

Committee Report

Committee Date: 23 February 2017

Item No: 3

Reference: 4242/16

Case Officer: DYJO

Description of Development: Application for Outline Planning Permission (include access only) for the erection of 28 dwellings
Location: Land to North West of, Mason Court (Known as Old Engine Meadow), Mendlesham
Parish: Mendlesham

Ward: Mendlesham

Ward Member/s: Cllr Andrew Stringer

Site Area: 1.5

Conservation Area: ADJ

Listed Building: All

Received: 13/10/2016

Expiry Date: 13/01/2017

Application Type: Outline

Development Type: DWL

Environmental Impact Assessment: Not required

Applicant: Mid Suffolk District Council and the Owners of Old Engine Meadow

Agent: Philip Cobbold Planning Consultancy

DOCUMENTS SUBMITTED FOR CONSIDERATION

List of applications supporting documents and reports:

Application form received on 13/10/16

Location plan received on 13/10/16

Layout plan reference number 3810/10C

Access Plan reference number 163/2016/SK01

Ecological scoping survey received on 13/10/16

Design & Access Statement received on 13/10/16

Environmental desk study received on 13/10/16

Contaminated land documentation received on 13/10/16

Planning statement received on 13/10/16

Location plan received on 13/10/16

Speed survey documentation received on 13/10/16

Tree Survey received on 13/10/16

Landscape impact assessment received on 13/10/16

The application, plans and documents submitted by the Applicant can be viewed online at:
<http://planningpages.midsuffolk.gov.uk/online-applications/simpleSearchResults.do?sessionId=F4E2D0179890DE7009A50B55C11B2811?action=firstPage>

Alternatively, a copy is available to view at the Mid Suffolk and Babergh District Council Offices.

SUMMARY

1. The scheme is contrary to the adopted Mid Suffolk Core Strategy; however, the Council cannot demonstrate a 5 year supply of housing and the scheme falls to be considered under paragraph 14 of the NPPF where the adverse impacts of the scheme have to be balanced against the benefits of the scheme to demonstrate that it constitutes sustainable development. Officers are recommending approval of this application subject to the drainage and flood risk matters being resolved as it is considered to be sustainable development as the significant public benefits that the scheme will deliver (contributions towards education, affordable housing and library facilities amongst others) are considered to outweigh the negative aspects of the proposal.

PART ONE – REASON FOR REFERENCE TO COMMITTEE

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

- a residential land allocation for 15 or over dwellings
- it includes land owned by Mid Suffolk District Council and Mid Suffolk District Council is the joint applicant.

The Monitoring Officer has reviewed the application file and is satisfied that the application has been processed properly and correctly in accordance with all established procedures and requirements.

PART TWO – APPLICATION BACKGROUND

This section details history, policies, advice provided, other legalisation and events that form the background in terms of both material considerations and procedural background.

History

2. The planning history relevant to the application site is listed below. A detailed assessment of the planning history including any material Planning Appeals will be carried out as needed in Part Three:

4242/16 Application for Outline Planning Permission Granted
(include access only) for the erection of 28
dwellings

Details of Previous Committee / Resolutions

3. None

Details of Member site visit

4. None

Details of any Pre Application Advice

5. Pre application advice has not been provided in respect of this specific scheme.

PART THREE – ASSESSMENT OF APPLICATION

Consultations

6.Mendlesham Parish Council – Supports this scheme on the following grounds:

- The scheme will deliver 10 affordable housing which is considered to be essential.
- We have noted the drainage problems that have been identified by the County Flood Risk Team and it is hoped that these can be resolved as the site does flood.
- The Mendlesham Neighbourhood Plan is advanced and has been reviewed by the Independent Examiner and is now close to going to a local referendum. As such, it should carry higher weight in the planning process than specified by the applicant in his planning documents.
- Have received concerns in relation to safety in relation to the proposed access via Horsefair Close as it is close to two adjacent residential driveways.

MSDC Heritage Officer – Does not raise any objections to this scheme as there would be no harm to a designated heritage asset because there would be no material impact on the setting or significance of listed buildings or of the conservation area.

MSDC - Environmental Health - Land Contamination – Does not raise any objections to the scheme. Request that conditions are imposed to control the impact of the scheme in terms of contamination.

Essex & Suffolk Water – Does not raise any objections to this proposal and have advised that the proposal does not affect any of their apparatus in the local area.

Anglian Water – Does not raise any objections to this proposal.

Natural England – Does not have any comments to make on this application.

MSDC - Tree Officer – Does not object to the proposal. Requests that a condition be imposed if the proposal is approved to provide appropriate measures for the protection of the existing trees on site.

Fire Service - County Fire Officer – Does not object to the proposal, but advises that details of the location of sufficient fire hydrants to make the development safe must be submitted. This can be covered by a planning condition.

MSDC Waste Services – Does not raise any objections to this scheme.

MSDC - Strategic Housing (Summary) – Does not raise any objections to the scheme as submitted as it provides for 35% of the dwellings that are proposed to be affordable.

