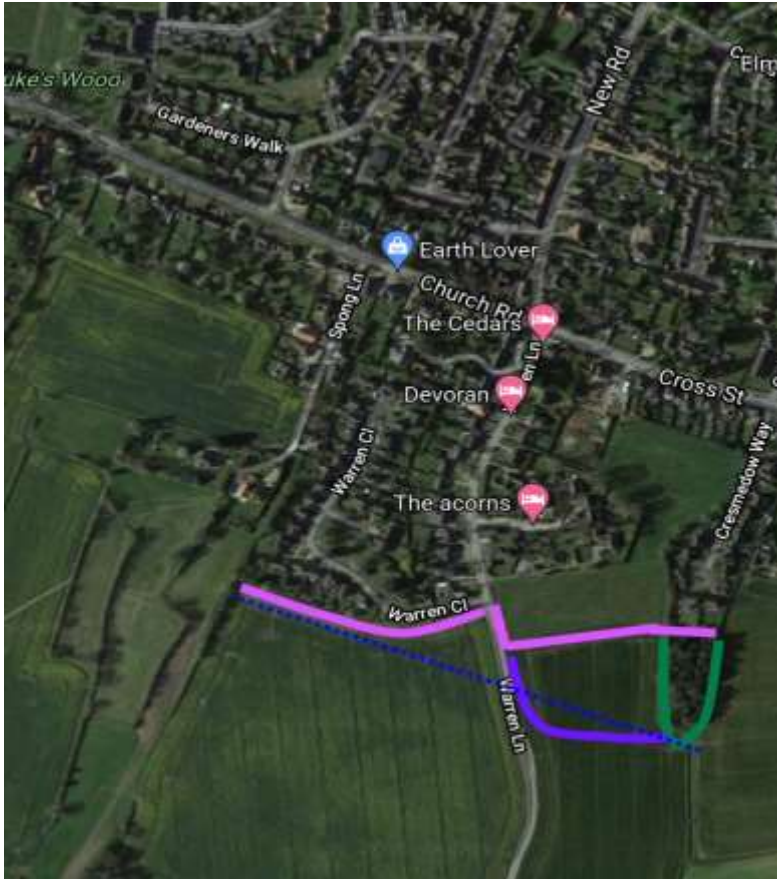
## **5. Design And Layout [Impact On Street Scene]**

5.1. The indicative plan helpfully provides clear detail on layout to demonstrate that 44 dwellings can be accommodated that would have a low density, good landscaping buffers, reasonable distance from neighbours and considers the constraints of the site. Appearance and layout are reserved matters, but the principle of good design potential is demonstrated to be very achievable and more likely to be achieved compared to the smaller site area previously approved for similar numbers of dwellings. The scheme proposes a very low density of development, half that the Council's policy CS9 that seeks at least 30 dwellings per ha.

5.2. The purpose of indicative plans should be to demonstrate at least one arrangement that can in principle be possible to demonstrate the number of dwellings can be achieved and without significant detriment. It is considered that this is demonstrated in this case, especially given the unusual shape of the site. More land compared to the previous outline allows the development to move housing away from existing housing reducing risk of harm to amenity and increase open space provision within the site.

## **6. Landscape Impact, Trees, Ecology, Biodiversity And Protected Species**

6.1. The development will extend further into the countryside than the previous approval for 38 units in terms of area. This is one of the points the Parish Council makes and is agreed. However, the proposal for 44 units does not extend past the woodland copse on the eastern boundary and is considered to be generally in line with parts of Warren Close.



View from Warren Lane to Warren Close (centre) and Site (right).



The edge of Warren Close.

6.2. Housing along Warren Close with little landscaping are seen the landscape for a long distance. Officers consider the previously approved development for 38, that also intrudes into the countryside, would likely be similar in landscape impact to those existing along Warren Close given the limited area for siting of the 38 units approved and reduced landscape potential. While the current proposal for 44

does intrude further, the proposal demonstrates the siting of all 44 dwellings as possible and could be set back from a significant landscape buffer at the same time. While this landscaping will need time to establish, this landscape and the space available for it will be able to blend the housing into the landscape. In conclusion, there is intrusion and change views for both the approved scheme and the proposal, but the planning harm to the landscape is considered less and opportunity for landscaping is far greater with this proposal and is considered a benefit. There are no objections in terms of trees matters or ecology given the current open field.

## **7. Land Contamination, Flood Risk, Drainage and Waste**

7.1. The site is not in flood risk zone 2/3 and there are no known drainage, contamination or waste concerns for this site. SCC Flood Team have recommended a holding objection in respect their design preference of the SuDS scheme, but confirm that the SuDS proposals themselves are suitable.

Essentially their objection relates to two matters:-

1. Amend the proposed indicative surface water management scheme to utilise a full above ground open SuDS system for collection, conveyance, storage, and discharge (removing all potential pips and culverts), unless there is clear evidence why this is not appropriate for this site due to site constraints.

Provision of SuDS is a policy requirement under CS4 "The Council will seek the implementation of Sustainable Urban Drainage Systems into all new developments where technically feasible.". However, as yet the district does not have a policy requirement for elements of SuDS to be 100% open at this time. The SCC point is noted for consideration of ease of maintenance, but maintenance will be a private legal matter.

In this case, the scheme meets water quality and volume control criteria (cleaning runoff and releasing it at a slow rate so as not to increase off-site flooding or pollution) The shape of the site, levels, landscaping and consideration of distance to neighbours are all constraints and despite this the proposal is significantly open

2. Amend the cross sections to depict max side slopes of 1:4, 1.5m width benches and a 3 m maintenance strip

The side slope, depth, and bench annotations were added to drawing ZC331-PL-SK-301 revision P01 and uploaded to the application 13/08/2021. It should be noted that the maintenance strip around the top of the basin incorporates a road and is therefore in excess of 3 m wide.

