

**TOWN AND COUNTRY PLANNING ACT 1990 (as amended)**

**APPEAL BY LW DEVELOPMENTS LTD**

**An Appeal Against the refusal of a planning application for:**

**Area 1 - New stadium with capacity for up to 2,000 spectators. 53 no. 1 bedroom apartments, 62 no. 2 bedroom apartments, 26 no. 3 bedroom houses and 22 no. 4 bedroom houses, (163 residential dwellings) highway access works, internal roads and supporting infrastructure.**

**Area 2 - Northern block - New facilities for Cheshunt Football Club in use classes D1, D2 and sui generis - matters relating to internal layout and appearance reserved.**

**Area 3 - Western block - New sports, community, leisure and commercial uses in use classes A1, A3, A4, A5, B1, D1 and D2 - matters relating to internal layout reserved.**

**Land at Cheshunt Football Club, Theobold's Lane, Cheshunt, Herts, EN8 8RU**

**PINS REFERENCE: APP/W1905/W/21/3271027**

**PLANNING APPLICATION REF: 07/18/0514/F**

**ROLAND BOLTON PROOF OF EVIDENCE:**

**CORE DOCUMENT: 2.3 APPEAL DECISION APP/W3520/W/18/3194926**

**PARAGRAPH 66**

**Prepared by**

**Strategic Planning Research Unit**

**DLP Planning Ltd**

**Sheffield**

**June 2021**



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## Appeal Decision

Inquiry held on 31 July, 1, 30 and 31 August 2018

Site visit made on 2 August 2018

**by Harold Stephens BA MPhil DipTP MRTPI FRSA**

an Inspector appointed by the Secretary of State

**Decision date: 28<sup>th</sup> September 2018**

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**Appeal Ref: APP/W3520/W/18/3194926**

**Land on East Side of Green Road, Woolpit, Suffolk IP30 9RF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Landex Ltd against the decision of Mid Suffolk District Council.
  - The application Ref 2112/16, dated 2 May 2016, was refused by notice dated 6 September 2017.
  - The development proposed is the erection of 49 dwellings (including 17 affordable dwellings) and construction of a new access.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of 49 dwellings (including 17 affordable dwellings) and construction of a new access at Land on East Side of Green Road, Woolpit, Suffolk IP30 9RF in accordance with the terms of the application, Ref 2112/16, dated 2 May 2016, and the plans submitted with it, subject to the conditions set out in the Schedule attached to this decision.

### Procedural Matters

2. The application was supported by a number of reports and technical information including a Design and Access Statement (DAS), a Planning Statement, a Revised Transport Assessment, a Planning Statement, a Contamination Report Part 1 and Part 2, an Ecology Report and Skylark Survey, a Flood Risk Assessment, a Foul and Surface Water Drainage Strategy, an Archaeological Report and a Landscape and Visual Appraisal.
3. At the Inquiry, a S106 Unilateral Planning Obligation was submitted by the Appellant.<sup>1</sup> This addresses all of the matters sought by the District and County Council in connection with the provision of community and other services arising from the development. The Planning Obligation is signed and dated 29 August 2018 and is a material consideration in this case. A Community Infrastructure Compliance Statement has been submitted by Suffolk County Council (SCC).<sup>2</sup> I return to the Planning Obligation later in this decision.
4. In addition, the Appellant submitted an Agreement with Flagship Housing Group Limited, conditional upon planning permission being granted, to enter into a Deed of Easement<sup>3</sup> to secure pedestrian and cycle access to the north

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<sup>1</sup> APP8

<sup>2</sup> INQ5

<sup>3</sup> APP7

via Steeles Close. I shall return to the proposed easement later in the decision.

5. Statements of Common Ground (SoCG)<sup>4</sup> between the Appellant and SCC were agreed and have been signed by both parties in respect of: (i) Archaeology Matters; (ii) Drainage Matters; (iii) Early Years and Education Matters; and (iv) Highways and Transport. An additional SoCG on Planning Matters including Housing Land Supply was agreed between the Appellant and Mid Suffolk District Council (MSDC).
6. The main parties confirmed the List of Drawings on which the appeal should be determined and this is set out at Document APP1. The List of Drawings includes the House Types (1-9), a Site Location plan PA33, a Site Layout Plan PA31 Rev H and an Offsite Highways Works Plan 112/2015/04 - Rev.P2.
7. The revised National Planning Policy Framework (NPPF 2018) was published on 24 July 2018 shortly before the Inquiry opened and was addressed by participating parties both during the event and in closings. I have taken it in to consideration in my conclusions.<sup>5</sup>
8. Following the close of the Inquiry I sought the views of both main parties in respect of the revisions made to the PPG<sup>6</sup> on 13 September 2018 on Housing and economic land availability assessment. The comments received have been taken into account in my consideration of the appeal proposal.

### **Main Issues**

9. In the light of the above I consider the main issues are:-
  - the effect of the proposed development on highway and pedestrian safety;
  - the impact of the proposed development on designated heritage assets including the setting of listed buildings and the character and appearance of the Woolpit Conservation Area; and
  - whether the Council is able to demonstrate a five-year supply of deliverable housing sites sufficient to meet the full objectively assessed need (OAN) for housing and the implications of this in terms of national and local planning policy.

### **Reasons**

#### *The proposed development and appeal site*

10. The appeal proposal is for 49 dwellings including 17 affordable dwellings (35%) together with a new access to be constructed to serve the development of Green Road. The dwellings would have associated garages and parking areas and pedestrian access from the site onto Green Road and pedestrian/cycle access to Steeles Close. There is a dedicated on-site play area proposed as well as extensive on-site open space and linking footpaths.

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<sup>4</sup> INQ3

<sup>5</sup> Paragraph 212 Annex 1: Implementation

<sup>6</sup> Planning Practice Guidance

11. Woolpit is the third largest village in Mid Suffolk and has a good level of local services and infrastructure including health care, education and two business parks/employment sites and is designated as a Key Service Centre in the Council's settlement hierarchy. The appeal site is located on the southern edge of Woolpit village, to the south of its centre but with access to facilities which are in close proximity – a primary school, health centre, village shops and services are within walking distance.
12. Whilst, for planning policy purposes, the site is located in the designated 'countryside', its northern and eastern boundaries adjoin the defined settlement boundary for the village in the Mid Suffolk Local Plan 1998 (Woolpit Village Inset Map). There is existing residential development on the eastern side of the site on Steeles Road and immediately adjacent to the north lies Steeles Close and the main body of the village; on the opposite side of Green Road, but at the northern end of the appeal site lies residential development in the form of Priory Cottage, a Grade II Listed Building. There is therefore residential development on two sides of the appeal site. Land to the south and west comprises open agricultural land.
13. The appeal site comprises a total site area of about 2.3 hectares. It consists of a rectangular shape block of land which is part of an agricultural field. It is enclosed with an existing tree/hedge line on three sides. The appeal site is broadly level but there is a gentle slope west to east. There is an existing tree/hedge line to a part of the site's Green Road frontage and there are trees to the northern boundary which separate the site from Steeles Close. A public footpath passes north to south along the site's eastern boundary. This footpath connects to the southern part of the village and then to the wider countryside to the south.
14. There is a designated Conservation Area in Woolpit Village its nearest boundary being located about 250m to the north from the appeal site at the junction of Drinkstone Road and Green Road. The appeal site is not within the boundary of a protected landscape and there are no designations which apply to it. No Listed Buildings about the application site but the listed Grade II, 17<sup>th</sup> century, Priory Cottage is situated on the west side of Green Road opposite the north-west corner.