SCC - Obligations Manager: Comments that there will not be any surplus spaces at the Mendlesham County Primary School and Stowupland High School to accommodate the expected pupil numbers from this scheme. Therefore a contribution is requested under the Council's CIL scheme to extend the facilities at the two above mentioned schools to meet the anticipated need that will arise from this scheme.

The contribution is broken down as follows:

School level	Required:	Cost per place £ (2016/17):
Primary school age range, 5-11*:	6	12,181
Secondary school age range, 11-16:	5	18,355
Sixth school age range, 16+:	1	19,907

Total education contributions: £184,768

The Obligations Manager has noted that from September 2017 there will be a deficit of places at the Mendlesham pre-school and a contribution of £18,273 is requested toward enhancement of the provision to meet the need arising from this development.

Required pre-school contributions: £18,273

Total contribution for all education provision - £203,041

A contribution of £5000 has been requested under S106 of the planning act towards the provision of two new bus stops outside the site as there are none at present. This request will help to provide more sustainable models of travel for the occupiers of the dwellings on site.

Requests a contribution of £90,000 towards library provision. This is requested under the Council's CIL 123 list.

SCC Flood and water management – Object to this scheme on the following grounds:

- The applicant proposes in the scheme to modify the culvert and watercourse in the site so that it is removed from the active flood plain (flood zone 3).
- The proposed attenuation basin is sited in a flood zone 3 parcel of land which is not an acceptable place and an alternative needs to be found.
- The applicant's drainage model has not been verified by the Environment Agency and therefore cannot be accepted.
- A proportion of the site will be flooded during significant rainfall events.
- There are insufficient treatment stages in the proposed surface water drainage system as it is currently shown.
- The applicant could provide an alternative layout where all of the proposed dwellings and the surface water drainage assets are outside of the flood zones and the finished floor levels of the dwellings would be 300mm above the ground floor level.

SCC PROW – Does not raise any objections to the scheme as it will not affect public footpath number 56.

SCC Highways – Does not object to this scheme subject to the imposition of standard highway conditions.

SCC Archaeology – Does not object to this proposal subject to the imposition of conditions requiring a programme of archaeological works to be submitted for agreement.

Environment Agency – Object to the scheme on the following grounds:

- **The submitted Flood Risk Assessment does not comply with the requirements in the Planning Policy Practice Guidance document and it does not make a suitable basis for the consideration of flood risk to be made. In particular, the FRA fails to:**
 1. **Demonstrate the development in comparison to Flood Zone 2 and 3.**
 2. **Fails to use the sequential approach in the siting of development.**
 3. **Consider the requirement for flood emergency planning including flood warning and evacuation.**
 4. **Correctly calculate the expected flood depths on site and within the buildings.**
 5. **Provide finished floor levels above the design level with climate change.**
 6. **Provide the model for verification.**

- The Environment Agency advised that the above objections could be overcome by the submission of an updated FRA which took account of the above issues.
- The applicant updated their FRA and the Environment Agency are still maintaining an objection to it as the information it contains has not addressed the 6 points referred to above. They have asked for it to be amended again.

Place Services (Ecology) – The Council is currently awaiting ecology comments and once received, these will form part of a verbal update to the committee at the meeting.

Representations

7. 11 letters of objection have been received in relation to this scheme raising the following points:

Highway issues

- The access into the site from Horsefair Close is totally unsuitable and unsafe for this new development.
- The existing footpaths aren't wide enough at present and will definitely not be wide enough for the additional people that will use it from this development.
- There is insufficient car parking shown as part of the scheme.
- Traffic calming needs to be introduced on the entrance into the village to reduce the negative highway impact of this scheme.

Amenity

- The proposal will affect the privacy of the existing residents of the surrounding locality.
- The plans do not adequately show an objector's new extension on it and as such their living conditions cannot be correctly considered.

Drainage/Flood risk

- The foul water drainage in the area that surrounds the site is currently inadequate and this proposal will make it worse.
- The surrounding area floods and there are concerns that this proposal will make it worse.

Local infrastructure

- The infrastructure in the local area is unsuitable to cope with so many new houses. This includes the local primary and secondary schools and the doctor's surgery.

Other comments

- There is a right of way through the site which cannot be developed on.
- There is no need for so many new houses to be built when there are so many empty ones at present.

The Site and Surroundings

8. The site is an irregularly shaped parcel of agricultural land on the northern end of the village of Mendlesham. To the north of the site is Chapel Road with additional agricultural land to the north of that. To the east are dwellings which front onto Chapel Road with additional dwellings to be found to the south/south east of the site. The Mendlesham Health Centre lies in close proximity to the site.

The application site lies a short distance away from the centre of the village and the other local facilities such as the primary school, fish and chip shop, hairdressers and the local churches.