In conclusion, the details at outline stage are considered to be sufficient to determine the principle of development and flood risk can be adequately mitigated in principle.

## **8. Impact On Residential Amenity**

8.1 There is nothing in the application that suggests the residential amenity of neighbouring residents would not be appropriately safeguarded and can be addressed as needed in the layout, scale and appearance as reserved matters. The previously approval for 38 already included the land nearest to existing residents and while this includes additional land, this is further from existing residents. The additional land provides opportunity to better distancing from existing residents than the previous approval would have likely achieved and so is considered overall to be an improvement in this regard.

## **9. Biodiversity**

9.1 Regulation 9(5) of the Conservation of Habitats and Species Regulations 2010 (Implemented 1st April 2010) requires all 'competent authorities' (public bodies) to 'have regard to the Habitats Directive in the exercise of its functions.' For a Local Planning Authority to comply with regulation 9(5) it must 'engage' with the provisions of the Habitats Directive.

9.2 Officers consider that the site exhibits limited ecological value, attributed to the position of existing development and physical characteristics of the site. The residential use and scale of the development is such that lighting will be limited and of a typically domestic nature and for much of the site has been approved previously.

## **10. Conclusion**

10.1 The development plan when taken as a whole does have some policies that prevent development in the countryside (Local Plan and Core Strat), but these important policies for determining the application are deemed out-of-date. Irrespective of Council's five year housing supply position, the weight to be attached to these policies has to be commensurately reduced and the default position at paragraph 11d of the NPPF engages.

10.2 The adverse effects of granting planning permission are insignificant, outweighed by the scheme benefits, most notably the improved landscape character outcome and improved potential for a suitable low density scheme for this location. Accordingly, the proposal would deliver sustainable development.

## **RECOMMENDATION**

That authority be delegated to the Chief Planning Officer to approved this application:-

**(1) Subject to the prior agreement of a Section 106 Planning Obligation on appropriate terms to the satisfaction of the Chief Planning Officer as summarised below and those as may be deemed necessary by the Chief Planning Officer to secure. (Officers may consider it appropriate to change requirement to form a planning condition on any further legal advice):**

- Affordable housing 35%
- Properties shall be built to current Housing Standards Technical requirements March 2015 Level 1. All ground floor 1 bed flats to be fitted with level access showers, not baths.
- The council is granted 100% nomination rights to all the affordable units on initial lets and 75% on subsequent lets
- All affordable units to be transferred freehold to one of the Councils preferred Registered providers.
- Adequate parking provision is made for the affordable housing units including cycle storage for all units.
- Commuted sum option available to be paid instead of on site provision should the LPA agree to such request.
  
- On site open space and includes management of the space to be agreed and requirement for public access at all times.
- Junction improvements to Warren Lane with Church Road/Cross Street would be secured.
- Provision of passing places on Warren Lane would be secured.
- Contribution to change speed limit of part of Warren Lane would be secured.

- A cycle/pedestrian access to Cresmedow Way and Warren Lane would be secured
- Early years new provision @ £20,508 per place. £82,032
- Secondary school transport £42,175
- Elmswell/Woolpit new footway/cycleway contribution @ £850 per dwelling. £37,400

**(2) That the Chief Planning Officer be authorised to GRANT Planning Permission upon completion of the legal agreement subject to conditions as summarised below and those as may be deemed necessary by the Chief Planning Officer:**

- 1) Standard time limit (Outline and Reserved Matters)
- 2) Approved Plans (Plans submitted that form this application)
- 3) Phasing Condition (To allow phasing of the development and allows spreading of payments under CIL)
- 4) Swift/Bat and/or Owl boxes installation scheme to be agreed for each dwelling/building
- 5) A scheme for Bee bricks shall be agreed for the development.
- 6) Hedgehog fencing scheme to be agreed (Concurrent with reserved matters)
- 7) Provision for a composting bin for each dwelling shall be provided
- 8) SuDS conditions
- 9) Market mix of dwellings to be agreed, including no of bed and space standards prior to or concurrent with reserved matters to be agreed
- 10) Energy, Water and Resource scheme to be agreed (Concurrent with reserved matters)
- 11) Rainwater harvesting for each separate building to be agreed
- 12) Construction Plan including operation hours of work to be agreed.
- 13) A scheme of level access, to enable wheelchair access for all dwellings/buildings (Concurrent with reserved matters).
- 14) Highways - Before the access is first used visibility splays shall be provided as shown on Drawing No.S761/240/A and no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.
- 15) Highways - The layout to be agreed at reserved matters shall avoid the create of triple parking for each dwelling/building.
- 16) Ecology - All mitigation measures and/or works shall be carried out in accordance with the details contained in the Ecological Assessment (Ecology Solutions Ltd, May 2021),
- 17) Ecology - A Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority, following the details contained within the Ecological Assessment (Ecology Solutions Ltd, May 2021).
- 18) Ecology - A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority.
- 19) Contamination – Development shall accord to Phase I Report by Nott Group (ref : 73100/R/001 dated 6/5/21) submitted with the application.
- 20) Removal of permitted development (extensions and alterations)
- 21) Programme of Archaeology Works
- 22) Provision of fire hydrants

**(3) That in the event of the Planning obligations or requirements referred to in Resolution (1) above not being secured and/or not secured within 6 months that the Chief Planning Officer be authorised to refuse the application on appropriate ground**