#### *Planning policy*

15. The statutory development plan includes the following documents:
  - (i) The Mid Suffolk District Local Plan 1998 (MSDLP) which was saved in accordance with the Secretary of State's Direction dated 14 September 2007;
  - (ii) The Mid Suffolk District Core Strategy 2008 (CS), as adopted in September 2008 covering the period until 2025; and
  - (iii) The Core Strategy Focused Review 2012 (CSFR) as adopted on 20 December 2012 covering the period until 2027.
16. The Council is in the course of preparing a new Joint Local Plan with Babergh District Council which will replace the CS and will be used to manage development in both districts up to 2036. The Councils have published the Joint Local Plan for consultation (Regulation 18) but the emerging Plan is in its very early stages and thus carries limited weight in the context of this appeal.

A Neighbourhood Plan is currently being prepared for Woolpit. It too is in its very early stages and draft policies have not yet been published so no weight can be attached to the Neighbourhood Plan.

***First Issue - Highway and pedestrian safety***

17. SCC, as Highway Authority, does not object to the proposal subject to conditions being attached to a grant of planning permission. The Council did not refuse the proposal on the basis of highway and pedestrian safety grounds because a highway improvement scheme at the pinch point on Green Road was proposed as part of the development and was to be secured by means of a planning condition. Rather, the Reason for Refusal (RfR) indicates that the proposed development would increase vehicular traffic in the village centre and require the provision of highway works to the north of the site in the vicinity of a number of unspecified listed buildings and within the Conservation Area. The Council then argues firstly, that the nature of the works and the increase in traffic would neither preserve or enhance the character of this part of the Conservation Area and secondly, would not preserve or enhance the setting of the unspecified listed buildings causing less than substantial harm to both.
18. The areas of debate at the Inquiry comprised:
  - Increase in vehicular traffic through pinch point
  - Increase in pedestrian flow through pinch point
  - Personal Injury Accidents (PIA) Analysis
  - Accessibility

*Increase in vehicular traffic*

19. North of the appeal site between Drinkstone Road and just beyond Mill Lane, Green Road narrows significantly to about 4.3m creating a pinch point about 60m long. On the western side there is no footway as the buildings and fences are hard against the edge of the road. On the eastern side there is a narrow footway measuring less than 1m in width, reducing to only 0.85m in parts. This road width is insufficient for two vehicles to pass with pedestrians on the footway being vulnerable to being hit by vehicles. The footway at this width is insufficient to allow pedestrians to pass each other without stepping into the road. It is also too narrow for wheelchair users and pram use so the only alternative for many is to walk along the road.
20. The footway here is also vulnerable to being driven over by vehicles as the kerbed separation is too low to offer sufficient protection. The kerb upstand is between 20mm and 60mm – this does not prevent or deter vehicles from driving over the kerb onto the footway. The Parish Council and others are concerned that at times Green Road can become congested. Both highway experts agree that Green Road is relatively lightly trafficked but this does not mean at times it cannot become congested.
21. I see no reason to doubt the underlying validity of the Appellant's Traffic Assessment (TA) as considered by the Highway Authority. The TA estimated that the proposed development would generate, overall, 33 vehicular trips in the AM peak hour and a total of 38 trips in the PM peak hour which would give

rise to 295 additional trips over a 24 hour period. The majority of this traffic would travel northbound through the pinch point to the transport links and facilities in the village beyond. Based on these TA figures, two-way traffic on Green Road would increase by 15% in the AM peak and by 16% in the PM peak as a result of the development traffic. This equates on average during the AM and PM peak hours to an additional vehicle passing through the pinch point every 2 minutes. In my view this represents at worst, a very modest increase in vehicular traffic through the pinch point.

#### *Increase in pedestrian flow*

22. The Council has assessed the additional pedestrian flows associated with the development: an additional three pedestrians walking northwards in the AM peak and 2 in the PM peak and an additional one pedestrian walking southwards in each of the AM and PM peak hours. The Council's assessment determines the theoretical likelihood of a northbound vehicle, a southbound vehicle and a pedestrian negotiating the pinch point together at any one time during the peak hour for both the existing scenario and that with the proposed development. It concludes that such events would increase threefold with the development in place, which equates to ten additional pedestrian injury risk events per year. These figures were accepted by the Appellant.
23. I appreciate that the Council's assessment is a theoretical risk analysis and that the ten additional pedestrian injury risk events compared to the baseline is relatively small – not even one per month. Nevertheless that increase is significant when considered over time, and it is noteworthy that any conflict between vulnerable road users (pedestrians) and motor vehicles will often result in an injury requiring hospital attention, even allowing for the slight reduction in vehicle speeds through the pinch point. In my view there would be a modest increase in the number of pedestrian injury risk events.

#### *Personal Injury Accidents (PIA) Analysis*

24. The TA demonstrates that there is no recorded accident data for Green Road itself, but there were four accidents which led to injury in the period between 2010 and 2015 (Appendix I). The Appellant accepted that when considering accident data, it is relevant to look more widely than the road on which the development is proposed, and that it is not just about the overall number of accidents but the details of them. Two of the accidents involved pedestrians being struck by passing cars (on The Street and on Heath Road) and that in one of those accidents the narrow width of the road was recorded as a causation factor by the police. Another accident involved a driver striking a line of cars in The Street during the hours of darkness. In my view the circumstances of the accidents which have occurred in the wider area are not inconsistent with a highway safety concern.

#### *Accessibility*

25. I accept that the proposed pedestrian and cycle link via Steeles Close and Steeles Road is likely to be used for a good percentage of pedestrian trips to give access to village services. It would be used for: (i) dropping off and collecting children from the primary school and pre-school as well as after school clubs; (ii) to access childcare services in the grounds of the primary school, such as a "Holiday Club" during school holidays; (ii) attending health appointments; (iv) picking up prescriptions from the dispensary; (v) shopping



at Costcutter Convenience Store with its extended opening hours (0600-2230 hours) and (vi) accessing the Brickfields Business Park, where around 25 companies are based. Moreover, the proposed easement to the north<sup>7</sup> would be entirely adequate for the purposes of guaranteeing access at all times. The terms on which it is granted make it entirely enforceable and I cannot foresee any circumstances which would lead to the grantor being in a position to restrict or prevent its use.

26. Nevertheless, it is noteworthy that the proposed development provides a footpath link from the Green Road access on the west of the appeal site which links to the pavement outside Vine Cottage. Anyone seeking the shortest route to walk to the village centre, to access facilities including the village shop (Co-op), the post office within it, the bus stops, the village pubs, the bakery, the tea room, the hairdressers, the Village Hall, the Church and the petrol filling station would have to negotiate the pinch point and the increased traffic going through it. Even with the Steeles Close access, anyone using it to take the shortest route to the village centre would still travel through the pinch point on Green Road. Use of the access via the Greenway at the south east of the site onto the public footpath would be far from desirable for anyone accessing facilities in the village centre.
27. Taking all of these matters into account I consider that the increase in vehicular and pedestrian traffic from the new development having to negotiate the pinch point on Green Road would exacerbate highway dangers unless appropriate safety improvements can be made. I conclude on the first issue that the off-site highway works specified in Drawing 112/2015/04 Revision P2 are necessary to mitigate the increased safety risk as a result of the development. If an appropriately worded planning condition(s) is imposed to secure the off-site highway works then there would be no unacceptable residual highway or pedestrian safety impact arising from the proposed development.