The Proposal

9. This proposal is for an outline application for 28 dwellings with access included and all other matters reserved. Ten of the 28 dwellings would be affordable units (35.7%)

A new access for vehicular use is proposed to Chapel Road (north boundary). Also for consideration are two links for pedestrians to the south of the site. These are as follows:

- The first is to the existing footpath link adjacent to no. 36 Horsefair Close and would link that residential cul-de-sac close to the centre of the village.
- The second link is to a branch road of Ducksen Road adj to Mason Court and this leads to the rest of Ducksen Road and a choice of directions thereafter within the village centre.

The application pack shows a suggested layout of how the site can be developed. It must be remembered that this plan is indicative only as the application is in outline form with all matters other than the access to be considered at this stage.

NATIONAL PLANNING POLICY FRAMEWORK

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

The following parts of the NPPF are considered to be applicable to this scheme:

Para 6: Achieving sustainable development
Para 7: Three dimensions to sustainable development
Para 11 – 15: The presumption in favour of sustainable development
Para 17: Core planning principles
Para 32 and 34: Transport movements
Para 47: Delivering a wide choice of high quality homes (including the need to have a 5 year deliverable supply of housing)
Para 49: All housing proposals should be considered in the context of the presumption in favour of sustainable development.
Para 55: To promote sustainable development in rural areas.
Para 56 & 60: Requiring good design
Para 64: Development of poor design must not be supported.
Para 69: Promoting healthy communities
Para 70: Delivery of social, recreational and cultural facilities that the community needs.
Para 72: Provision of school places.
Para 73: Access to high quality open space.
Para 75: Protection and enhancement of public rights of way.
Para 100: Development and flood risk
Para 103: Development and increasing flood risk elsewhere
Para 109: Planning system should contribute to and enhance the natural and local environment.

Para 112 & 117–119: Development affecting protected wildlife
 Para 123: Planning and noise.
 Para 128 & 129: Describing the significance of a designated heritage asset.
 Para 131: Determining planning applications that affect heritage assets.
 Para 132: Significance of heritage assets.
 Para 134: Development and less than substantial harm
 Para 186: Approaching decision taking in a positive way.
 Para 187: Local Planning Authorities should find solutions rather than problems in decision taking.
 Para 196: Plan led planning system.
 Para 197: Assessing and determining application applying the presumption in favour of sustainable development.
 P203 -206 – Planning conditions and obligations.
 Para 211 - 212: Using development plans and the NPPF in decision making.
 Para 214 – 215: The weight attached to development plan policies having regards to their consistency with the NPPF.
 Para 216 – Weight given to policies in emerging plans

CORE STRATEGY

11. Core Strategy Focused Review
 FC1 – Presumption in favour of sustainable development.
 FC1.1 – Mid Suffolk's approach to delivering sustainable development
 FC2 – Provision and distribution of housing.

Core Strategy

CS1 – Settlement hierarchy
 CS2 – Development in the countryside & countryside villages
 CS4 – Adapting to climate change.
 CS5 – Mid Suffolk's environment
 CS6 – Services and infrastructure
 CS9 – Density and mix

NEIGHBOURHOOD PLAN / SUPPLEMENTARY PLANNING DOCUMENTS /AREA ACTION PLAN

12. A Neighbourhood Plan has been prepared by the village of Mendlesham and this document has been through its independent examination in November 2016 and has been considered by the Mid Suffolk Executive Committee on the 9th January 2017 where the recommendation was to proceed with the plan toward its referendum, which is the final stage in the adoption process.

Having regards to paragraph 216 of the NPPF which states that greater weight can be apportioned to emerging development plans where they are more advanced in the preparation and adoption process, it is considered that the policies within the Mendlesham Neighbourhood Plan as amended by the Independent Inspector should be given significant weight in the determination of this application.

The following policies are considered to be applicable to this proposal:

MP1 – Supports a minimum of 75 new dwellings over the next 15 years. Where development is outside the village boundary, the community will support schemes which can demonstrate that they constitute sustainable development and meet the remaining policies in the Neighbourhood plan and the relevant policies in the adopted development plans for Mid Suffolk.

MP2 – Affordable housing – Allocation to local people.

MP3 – Provision of 35% affordable housing in schemes of 10 dwellings or more.

MP5 – Preservation of the local historical environment.

MP6 – Design of development respecting the built form and character of Mendlesham.

MP7 – Provision of functional green areas in connection with housing development.

MP8 – Provision of high speed Broadband in Mendlesham with all development.

MP10 – Protection of visually important open space areas

MP11 – New residential development must provide links to existing paths and bridleways and must maximise the opportunity to promote walking and cycling.

It should be noted that the policies referred to above include the modifications as suggested by the Inspector at the Independent Examination.

SAVED POLICIES IN THE LOCAL PLAN

13. GP1 – Design and layout of new developments
HB1 – Protection of historic buildings
HB8 – Safeguarding the character of Conservation Areas.
HB13 – Protecting ancient monuments
HB14 – Ensuring that Archaeological remains are not destroyed
H3 – Housing developments in villages
H7 – Restricting housing development unrelated to the needs of the countryside.
H13 – Design and layout of development
H15 – Development to reflect local characteristics.
H16 – Protecting existing residential amenity
H17 – Keeping new development away from pollution
CL8 – Protecting wildlife
CL11 – Retaining high quality agricultural land
T9 – Parking standards
T10 – Highway consideration in developments
RT4 – Amenity open space and play areas within residential development
RT12 – Footpaths and bridleways
SB3 – Retaining visually important landscapes

Main Considerations

14. From an assessment of relevant planning policy and guidance, representations received, the planning designations and other material issues the main planning considerations considered relevant to this case are set out including the reason/s for the decision, any alternative options considered and rejected. Where a decision is taken under a specific express authorisation, the names of any Member of the Council or local government body who has declared a conflict of interest are recorded.

The following are identified as the main considerations in assessing this application:

The Principle Of Development

15. At this time Mid Suffolk does not have a five year Housing Land Supply. The most recent published figures have demonstrated that there is a 3.3 year supply of Housing Land within the district. Relevant to this is Paragraph 49 of the National Planning Policy Framework (NPPF) which states;

"Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites." (para. 49)

Paragraph 14 of the NPPF reads,

"where the development plan is absent, silent or relevant policies are out of date, granting 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; or specific policies in this Framework indicate development should be restricted"

The NPPF nevertheless requires that development be sustainable and that adverse impacts do not outweigh the benefits. The NPPF (paragraph 7) defines three dimensions to sustainable development - the economic role, social role and environmental role. These roles should not be considered in isolation. Paragraph 8 of the NPPF identifies that environmental, social and economic gains should be sought jointly. Therefore the Core Strategy Focus Review 2012 (post NPPF) policy FC1 and FC1.1 seeks to secure development that improves the economic, social and environmental conditions in the area and proposal must conserve and enhance local character. Paragraph 55 of the NPPF sets out that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. The proposal therefore must be determined with regard to sustainable development as defined by the NPPF. Policy MP1 of the Mendlesham Neighbourhood also supports sustainable development where it is outside the development boundary for the village.

The NPPF also provides (para 187) that *"Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area."*

The Parish Council supports this scheme as it is clear that it will help them to deliver the minimum of 75 dwellings that the parish must provide within the next 5 years as referred to in policy MP1 of their Neighbourhood Plan. However, some of the objectors have commented that this scheme should be refused as there are a number of vacant properties in the locality and there is no need for additional dwellings in the suggested location which is outside the development limits for Mendlesham. However, it is clear on reviewing the guidance in the NPPF as outlined above that this cannot be the case as housing delivery policies CS1 and CS2 of the core strategy should not be considered to be up-to-date along with policies such as H7 of the Local Plan as the Council does not have a 5 year supply of housing as required by the NPPF.

In reaching a decision, paragraph 47 of the NPPF is a material consideration and requires Local Planning Authorities to boost significantly the supply of housing, by identifying and updating annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% to ensure choice and competition in the market for land. As stated above, the Council cannot demonstrate a 5 year supply of housing and as such paragraph 49 of the NPPF applies and states that in this situation, the relevant policies for the supply of housing in the Council's adopted plan should not be considered to be up to date and that the scheme remains to be considered under the requirements of paragraphs 7 and 14 of the NPPF which defines what sustainable development is and how decisions should be made.

As stated above, the Mendlesham Neighbourhood Plan has in relation to paragraph 216 of the NPPF reached an advanced stage in the adoption process having been reviewed and amended by the Independent Examiner and recommended for its referendum by Mid Suffolk

District Council. Therefore, it is considered that the weight attached to policy MP1 is significant in the determination of this application. The policy stated that limited housing developments on the edge of the village, outside the settlement boundary will be supported. The plan as originally published, limited the number to 20 dwellings, however, this has been modified by the inspector so that each case should be considered on its own planning merits regardless of size. Therefore, this proposal can be considered to be acceptable under the content of policy MP1 if it can be demonstrated that the scheme constitutes sustainable development. The assessment of the sustainability of the scheme in relation to the Neighbourhood Plan and the relevant parts of the NPPF are contained in the remainder of this report.

Sustainability Assessment Of Proposal

16. Paragraph 7 of the NPPF states that there are three dimensions to sustainable development: economic, social and environmental.

Paragraph 14 of the NPPF refers to a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For decision making, the NPPF states that this means approving development proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate that development should be restricted.

Policy FC1 of the Mid Suffolk District Core Strategy Focused Review states that it takes a positive approach to sustainable development and like in the NPPF, the Council will work proactively with developers to resolve issues that improve the economic, social and environmental conditions in the area. Related policy FC1.1 makes it clear that for development to be considered sustainable it must be demonstrated against the principles of sustainable development. The policy goes on to say that proposals for development must conserve and enhance the local character of the different parts of the district and how it addresses the key issues of the district. Policy MP1 of the Neighbourhood plan also supports residential development if it is considered to constitute sustainable development.

The settlement of Mendlesham offers a range of local services and local infrastructure. Mendlesham has a primary school, and a doctor's surgery as well as a number of other local facilities which are within walking distance of the site and act as a service to the inhabitants of the village as well as providing employment opportunities.