### ***Second Issue - Heritage Assets***

28. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBA) requires that special regard shall be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the LBA requires special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
29. Paragraph 193 of the NPPF 2018 states that 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 (and the more important the asset the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
30. Whilst there is no statutory protection for the setting of conservation areas, paragraph 194 of the NPPF 2018 requires that consideration be given to any harm to or loss of significance of a designated asset, which includes conservation areas, from development within its setting. The main parties confirmed that no harm would be caused to the setting of the Conservation

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<sup>7</sup> APP7

Area in this case and I agree.

*Woolpit Conservation Area*

31. The Woolpit Conservation Area Appraisal (2012) tells us that the Conservation Area covers the historic core of the village and was first designated by the Council in 1972. The Appraisal notes that the built form is marked by a variety of dates, architectural styles and building materials including a variety of roof finishes. The Conservation Area includes the Grade I listed Church of St Mary with its flint and stone chequered flushwork. The remaining listed buildings, the majority being Grade II, are identified as *'timber-framed houses, many now re-fronted in brick'*. The variety of building materials is noted, with exposed timber-framing and bricks from the local brickworks, comprising *'Suffolk whites'* and *'soft red brick'*.
32. In terms of its plan form and layout, Woolpit village has a distinct central triangular island, which *'is a well defined focal point'* which forms the focus for three *'important vistas'* identified on page 11 of the Appraisal. In vista (1) looking north along Green Road towards the village triangle, the view is eroded somewhat by the presence of street signage and the extent of parked cars around this *'island'*. Each important vista contributes to the character and appearance of the Conservation Area.
33. I consider the significance of the Conservation Area derives from its character interest which includes a mixture of medieval, post medieval and later buildings, of a variety of styles and material finishes, arranged around a central village *'triangle'* which is laid out and maintained as a green-edged *'island'*, from which radiate outwards three main thoroughfares; Green Road, Church Street and The Street; and from there extends a wider network of smaller sub-roads. In connection with this, the vehicular traffic is regular enough to be noticeable particularly along the three main roads, but it is not an overbearing element. It contributes to the appearance of the Conservation Area, as does the traffic control measures that form part of the street scenes, most obviously in the form of a variety of bollards.
34. The Council alleges that there would be a significant impact on the appearance of the important vista along Green Road towards the central market place at the centre of the Conservation Area and that the important historical character of the southern *'gateway'* and the important historic street scene would be harmfully altered by the introduction of the highway improvements, resulting in a more urban appearance. In particular, reference is made to the kerbed build out with bollards, the footpath widening with raised kerbs, the erection of a TSRGD 516 sign on the pavement between Pepys House and Tyrells, the disruption of sightlines which have a natural downward slope and the noticeable increase in both vehicular and pedestrian traffic which it is said would detract from the perception of relative tranquillity. I disagree.
35. The changes such as they are would only be appreciable in relatively limited views north and south along Green Road from about the area of the village triangle to the southern edge of the Conservation Area. The proposed off-site highway works would only bring about a change to a limited and localised part of this designated heritage asset. In terms of the revision of road markings, when taken in the context of the existing roadway and indeed the appearance of the wider network of roads within the Conservation Area that are generally



- of `black tarmac with white network markings'; it would not be out of character and would not harm its special interest.
36. In terms of footpath widening, the existing pathway is a standard kerbed tarmac path, about wide enough for one person to traverse. The appeal proposals envisage the widening of this footpath to 1.8m with the kerb face raised to 125mm. Again, whilst this would represent a change to the current situation, it would not be incongruous with the character and appearance of the Conservation Area which includes a large number of kerbed footpaths of varying widths. The final form and finish of these proposals would be subject to detailed design at a later stage and there is an opportunity to include a higher quality surface finishing such as sandy bedding gravel to improve the appearance of this stretch of footpath, more in keeping with the current character of this area of the asset.
  37. In my view, the proposed widening of the footpath would also allow better appreciation of the character and appearance of the Conservation Area by providing a more convenient means of accessing the asset to enjoy the quality of the historic built environment.
  38. In terms of road signage there are currently numerous examples of instructional road signs elsewhere within the Conservation Area, not least within the village `triangle' itself. The introduction of a new road sign would be needed at the southern end of the highways works to forewarn drivers heading north into the Conservation Area of the narrowing roadway. The exact location of this sign is not yet fixed and is subject to future agreement. It could, for instance, be located outside the southern boundary of the Conservation Area. Even if located within the asset I see no reason why it could not be sympathetically integrated into the street scene.
  39. The kerbed build out with bollards adjacent to Model Cottage would be the most evident change resulting from the proposals, as the current location for this is a featureless part of the black tarmac roadway. However, the use of a variety of bollards for such traffic calming/building protection measures is already widely evident within the wider Conservation Area, with others also used to control parking. In my view, the use of bollards in this location and for this purpose, employing a sympathetic design to be agreed with the Council, would plainly not be intrusive or incongruous with the character and appearance of the wider Conservation Area and would not result in any harm.
  40. In terms of the built form of the off-site highway works, the appeal proposals would only be evident from a small part of the wider Conservation Area, would not be incongruous with its current character and appearance, and, with regard to the widened footpath, could actually deliver an enhancement.
  41. In relation to the increase in vehicular traffic and any effect on the character and appearance of the Conservation Area, I have identified that there would be a *very modest* increase in the amount of traffic using the immediate road network and on Green Road leading into the village centre. This very modest increase in vehicular traffic would not introduce an element into the Conservation Area that is not already present within the designated area and neither would it increase that existing element of the Conservation Area's character and appearance to any more than a modest degree. The very modest increase in traffic flow would have no effect on the special interest of the Conservation Area and no harm would be generated.

42. I consider there would be no harm caused to the Woolpit Conservation Area as a result of the appeal proposals. The proposals would as a minimum 'preserve' the character and appearance of the Conservation Area, if not actually enhance it through the improvement of the footpath.

#### *Listed Buildings*

43. When assessing the indirect impact of proposals on heritage assets such as those beyond the boundary of a development site, the question which should be asked is whether change within its wider 'setting' would result in a loss of (or damage to) its 'significance' as a heritage asset.
44. The NPPF 2018 defines significance in Annex 2: Glossary as: '*The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting*'.
45. The current Historic England (HE) guidance<sup>8</sup> is clear in stating that change within a heritage asset's setting need not be harmful; the implementation of development proposals within a heritage asset's setting can be positive, negative or neutral. The HE guidance presents an approach to setting and development management based on a five-step procedure. The key issue is whether and to what extent, the proposal would affect the contribution that setting makes to the significance of the heritage asset in question. In the following analysis I give considerable weight and importance to the desirability of preserving the settings of Listed Buildings.