Mendlesham is also served by public transport with bus stops in Church Road which provide regular links to Ipswich, Eye and Diss. As part of this scheme, the County Infrastructure Team has requested a contribution to request bus stops outside the application site to ensure that opportunities for travel by public transport are maximised and that the new residents of the scheme do not have to walk long distances to use the service.

In relation to paragraph 7 of the NPPF, the proposals would contribute to building a strong, responsive and competitive economy through the creation of construction and related jobs and the on-going contribution to the local economy from the creation of up to 28 additional households in the area. The proposals would also contribute towards providing the supply of housing required to meet the needs of present and future generations and by having the potential to create a high quality built environment, as well as contributions towards affordable housing and other social infrastructure (public open space and education) through a CIL contribution, or where appropriate, a section 106 agreement.

On balance, therefore, the proposals are considered to constitute sustainable development, having regard to the contents of policies FC1 and FC1.2 of the Adopted Core Strategy

Focused Review, policy MP1 of the Neighbourhood Plan and the relevant contents of the NPPF.

Site Access, Parking And Highway Safety Considerations

17. Policy T10 of the Mid Suffolk District Local Plan provides criteria on highway considerations when assessing planning applications. This policy requires access points into and out of the site to be safe and an assessment made as to whether the existing local roads can suitably accommodate the impact of the proposal, whether adequate parking and turning spaces exist within the site and that the needs of pedestrians and cyclists have been met. This policy is considered to carry significant weight in the determination of this application as it is in compliance with paragraph 32 of the NPPF which requires all schemes to provide safe access for all.

A number of objections have been received to the scheme on the grounds that the use of the new access point off Chapel Road into the site would be detrimental to highway safety. Reference has been made to the fact that there isn't a footpath on Chapel Road to accommodate this development and there needs to be some form of traffic calming in this location to slow traffic down to prevent accidents from happening.

The County Highway Officer has been consulted on this proposal and he does not object to the scheme in terms of highway safety grounds. He commented that the scheme can be made safe by the imposition of conditions which would require the access point to be up to the County Council's adoptable standard together with the extension of the pavement up to the access point on Church Road. He has not suggested that this scheme needs to provide traffic calming to make it acceptable on highway safety grounds.

Further objections have been received to this scheme in relation to the two pedestrian links that are shown from the most southern part of the site through to Horsefair Close and Ducksen Road. The objections relate to the fact that there will be a conflict between pedestrians and the vehicular accesses to some of the existing properties on Horsefair Close and Ducksen Road. Paragraph 32 of the NPPF requires all schemes to provide safe access for all and it is considered that the pedestrian links are necessary to ensure that the residents of the proposed scheme are connected with the remainder of the village. Policy MP11 of the Neighbourhood Plan also requires new residential development to provide adequate links to the remainder of the village. Again, the County Highway Officer has seen this aspect of the scheme and he has not objected to the proposal either on pedestrian or vehicular safety grounds.

Comments have also been made by some of the residents affected by the footpath links that there are covenants in place and approving this scheme and using the paths as pedestrian access points would in effect be contrary to these covenants. However, it must be remembered that covenants are not a material planning consideration as they are outside planning legislation. If restrictive covenants exist, then these will need to be addressed by the applicant outside of the planning application process.

An objector has also commented that they consider that the scheme as shown does not provide sufficient car parking for the new residents and as such, they will park on the existing streets to the detriment of highway safety. It must be remembered that the scheme as submitted is in outline form and that the layout of the site, including the car parking provision will be considered at reserved matters stage if this application is approved.

Having regards to the above, it is considered that the proposal complies with the requirements of policy T10 of the local plan, policy MP11 of the Neighbourhood Plan and paragraph 32 of

the NPPF, in that safe and suitable access for all people can be achieved and that improvements can be undertaken to the transport network to ensure that non-motorised modes of transport can be used to access local facilities. As the application is in an outline form, the indicative layout shows that a suitable internal layout, which would be up to the Council's highway standards, could be provided at reserved matters stage.

Design And Layout including Impact On Street Scene

18. Section 7 of the NPPF refers to design. Specifically, paragraph 56 states that good design is a key aspect of sustainable development; it should contribute positively to making places better for people. Decisions should aim to ensure that development will function well and add to the overall quality of the area, establish a strong sense of place, create attractive and comfortable places to live, work and visit, optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses and support local facilities and transport networks. Furthermore it provides that development should respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation. The NPPF goes on to state it is "proper to seek to promote or reinforce local distinctiveness" (para 60) and permission should be "refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions" (para 64). Policy CS5 provides that *"All development will maintain and enhance the environment, including the historic environment, and retain the local distinctiveness of the area"* and echoes the provision of the NPPF. In addition policy MP6 of the Neighbourhood Plan also requires development to be in a form and character that is in keeping with the local area.

The application is in outline form and the plans as submitted provide an indicative layout of how the scheme could potentially look should this outline planning application be approved which relates to the principle of the development of the site. The area to the south and east of the site is residential in character with the majority of the dwellings being post war two storey dwellings. The applicant has indicatively shown a layout which is considered to be in keeping with the residential character of the area and this can be altered to take on the concerns of any consultees and local residents at the reserved matters stage.

Having regards to the above, it is considered that the scheme in terms of its suggested layout constitutes good design in line with the requirements of the NPPF and local policy CS5 and Neighbourhood plan policy MP6 as it proposes a form of development that would reflect the character and appearance of the surrounding streetscape.

Landscape Impact

19. Paragraph 58 of the NPPF states that proposals should provide appropriate landscaping to ensure that they integrate well into the surrounding locality. This requirement is repeated in one of the requirements of policy H13 of the Mid Suffolk District Local Plan. It is proposed to retain and strengthen the hedging on the northern boundary of the site with Church Road to ensure that the proposal integrates into the village and limits its impact on the surrounding open countryside.

Having regards to the requirements of policy H13 of the MSDC Local Plan and paragraph 58 of the NPPF, it is considered that the scheme provides substantial landscaping both within and on the boundaries of the site to ensure that it assimilates well into the rural edge of Mendlesham and provides an attractive environment both for the new residents of the site and those living in the surrounding locality.

Policy MP10 of the Neighbourhood Plan aims to protect important views of the edge of the village. A triangular shaped parcel of land to the north west of this site which butts up to the Poplar Farm complex is designated as a visually important open space and consideration needs to be given as to how development impacts on it. The application site abuts this parcel of land to its east, but does not block or obstruct the views of the village when approaching it from the Poplar Farm end and as stated above, the applicant is proposing to strengthen the hedgerow and tree cover along the site boundary to ensure that the impact of the scheme is minimised and that it has a soft edge to the countryside. Whilst part of the edge of the village will change if this proposal is approved and built, it is not considered that it will have an effect that would be significant enough on the visually open space area as designated under policy MP10 of the Neighbourhood Plan to defend a refusal of planning permission for this scheme.

RESIDENTIAL AMENITY

20. Policies within the adopted development plan require, inter alia, that development does not materially or detrimentally affect the amenities of the occupiers of neighbouring properties. This requirement is emphasised in the NPPF Core Values in paragraph 17 where it states that all schemes should seek a good standard of amenity for all existing and future occupants of land and buildings.

Objections have been received to this scheme on the basis that the proposed dwellings will have an impact on the living conditions of some of the existing occupiers of the surrounding dwellings. One objector has commented that an assessment of this impact is not possible as the applicant's site plan is incorrect as their new extension has not been plotted onto it.

As referred to previously, the application is in outline form with the layout plan only being indicative. The indicative plan shows a possible layout where the houses are side on to the existing properties on Horsefair Close and Mason Court where loss of privacy would be minimised as this would limit the possibility of window to window overlooking. From assessing the plans, it is considered that at reserved matters stage that a suitable layout can be drawn up which would not have a negative impact on the living conditions of the surrounding neighbouring occupiers in terms of loss of privacy and residential amenity.

It is considered on reviewing the location plan and the indicative layout plan that this proposal does not give rise to any concerns of loss of neighbour amenity by reason of noise, form, design, the distance between the dwellings and the substantial landscaping that is proposed along the periphery of the site and as such the proposal meets the relevant NPPF core value in paragraph 17.

Environmental Impacts – Ecology, Land Contamination & Loss of Agricultural Land

21. The application site is former agricultural parcel of land which is shown as being Grade 3 on the Natural England Agricultural Land Classification maps. The site lies on the edge of the settlement and the site boundary is lined with existing trees and hedges. The centre of the site appears to be open undeveloped land that is currently unused.

Regulation 9(5) of the Conservation of Habitats and Species Regulations 2010 (Implemented 1st April 2010) provides that all "competent authorities" (public bodies) to "have regard to the Habitats Directive in the exercise of its functions." In order for a Local Planning Authority to comply with regulation 9(5) it must "engage" with the provisions of the Habitats Directive. Woolley v Morge determined that in order to discharge its regulation 9(5) duty a Local Planning Authority must consider in relation to an application (full, outline or listed building) the following:-

(i) whether any criminal offence under the 2010 Regulations against any European Protected Species is likely to be committed; and

(ii) if one or more such offences are likely to be committed, whether the LPA can be satisfied that the three Habitats Directive "derogation tests" are met. Only if the LPA is satisfied that all three tests are met may planning permission be granted.

1. the development must be for one of the reasons listed in regulation 53(2) of the 2010 Regulations. As follows

- (a) scientific or educational purposes;
- (b) ringing or marking, or examining any ring or mark on, wild animals;
- (c) conserving wild animals or wild plants or introducing them to particular areas;
- (d) protecting any zoological or botanical collection;
- (e) preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment;
- (f) preventing the spread of disease; or
- (g) preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries.