#### *Mullions, Tyrells and The Cottage*

46. These three Grade II Listed Buildings are closely associated with each other and are all late medieval or early post medieval houses and should be considered as a group in terms of the contribution which setting makes to their significance. They also share this group value with those other listed buildings within this same historic core area. Such associations provide positive contributions to the significance of these buildings by providing context in which to appreciate the layout and hierarchy of the earlier settlement. In particular, Tyrells and The Cottage derive significance from their historic and functional associations, as two parts of the same original late medieval dwelling.
47. Insofar as the setting of these three listed buildings contributes to their significance, it does so in terms of (i) their associative relationships within the group, as well as with other surrounding aspects of the historic built environment defining the street scenes around and south of the triangle; (ii) in respect of historic, functional and aesthetic relationships with the positions and alignments of both Green Road and Mill Lane; and (iii) in respect of their historic and functional inter-relationships with spaces forming their garden enclosures.
48. In terms of Mullions, Tyrells and The Cottage, the Council alleges that their settings would experience change as a result of the off-site highway works and increased vehicular traffic. In terms of the off-site highway works, as

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<sup>8</sup> The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning Note 3 (Second Edition) Historic England 2017

previously stated, these can be broadly divided into the following elements: (i) revision of road markings; (ii) footpath widening; (iii) new road signage and (iv) a kerbed build-out with bollards, adjacent to Model Cottage.

49. The proposals would effect physical change to only a short stretch of Green Road, which is already experienced as a modern tarmac road with white markings and street furniture. Although these three listed buildings are identified as deriving some significance from their association with this road, in terms of historic and functional associations, this is in no way dependent on its current appearance.
50. The three listed buildings would be broadly opposite where the kerbed build-out and bollards would be located. However, such a change would not reduce the ability to appreciate these buildings from Green Road or alter their evidential, historic or functional relationships with it. Moreover, the footpath widening adjacent to Mullions, would also be a noticeable change, particularly if the quality of finish was improved from tarmac to a more sympathetic surfacing, but in the context of the tarmac path already present, it would be inconsequential to the significance of the listed building. There is no substance to the allegation that the highway works would have an impact on the structural integrity of Mullions. The other changes, comprising new road signage and revised road markings, in the context of the existing setting would be such a marginal peripheral change as to be all but unnoticeable.
51. It is noteworthy that Dr Duck, the Council's Heritage Officer, did not raise the possibility of harm accruing to the listed buildings within the Conservation Area - including any of these three listed buildings as a result of the implementation of the off-site highway works. Given the very limited change and the existing context of these listed buildings I consider that the off-site highway works would preserve the setting of these listed buildings and would not harm their significance.
52. The appeal proposals would result in a very modest increase in traffic on average in the peak morning and evening hours. This increase would evidently be so marginal as to be barely perceptible and would not result in an apparent change to the experience of these listed buildings. As such, the traffic generation, such as it is would also not harm the significance of any of these listed buildings.

#### *Priory Cottage*

53. The Grade II listed Priory Cottage is the most southerly property in Woolpit and forms the southern gateway to the village. It comprises a cottage dating from the early 17<sup>th</sup> century, with 19<sup>th</sup> century additions. It is assessed as drawing its significance mostly from its architectural and historic interest, as evidenced in its built form. There is also some limited artistic and archaeological interest, which is derived from the few architectural embellishments and limited phasing which it possesses and exhibits. The building is set within private and well-tended gardens that provide an attractive space in which to appreciate its significance.
54. The property is adjacent to Green Road and the regular traffic along this roadway is also a notable feature within its setting. The roadway possesses historic and functional links with Priory Cottage and it forms the predominant means whereby the structure is appreciated. As the Cottage is located on the

edge of the village, there is some limited relationship with the street frontage immediately to the north, which represents pre-20<sup>th</sup> century dwellings. To the south and west, the wider setting of the building comprises open agricultural land, as it is also on the east side of Green Road (i.e. the appeal site).

55. The appeal site is assessed as falling within the setting of Priory Cottage, given that it is possible to experience the Grade II listed building from the farmland it comprises through a gap at the north end of the otherwise bushy and robust hedgerow. This hedgerow largely encloses the east side of Green Road and contains and curtails eastward views outwards from the listed building to the confines of this north-south thoroughfare of Green Road, thus separating the asset from the appeal site.
56. Therefore, whilst the appeal site does fall within the asset's setting, it makes only a very limited contribution to the significance of this building because of the screening effect of the boundary hedgerow and the concentration of the asset's relationships on (i) its garden enclosure (ii) the Green Road frontage north and south and (iii) the agricultural farmland that adjoins it to the west and south. All of these relationships are focussed to the west of the road.
57. The appeal proposals envisage two dwellings (Plots 15 and 16) in the north west corner of the development site served by a private drive that would run parallel to Green Road. A new footpath link with Green Road would run between Green Road and the private drive and thread through a gap in the roadside hedge opposite Priory Cottage. The hedgerow would be retained albeit on a slightly set back alignment.
58. Therefore, the change to the setting of Priory Cottage would only be noticeable as a change from partial views of an agricultural field to partial views of modern properties in the north west corner of the site. This would cause some erosion to the rural context of the area albeit limited by the partial retention of the hedgerow and the setback of the new properties from the Green Road frontage. Otherwise it would not affect the rural setting to the west and south, the relationships with its well-tended private gardens, Green Road or those properties in close proximity to it.
59. I consider that this limited change would result in a very low level of harm to the significance of this listed building at the lowest end of '*less than substantial harm*'. This conclusion is broadly in agreement with Dr Duck's original consultation response on the planning application where he states that the '*overall impact on the setting of Priory Cottage is notably less than substantially harmful*'.<sup>9</sup> No further mitigation is suggested.
60. In line with statute, policy, and case law<sup>10</sup>, considerable weight and importance must be given to the presumption against granting permission for development that would harm the character or appearance of a conservation area or the setting of a listed building. If less than substantial harm is found of whatever magnitude, the decision maker needs to give considerable weight to the desirability of preserving the setting of the asset. In this case I have found a lack of identifiable harm to the Woolpit Conservation Area and the proposals would, as a minimum '*preserve*' its character and appearance. However, the overall impact of the proposal needs to take into account the

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<sup>9</sup> Mr Crutchley's Appendix AC5

<sup>10</sup> East Northamptonshire DC v SSCLG [2014] 1 P & R 22 at paragraph 29

less than substantial harm to Priory Cottage and this harm should be weighed against the public benefits of the proposals.

61. The public benefits of the appeal proposals comprise:

- An increase in the provision of housing numbers at a time of pressing need (see my conclusion on the following main issue)
- An increase in choice and type of homes
- 35% affordable housing provision
- Employment opportunities during the construction phase
- Residents would be likely to use the local shops and services within Woolpit making a positive contribution to their vitality and viability
- Provision of 0.5 ha of community open space with green infrastructure features – delivering high quality green spaces available to all
- Footpath improvements to the village centre and the wider countryside
- Highway works in the village centre would deliver benefits to the Listed Buildings and the Conservation Area.

62. In accordance with the test set out in paragraph 196 of the NPPF 2018, I find that the clear public benefits of the proposal would outweigh the less than substantial harm to the significance of a designated heritage asset.