2. there must be no satisfactory alternative, and

3. favourable conservation status of the European Protected Species in their natural range must be maintained – this is the test that drives the need for the developer to provide replacement habitat.

The content of paragraph 118 of the NPPF is also applicable to the consideration of this proposal as it states that when determining planning applications, consideration must be given to 6 principles. The two following principles are applicable to this scheme:

- 1) If significant harm is caused which cannot be avoided or mitigated by conditions then planning permission should be refused.
- 2) Opportunities to integrate biodiversity in and around developments should be supported.

The Place Services Ecologist has been consulted on this application and officers are currently awaiting a response in relation to this proposal. The Ecologist's response in relation to this proposal will be provided verbally to the committee at the meeting.

Paragraph 121 of the NPPF makes it clear that planning decisions should make sure that the site is suitable for its new use taking account the hazards of any previous use. As the site is currently a field, subject to agricultural practices which could have included the spraying of crops with chemicals in the past, a contaminated land report has been submitted to the council for consideration. The Council's Contaminated Land Officer in the Environmental Health team has reviewed the report and has advised that subject to the imposition of conditions, he does not object to the scheme. Therefore, it is considered that it is in compliance with paragraph 121 of the NPPF.

Paragraph 112 of the NPPF deals with the loss of agricultural land and makes it clear that in the consideration of planning applications where the best and most versatile agricultural land (Grades 1 to 3a) is to be lost for significant amounts of development this has to be demonstrated to be necessary and consideration should be given to the development of poorer agricultural land in preference. It is clear on reviewing the Natural England maps for the district that the majority of the land in Mid Suffolk is grade 3 (whether it is 3a or 3b is not defined) with the remainder being higher quality grade 2 land. There is very little land in the

district in the lower categories (4 - 5) and as such it is considered that the loss of a small parcel of Grade 3 land when taken into the context of the amount of Grade 3 land that exists in the district as a whole is acceptable and that the proposal accords with that contained in paragraph 112 of the NPPF.

Heritage Issues (The Setting Of Neighbouring Listed Buildings)

22. Policy HB1 (Protection of Historic Buildings) places a high priority on the protection of the character and appearance of historic buildings, particularly the setting of Listed Buildings. Policy MP5 of the Neighbourhood plan requires schemes to also protect the setting of the historical environment.

In paragraph 17 of the NPPF it makes it clear that development should “*conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations*”. Para 131 goes on to state that “*In determining planning applications, local planning authorities should take account of; the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness.*” Furthermore Para 132 states “*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.*”

The Council’s Heritage officer has been consulted on this scheme and he has confirmed that in his opinion the scheme will not have an impact on any listed buildings within the village, nor will it impact on the Conservation Area. As such, it is considered that the proposal complies with the requirements of paragraph 132 of the NPPF, policy HB1 of the Local Plan and policy MP5 of the Neighbourhood Plan.

ENVIRONMENT AND FLOOD RISK

23. Paragraph 100 of the NPPF makes it clear that inappropriate development in areas of flood risk should be avoided by directing development away from areas of highest risk. The contents of policy CS4 of the Mid Suffolk Core Strategy is in line with the requirements of the NPPF in terms of flood risk and carries significant weight in the determination of this application.

Objections have been received to this scheme stating that the site floods and that surface water and fowl water during heavy rain is a problem. The applicant has produced a Flood Risk Assessment document where they state that the site has been hydraulically tested and that it lies in a flood zone 1 area, which is land at least risk of flooding. On reviewing the Environment Agency’s Flood Zone maps, the majority of the site lies within a flood zone 1 area (this being the part where the dwellings would be built on) with the most northern part of the site (which is shown as the attenuation area in the indicative site plan) being land within a flood zone 3 area which is land at the highest risk of flooding.

The Environment Agency and the County SuDs Team objected to this proposal as the applicant is proposing to re-model the existing watercourse to make the most northern part of the site the drainage area for the whole site. The County SuDs team stated that this form of drainage would not be recognised by the Environment Agency and that a different layout would be required where the drainage for the site would also need to be in the flood zone 1 area. The Environment Agency commented that the applicant's FRA was not fit for purpose as the impacts of the scheme in terms of drainage could not be assessed in line with the requirements of the NPPG and the NPPF and additional details were requested. On receipt of this additional information, the Environment Agency is still maintaining their objection to the scheme. They have again commented that for them to support this scheme, the dwellings and their surface water drainage need to be in a flood zone 1 location.

Having regards to the above, it is considered with the information as submitted in terms of flood risk that the scheme cannot be supported and that it fails the requirements of paragraph 100 of the NPPF and policy CS4 of the Mid Suffolk Core Strategy. However, as the Environment Agency and County SuDs objections are based on the fact that insufficient information has been received to deal with flood risk issues, the Council believes it can work with the applicant to receive this information to overcome the flood risk and drainage objections to this scheme.

Infrastructure - Planning Obligations / CIL contributions

24. Objections have been received to this scheme on the grounds that the local infrastructure, which includes the local schools and health care, is insufficient to meet the need of the residents of this proposal. Comment has been made that if the scheme is approved without suitable provision, then it will cause a negative impact on the existing community of Mendlesham.

The Council has now implemented CIL which accordingly takes on board requirements such as open space contribution, NHS and education contributions.

As part of this proposal the following contributions will be sought under the Council's CIL Scheme:

- A £203,041 contribution towards, pre-school, primary, secondary and post 16+ education provision
- A £90,000 contribution for improvements to the local library provision.

It is considered that the contribution requested for education will address the issues raised by the objectors. The NHS Trust has not requested a contribution with this scheme to expand the existing doctor's surgery in the village.

Affordable Housing is not part of CIL and members should note that policy to seek up to a 35% provision remains in effect. This requirement is repeated in policy MP3 of the Neighbourhood Plan. Affordable Housing of 35% is proposed and recommended to be secured for this proposal in line with local policy.

In accordance with the Community Infrastructure Levy Regulations, 2010, the obligations recommended to be secured above by way of a planning obligation deed are (a) necessary to make the Development acceptable in planning terms (b) directly related to the Development and (c) fairly and reasonably relate in scale and kind to the Development.

Details Of Financial Benefits / Implications (S155 Housing and Planning Act 2016)

- Financial gain from the sale of the part of the land which is owned by the Council.
- Council Tax payments from the dwellings when built.

- 35% affordable housing arising from the scheme.
- Planning Delivery Grant from Central Government for delivering the dwellings.
- S106 Agreement:
 - £5000 towards the provision of two bus stops adjacent to the site.
- CIL:
 - £203,041 towards the provision of pre-school, primary, secondary and post 16 education requirements.
 - £90,000 contribution for improvements to the local library provision.

PART FOUR – CONCLUSION

Planning Balance

25. The proposal for residential development on land off Church Road in Mendlesham is considered to be contrary to the adopted Mid Suffolk Core Strategy as the application site lies within the countryside outside the built framework of the settlement of Mendlesham on what is unused agricultural land.

However, as the housing policies in the Core Strategy are out of date due to the Council not having a deliverable five year supply of housing, this scheme falls to be considered in relation to paragraph 14 and 49 of the NPPF which relate to residential development and sustainable development. The requirements of policy MP1 of the Mendlesham Neighbourhood Plan which supports residential development outside the settlement limits of the village, if the scheme can be demonstrated to be sustainable is also applicable.

Paragraph 14 states that where the development plan for the area is out of date permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole or specific policies in the NPPF which indicate that the development should be restricted. Whilst it has been identified that the proposal will have an adverse impact on the quality of the landscape character of the area, and that it will result in the irreplaceable loss of countryside and there are flood risk and drainage issues that the Council believes it can resolve with the applicant, it is considered that the benefits that the scheme brings such as the provision of new housing and contributions towards local infrastructure and having regards to the fact that there are no objections from the Council's consultees to the scheme in relation to: highway safety; the impact of traffic on the highway network; design; crime prevention; amenity; pollution; contamination; ecology and landscape that the proposal constitutes sustainable development which should be approved planning permission as referred to in paragraph 14 of the NPPF.

Statement Required By Article 35 Of The Town And Country Planning (Development Management Procedure) Order 2015.

26. When determining planning applications The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires Local Planning Authorities to explain how, in dealing with the application they have worked with the applicant to resolve any problems or issues arising.
27. In this case the planning authority has worked with the applicant to attempt to resolve flood risk matters.

Identification of any Legal Implications of the decision

28. There are no known legal implications derived from the determination of this application.
29. The application has been considered in respect of the current development plan policies and relevant planning legalisation. Other legislation including the following has been considered in respect of the proposed development.
- Human Rights Act 1998
 - The Equalities Act 2012
 - Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990
 - Natural Environment and Rural Communities (NERC) Act 2006 (any rural site)
 - The Conservation of Habitats and Species Regulations 2010
 - Localism Act
 - 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.

RECOMMENDATION

30. That authority is delegated to Professional Lead - Growth & Sustainable Planning to grant full planning permission subject to matters relating to drainage being resolved to the satisfaction of the Environment Agency and the County Council SuDs Team and the prior completion of a Section 106 or Undertaking on terms to their satisfaction to secure the following heads of terms:

- 35% Affordable Housing to be transferred over to a Registered Provider
- To secure the provision of public open space to be managed by a dedicated management company
- To secure off site highway improvement works (pavement adjacent to the entrance into the site)
- £5000 contribution towards the provision of two bus stops adjacent to the site.

and that such permission be subject to the conditions as set out below

- 1) Three year time limit for submission of reserved matters
- 2) Reserved matters (outline)
- 3) Existing tree protection
- 4) Contaminated land
- 5) Construction management agreement
- 6) External lighting
- 7) Commencement period for landscaping
- 8) Protection of birds during construction period
- 9) Works to be carried out in line with the ecological report.
- 10) Design Code
- 11) Archaeology
- 12) Highway Conditions
- 13) Surface water drainage
- 14) Fire hydrant condition