### ***Third Issue - Housing Land Supply (HLS)***

63. It is common ground that the Council's strategic policy for housing numbers is more than five years old and has not been reviewed. Accordingly, paragraph 73 of the NPPF 2018 indicates that the Council's housing land supply is to be assessed against the standard method for calculating local housing need. The Council's local housing need is 585 dwellings per annum (dpa) and a 20% buffer is to be applied. This amounts to 3,510 dwellings for the next five years, or 702 dpa. The difference between the parties is solely down to supply.

64. No under supply/previous under delivery is taken into account when using the standard method. Therefore, no 'backlog' of unmet need should be taken into account when calculating the Council's housing land supply position.

65. The NPPF 2018 provides specific guidance in relation to the calculation of the five years supply but specifically with regard to qualifying sites, the Glossary definition of 'Deliverable' in Annex 2 goes further than its predecessor. Small sites and those with detailed permission should be considered deliverable until permission expires unless there is clear evidence that they will not be delivered. Sites with outline permission, or those sites that have been allocated, should only be considered deliverable where there is clear evidence that housing completions will begin on sites within five years. The onus is on the LPA to provide that clear evidence for outline planning permissions and allocated sites.

66. The Council relies upon the same sites in its supply as were contained in its



Annual Monitoring Report (AMR) dated 11 July 2018. The only new site referred to at the Inquiry was that known as Land on the West of Barton Road, Thurston which was missed out of the AMR in error and for which planning permission was granted on 5 July 2018. The Council has carried out a sense check of the supply against the terms of the NPPF 2018 and referred to events that have occurred after the base date of the AMR.

67. In my view the definition of 'deliverable' in the Glossary to the NPPF 2018 does not relate to or include sites that were not the subject of an allocation but had a resolution to grant within the period assessed within the AMR. The relevant period is 1 April 2017 to 31 March 2018.<sup>11</sup> There is therefore a clear cut-off date within the AMR, which is 31 March 2018. The Council's supply of deliverable sites should only include sites that fall within the definition of deliverable at the end of the period of assessment i.e. 31 March 2018. Sites that have received planning permission after the cut-off date but prior to the publication of the AMR have therefore been erroneously included within the Council's supply. The inclusion of sites beyond the cut-off date skews the data by overinflating the supply without a corresponding adjustment of need. Indeed that is why there is a clear cut-off date set out in the AMR. Moreover, the site West of Barton Road, Thurston, should be removed from the supply as its permission postdates the cut-off for the relevant period of assessment.
68. Sites with outline planning permission make up a very large proportion of the Council's claimed supply. The onus is on the Council to provide the clear evidence that each of these sites would start to provide housing completions within 5 years. I accept that there was clear evidence of what was necessary on one site provided in Mr Robert's evidence<sup>12</sup> and so the 200 dwellings in respect of that site should be added to the Appellant's supply calculations. As for the other 1,244 dwellings with outline permission, the Council has not even come close to discharging the burden to provide the clear evidence that is needed for it to be able to rely upon those sites.
69. The up-dated PPG on Housing and economic land availability assessment sets out guidance on what constitutes 'deliverable sites' and covers the evidence that a site with outline planning permission is expected to have in support of its inclusion in the supply. The PPG places great weight on the adequacy and sufficiency of consultation with those responsible for delivering dwellings. It is noteworthy that in this case, the Council has failed to adequately demonstrate it has done so. An assessment of the Council's AMR against the updated PPG reveals that the AMR falls substantially short of producing the evidence that a LPA is expected to produce.<sup>13</sup>
70. Furthermore, the Council has had to provide additional information to demonstrate that sites are deliverable as and when it has surfaced throughout the weeks and months following the publication of the AMR in an attempt at retrospective justification. It is wholly inadequate to have a land supply based upon assertion and then seek to justify the guesswork after the AMR has been published. The site at Union Road, Onehouse is one amongst others, which was only an allocation at the time the AMR was published. Although planning permission was granted 17 August 2018<sup>14</sup> it does not alter

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<sup>11</sup> Paragraph 1.1 of the Annual Monitoring Report

<sup>12</sup> Mr Robert's POE A4 Build out rates for Chilton Leys

<sup>13</sup> See paragraphs 36 (ID:3-036-20180913); 047 (ID:3-047-20180913) and 048 (ID3-048-20180913)

<sup>14</sup> LPA4



the fact that the site was only subject to an allocation at the cut-off date but the Council did not have any clear evidence that it would provide housing within 5 years.

71. Paragraph 73 of the NPPF 2018 requires the Council's housing supply to be made up of 'specific sites'. The Council was presented with three opportunities to demonstrate that the figure of 858 dwellings recorded in its trajectory table for small sites is robust. Firstly, on production of the AMR. Secondly, the Appellant asked for a list of sites on 30 July 2018 and was supplied with a list of 561 planning permissions, which the Council said made up its 858 dwellings. In this list there was insufficient evidence to either accept or challenge this figure, although a number of defects quickly became apparent to the Appellant. The Council was asked to provide more information but failed to do so. Finally, the Council indicated that it was going to submit a final rebuttal proof of evidence on HLS but it did not do so.
72. The Council argues that the St Modwen case<sup>15</sup> continues to provide sensible guidance on the context, as applied to NPPF 2018 and claims that it can demonstrate a 5 year HLS of 5.39 years. However, I cannot accept that the 858 is a robust figure. I agree that it would be a time consuming exercise for the Appellant to review 561 planning permissions. This is an exercise which the Council should have done before it produced its AMR. The Appellant has completed a partial review and from the evidence that is before me it appears that there are at least 108 defective planning permissions within the list of 561 permissions<sup>16</sup> but does not know by what number one should discount the figure of 858. As the NPPF 2018 carries a presumption that small sites are deliverable until there is clear evidence that they will not be delivered, the 858 has been left in the Appellant's HLS calculation but I consider it is likely to be an overestimate.
73. Drawing all of these threads together I consider that the Appellant's assessment of supply, set out in Mr Short's rebuttal proof of evidence, is the more realistic taking into account the St Modwen judgment. The only change is that the site West of Barton Road, Thurston should now be removed from the supply. This leaves the Council's HLS at 3.4 years. If the small sites problem is taken into account, it is highly likely that the Council's HLS is less than 3.4 years. I conclude on the third issue, therefore that the Council cannot demonstrate a five year supply of deliverable housing sites.

### **Other Matters**

74. I have taken into account all other matters raised including the representations from the Woolpit Parish Council, the Suffolk Preservation Society, the landscape assessment of Woolpit by Alison Farmer Associates and other interested persons. I have also taken into account the various appeal decisions submitted by the main parties. The proposed development has generated a significant amount of public interest and many of the representations which have been submitted relate to the impact on the local highway network or the heritage impact which I have dealt with under the main issues.

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<sup>15</sup> St Modwen Developments Ltd v SSCLG et al [2017] EWCA Civ 1643 paragraph 35

<sup>16</sup> APP6

75. The issue of landscape impact was raised in the representations. However, the Appellant has provided a comprehensive Landscape & Visual Impact Appraisal (LVIA) and the Council takes no issue with this. It is proposed to reinstate the former field boundary to the southern part of the site which would include a mixture of trees and hedging and a landscaped Greenway directly to the north of it which would form part of the pedestrian links throughout the site. The existing trees and hedging along the northern boundary and eastern boundaries of the site would be retained with some new planting proposed along the most southern part of the eastern boundary. Within the site itself, trees and hedging are proposed between dwellings and the public spaces to provide an attractive soft environment.
76. The appeal site would result in the loss of an agricultural field to development and whilst this would have some direct landscape impact, it would not be significantly adverse given its suburban backdrop. The proposed landscape framework would screen and filter views of buildings from the surrounding countryside. The visual impact of the development would be successfully mitigated into the rural edge of Woolpit and would provide an attractive environment for both new residents and those living in the surrounding locality. I therefore find no harm in this regard.
77. Reference is made to alternative housing sites identified in the emerging Joint Local Plan which are located to the north of the village centre. However, as I noted at the start, the emerging Joint Local Plan is in its very early stages and any conflict with this plan carries limited weight at this time and in the context of this appeal.
78. Concerns have been raised in relation to drainage, archaeology and ecological matters. However, it is noteworthy that the Council has not raised any objections in relation to these matters. In my view the concerns which have been raised can be adequately dealt with through the use of planning conditions in accordance with the advice in paragraph 54 of the NPPF 2018.

### **Planning Obligation**

79. The S106 Unilateral Planning Obligation includes the provision of 17 affordable units on site which broadly equates to the Council's requirements for 35% provision. In this respect the Obligation is in line with both paragraph 62 of the NPPF 2018, which requires on-site delivery of affordable homes and Altered Policy H4 of the MSDLP.
80. With regard to open space covenants within the Obligation, the appeal scheme provides open space and a 360m<sup>2</sup> play area with play equipment within the site which meets the Council's policy requirements, notably Policy RT4 of the MSDLP.
81. With regard to covenants with SCC, the Obligation includes contributions in relation to primary school and Early Years provision and Public Rights of Way Improvements. A SoCG on Early Years and Education Matters has been agreed between the Appellant and SCC. There is also a Community Infrastructure Levy (CIL) Compliance Statement submitted by SCC.<sup>17</sup>

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<sup>17</sup>INQ5

82. The Obligation includes the following matters in respect of SCC functions:

- Primary School Construction contribution – £180,719 (equates to £3,688.14 per dwelling). This is necessary if there are no surplus places available at the time of commencement, and if expansion of the existing primary school is confirmed, this Obligation would cease or be returned.
- Primary School Land contribution - £12,936 (equates to £264 per dwelling)– as above; and
- Contribution towards the build costs of a new Early Years setting - £33,332 (equates to £680.24 per dwelling).

83. The proposed development is estimated to generate up to four pre-school children. The proposed development should make a proportionate contribution towards the build cost of the new Early Years setting which in total would cost £500,000 and provide 60 places. The proposed development would generate 11 primary aged pupils but the Woolpit Primary Academy does not have enough places to accommodate all of the development being proposed in Woolpit. Due to the layout of the current school site it is not possible to add further permanent accommodation unless additional land is acquired.

84. Therefore the SCC strategy for primary school provision is to deliver a new 420 place primary school for Woolpit to ensure that there is adequate provision to support housing growth and basic need. The proposed development should make a proportionate contribution to the land and build costs of the new primary school in respect of the 11 pupils generated by it.

85. There are currently forecast to be surplus places available at the current secondary schools serving the proposed development, so no secondary or sixth form contributions would be required from the proposed development.

86. Paragraph 98 of the NPPF 2018 promotes the need to protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users for example by adding links to existing rights of way networks. The anticipated increased use of the PROW network from the development would result in the need for offsite improvement work involving heavy clearance on Woolpit Public Footpath 4. The total financial contribution required is £915. The requirement for the footpath improvement arises directly from the increased population which would be generated by the development in the local area and it would also meet Council policies.

87. The Council has confirmed that none of the obligations would conflict with Regulation 123 requiring that no more than five contributions are pooled towards any one specific infrastructure scheme.

88. In my view, all of the provisions set out in the Section 106 Planning Obligation are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. Therefore they all meet the tests with CIL Regulations 122 and 123 and should be taken into account in the decision.

### **Planning Balance**

89. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with

the development plan, unless material planning considerations indicate otherwise. Whilst the RfR cites only a limited number of policies which are said to be breached I deal with all policies that have a bearing on the proposals and in line with the new approach of the NPPF 2018<sup>18</sup> identify those which are most important for determining the appeal and whether they should be considered to be out-of-date.

90. The CS was adopted in 2008 and the MSDLP in 1998. Both plans predate the publication of the NPPF 2012 and the more recent NPPF 2018. The CSFR has had little impact on the saved or CS policies that remain in place and Policy FC1 really only and unnecessarily repeats what was in paragraph 14 of the NPPF 2012. It is now out-of-date because of the test it employs. Policy FC1.1 is policy of a very broad nature with one requirement that development must conserve and enhance the local character of the different parts of the district. It is up-to-date but is not otherwise of significance. The appeal proposal complies with these policies.
91. Policy CS1 of the CS merely sets out the settlement hierarchy. However, it includes the words "*the rest of Mid-Suffolk, including settlements not listed in the above (hierarchy) will be designated as countryside ... renewable energy*". By virtue of this latter requirement it offends paragraphs 77 and 78 of NPPF 2018. It perpetuates the theme of protection of the open countryside for its own sake and its limitations are inimical to the balanced approach which the NPPF 2018 exhorts. It is one of the most important policies and it is out-of-date. The appeal proposal complies with the hierarchical requirements of Policy CS1 but it conflicts with the latter part of this policy as the site is located outside the settlement boundary.
92. As the proposed development is in open countryside, it also offends the requirements of Policy CS2. Policy CS2 is a most important policy and it is out-of-date. The NPPF has never and still does not exhort a restrictive approach to development outside settlements in this manner. It does not protect the countryside for its own sake or prescribe the types of development that might be acceptable. The policy as worded obviates a balancing exercise and precludes otherwise sustainable development by default and thereby defeats the presumption in its favour. It is also contrary to paragraphs 77 and 78 of NPPF 2018.
93. Policy CS5 provides that all development will maintain and enhance the environment including the historic environment, and retain local distinctiveness. It requires development actually to maintain and enhance the historic environment which exceeds the statutory duty (LBA 1990) and goes further than paragraph 192 of NPPF 2018 which requires decision makers to "take account of the desirability of sustaining and enhancing the significance of heritage assets" (my underlining). This is a most important policy and it is out-of-date. It does not make enhancement a requirement where no such requirement is reasonably possible or appropriate to the nature of the proposed development. The policy also fails to acknowledge the balancing exercise which the NPPF 2018 requires to be undertaken in circumstances where the harm is less than substantial.
94. Moreover, I have found that the appeal proposal would accord with national policy advice in the NPPF 2018, notably paragraph 192, and there would be no

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<sup>18</sup> Paragraph 11

conflict with Policy CS5. The proposed development constitutes a high quality design as it proposes a form of development that reflects the character and appearance of the surrounding streetscape. The DAS provides details on materials and finishes. The materials selected for the new dwellings reflect the colours and shades of the Suffolk vernacular buildings of Woolpit in their simple forms and thus retain local distinctiveness in accordance with Policy CS5 and the NPPF 2018 in Section 12. Nor would there be any conflict with Policy CS5 in relation to the off-site highway improvements works in the Conservation Area.

95. Policy GP1 is a most important policy and it is up-to-date. The proposal complies with its requirements. Policy HB8 is also a most important policy and it is up-to-date despite the fact that it predates its CS equivalent. As I disagree with the Council's case on the impact of the proposal on the character and appearance of the Conservation Area, the proposal complies with its requirements. Policy FC2 is the Council's strategic housing policy within the development plan. However, in the light of paragraph 73 of the NPPF 2018, this policy is out-of-date, which is accepted by Mr Roberts.<sup>19</sup>
96. Drawing all of these threads together I find that being outside the settlement boundary and within the countryside, the appeal proposal is not in accordance with the development plan taken as a whole.
97. However, in the context of paragraph 213 of the NPPF 2018, I have found that some of the most important policies for determining this appeal are out-of-date, notably Policy CS1 and Policy CS2. I have attached only moderate weight to the conflict with these policies which lessens the significance of that conflict.
98. At paragraph 62 of this decision, I found that the clear public benefits of the proposal would outweigh the less than substantial harm to the significance of a designated heritage asset.
99. The tilted balance in paragraph 11 of the NPPF 2018 is engaged because firstly, policies that are most important for the determination of this appeal are out-of-date and secondly, the Council cannot demonstrate a five year supply of deliverable housing sites.
100. Balanced against the identified conflict with the development plan I give substantial weight to the provision of 32 market dwellings and 17 affordable dwellings on a site which is visually and functionally well related to the existing village. Paragraph 59 of the NPPF 2018 states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. This comprises a substantial social benefit.
101. I have attached moderate weight in terms of the economic benefits that would arise from the provision of employment opportunities during the construction phase and the spending power from 49 new households within the local area.
102. Furthermore I am satisfied that the proposed development would fulfil the aims of the NPPF 2018 by promoting a high quality design of new homes and

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<sup>19</sup> Proof of evidence paragraph 2.3

places. I find that the provision of on-site community open space with green infrastructure features, the footpath improvements to the village centre and the wider countryside and the highway works in the village centre would all provide environmental benefits. I apportion moderate weight in terms of the environment.

103. Taking all of these matters into account, including all other material considerations, I find that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of the proposed development when assessed against the policies in the NPPF 2018 as a whole and that the proposal represents sustainable development. On this basis a decision, other than in accordance with the development plan is justified and therefore the appeal should be allowed.

### **Planning Conditions**

104. I have considered the conditions suggested by the Council<sup>20</sup> in the light of the advice in paragraphs 54 and 55 of the NPPF, the model conditions retained at Appendix A of the cancelled Circular 11/95 and the Government's PPG on the use of planning conditions. I have made minor adjustments to the suggested conditions in the interests of clarity. Condition 1 imposes a shorter timescale than the normal three years but this is justified given the pressing housing need and the advice in paragraph 76 of the NPPF 2018. Condition 2 is necessary for the avoidance of doubt. Condition 3 is required to safeguard heritage assets of archaeological interest. Condition 4 which relates to Construction Management is necessary to ensure minimal impact on the public highway and residential amenity but I have deleted the element relating to haul routes as this relates to land outside the site and thus cannot be controlled by condition. Conditions 5-7 are necessary in the interests of ecology, safeguarding habitats/species and visual amenity. Conditions 8 -10 are required to ensure the development does not cause increased flood risk or increased pollution to the water environment.
105. Conditions 11-23 are necessary in the interests of highway safety, traffic management, safe and suitable facilities for pedestrian and cycle movement and to comply with paragraph 110 of the NPPF. Condition 24 is required in the interests of safeguarding ecology, biodiversity and amenity within the site. Condition 25 is required to ensure the site is suitably served by fire hydrants in the interests of public safety and fire prevention. Condition 26 is necessary to ensure that the development is equipped with access to high-quality telecommunications in accordance with paragraph 112 of the NPPF.
106. Condition 27 is required to ensure that recycling bins are not stored on the highway in the interests of highway safety. Condition 28 which relates to screen walls and/or fences is required in the interests of residential amenity. Condition 29 is required to ensure the appropriate recording and analysis of archaeological assets. Condition 30 is required to ensure the provision and long-term maintenance of adequate on-site space for the parking and manoeuvring of vehicles. Condition 31 relates to a Residents Travel Pack to reflect the national policy aim of achieving the fullest possible use of public transport, walking and cycling.

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<sup>20</sup> INQ4



## **Conclusion**

107. Having considered these and all other matters raised I find nothing of sufficient materiality to lead me to a different conclusion. The appeal is therefore allowed subject to the conditions set out in the attached Schedule.

*Harold Stephens*

INSPECTOR

## **SCHEDULE OF PLANNING CONDITIONS (1-31)**

### **TIME LIMIT FOR IMPLEMENTATION**

- 1) The development hereby permitted shall be begun not later than the expiration of two years from the date of this permission.

### **LIST OF APPROVED DRAWINGS**

- 2) The development hereby permitted shall be carried out in accordance with the following drawings:

5018 PA01 House Type 1  
5018 PA02 House Type 1  
5018 PA03 Single Garage  
5018 PA04 House Type 2  
5018 PA05 House Type 2  
5018 PA06 House Type 3  
5018 PA07 House Type 3  
5018 PA08 House Type 3  
5018 PA09 Rev. A House Type 3  
5018 PA10 Rev. A House Type 4  
5018 PA11 House Type 4  
5018 PA12 Rev. A House Type 4  
5018 PA13 House Type 5  
5018 PA14 House Type 5  
5018 PA15 House Type  
5018 PA16 House Type 6  
5018 PA17 House Type 6  
5018 PA18 Rev. A Cart Lodge  
5018 PA19 House Type 7  
5018 PA20 House Type 7  
5018 PA21 House Type 7  
5018 PA22 Rev. A House Type 8  
5018 PA23 House Type 8  
5018 PA24 House Type 8  
5018 PA28 House Type 9  
5018 PA29 House Type 9  
5018 PA31 Rev H Site/block roof plan  
5018 PA32 Rev C Street Elevations  
5018 PA33 Site Location Plan  
5018 PA34 rev A Typical Elevations  
5018 PA35 rev B Street Elevations  
5018 PA36 ASHP SIZES

### **PRE - COMMENCEMENT CONDITIONS**

#### **Archaeology**

- 3) No development shall take place within the site until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation which has previously been submitted to and approved in writing by the Local Planning Authority.

The scheme of investigation shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Provision to be made for analysis of the site investigation and recording.
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Provision to be made for archive deposition of the analysis and records of the site investigation.
- f. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- g. The site investigation shall be completed prior to development, or in such other phased arrangement, as agreed and approved in writing by the Local Planning Authority.

### **Construction Management**

- 4) Prior to the commencement of development details of a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority and shall incorporate the following information:
  - a. Details of the hours of work/construction of the development within which such operations shall take place and the hours within which delivery/collection of materials for the said construction shall take place at the site.
  - b. Details of the storage of construction materials on site, including details of their siting and maximum storage height.
  - c. Details of how construction and worker traffic and parking shall be managed.
  - d. Details of any protection measures for footpaths surrounding the site.
  - e. Details of any means of access to the site during construction.
  - f. Details of the scheduled timing/phasing of development for the overall construction period.
  - g. Details of any wheel washing to be undertaken, management and location it is intended to take place.
  - h. Details of the siting of any on site compounds and portals.
  - i. Monitoring and review mechanisms.

The construction shall at all times be undertaken in accordance with the agreed methodology approved in writing by the Local Planning Authority.

### **Landscaping and Biodiversity**

- 5) All ecological mitigation measures and/or works shall be carried out in accordance with the details contained in the Ecological report (MHE Consulting August 2015) as already submitted with the planning application and agreed with the Local Planning Authority prior to determination.
- 6) No development shall commence until a detailed 'hard' and 'soft' Landscaping Scheme, which shall include any proposed changes in ground levels, has been submitted to, and approved in writing by, the Local Planning Authority.

The 'hard' landscaping shall include details of all hard surface materials and boundary treatments to be used within the development with a timetable for implementation, including all means of enclosure and boundary treatments, residential screen walls and fences.

The 'hard' landscaping shall be implemented and completed in accordance with the approved details and agreed timetable.

The 'soft' landscaping shall include details of the existing trees and plants on site to be retained together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication 'BS 5837:2012 Trees in relation to design, demolition and construction'.

The 'soft' landscaping shall include details (including species, size of stock at time of planting, location) of all new plants and trees to be provided as well as any areas for seeding. The new landscaping should comprise of native species only as defined in Schedules 2 and 3 of the Hedgerow Regulations 1997.

The 'soft' landscaping shall be implemented in accordance with the approved details within the first planting season (October - March inclusive) following the commencement of development.

Any trees, hedges, shrubs or turf identified within the approved Landscaping Scheme (both proposed planting and existing) which die, are removed, seriously damaged or seriously diseased, within a period of 10 years of being planted or in the case of existing planting within a period of 5 years from the commencement of development, shall be replaced in the next planting season with others of similar size and species.

The approved Landscaping Scheme shall be carried out in its entirety and shall accord with the approved drawings under this permission.

- 7) Prior to the commencement of development on the site a skylark mitigation strategy, including a timetable for implementation, shall be submitted to, and agreed in writing by, the Local Planning Authority. The agreed strategy shall be implemented in full to mitigate the loss of potential nesting habitat.

### **Site Drainage**

- 8) No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved.
- 9) No development shall take place until a surface water drainage scheme for the site, including a timetable for implementation, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The drainage strategy should demonstrate that the surface water run-off generated up to and including the 100 year + Climate Change storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be

implemented in accordance with the approved details and timetable before the development is completed. Details of which will include:

- a. Details of further infiltration testing on site in accordance with BRE Digest 365 to verify the permeability of the site (trial pits to be located where soakaways are proposed and repeated runs for each trial hole). Borehole records should also be submitted in support of soakage testing.
  - b. Infiltration devices should be no more than 2m deep and will have at least 1.2m of unsaturated ground between base of the device and the groundwater table.
  - c. Dimensioned plans illustrating all aspects of the surface water drainage scheme including location and size of infiltration devices and the conveyance network. A statement on the amount of impermeable area served by each infiltration device should also be illustrated on the plans and should be cross referenceable with associated design calculations.
  - d. Full modelling results (or similar method) to demonstrate that the infiltration device has been adequately sized to contain the critical 100yr+ Climate Change event for the catchment area they serve. Each device should be designed using the nearest tested infiltration rate to which they are located. A suitable factor of safety should be applied to the infiltration rate during design.
  - e. Infiltration devices will have a half drain time of less than 24 hours.
  - f. Modelling of conveyance networks showing no above ground flooding in 1 in 30 year event, plus any potential volumes of above ground flooding during the 1 in 100 year rainfall + Climate Change.
  - g. Infiltration devices shall only be used where they do not pose a threat to groundwater. Only clean water will be disposed of by infiltration devices due to the site being inside a Source Protection Zone. Demonstration of adequate treatment stages for water quality control shall be submitted - SuDS features should demonstrate betterment to water quality, especially if discharging towards a watercourse or aquifer.
  - h. Topographic plans shall be submitted depicting safe exceedance flow paths in case of a blockage within the main surface water system and/or flows in excess of a 1 in 100 year rainfall event. These flow paths will demonstrate that the risks to people and property are kept to a minimum.
  - i. A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.
  - j. Arrangements to enable any surface water drainage within any private properties to be accessible and maintained including information and advice on responsibilities to be supplied to future owners.
- 10) No development shall commence until details of a Construction Surface Water Management Plan (CSWMP) detailing how surface water and storm water will be managed on the site during construction (including demolition and site clearance operations) is submitted to and agreed in writing by the Local Planning Authority. The CSWMP shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction. The approved CSWMP and shall include:
- a. Method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include:

- i. Temporary drainage systems.
- ii. Measures for managing pollution / water quality and protecting controlled waters and watercourses.
- iii. Measures for managing any on or offsite flood risk associated with construction.

## **Highways**

- 11) No development shall commence until details of the estate roads and footpaths (including layouts, levels, gradients surfacing and means of surface water drainage, lighting and traffic calming measures), have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and completed in accordance with the approved details and agreed timetable.
- 12) No development shall commence until a detailed scheme for highway improvements to Green Road, comprising traffic calming measures and footway widening provision which shall be in general accordance with those details as shown on Drawing no. 112/2015/04 Revision P2, has been submitted to and agreed in writing by the Local Planning Authority in consultation with the Local Highway Authority.
- 13) No development shall commence until details have been submitted to and approved in writing by the Local Planning Authority, of the means to prevent the discharge of surface water from the development onto the highway. The development shall be carried out and completed in accordance with the approved details and agreed timetable.

## **PRIOR TO OCCUPATION OR OTHER STAGE CONDITIONS**

### **Highways**

- 14) No part of the development shall be commenced above slab level until the new vehicular access onto Green Road has been laid out and completed in all respects in accordance with Drawing No. 5018 PA31 Rev H Site/block roof plan and with an entrance width of 5.5 metres and been made available for use. Thereafter the access shall be retained in the specified form.
- 15) Prior to the access from Green Road into the site being constructed, the ditch beneath the proposed access shall be piped or bridged in accordance with details which previously shall have been submitted to and approved in writing by the Local Planning Authority and shall be retained thereafter in its approved form.
- 16) The new estate road junction with Green Road, inclusive of cleared land within the sight splays to this junction, must be formed prior to any other works commencing or delivery of any other materials.
- 17) No development shall commence above slab level until a scheme for the provision and implementation electric car charging points for the development has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include a clear timetable for the implementation of the measures in relation to the occupancy of the development. The scheme



shall be implemented, and the measures provided and made available for use, in accordance with such timetable as may be agreed.

- 18) Details of the gateway feature identified on drawing 5018 PA31 Rev H to be located to the southwest corner of the site shall be submitted to and agreed with the Local Planning Authority and shall be completed prior to occupation of the first dwelling and thereafter retained in the approved form.
- 19) Before the access onto Green Road is first used, visibility splays shall be provided as shown on Drawing No. 5018/PA31 Revision H, as submitted, and thereafter retained in the specified form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays at any time.
- 20) No dwelling shall be occupied until the carriageways and footways serving that dwelling have been constructed to at least binder course level or better.
- 21) No dwelling shall be occupied until the area(s) within the site, shown on approved drawing 5018 PA31 Rev H for the purposes of loading/unloading, manoeuvring and parking of vehicles, including electric charging points and secure cycle storage, serving that dwelling has been provided and thereafter that area(s) shall be retained and used for no other purpose. Thereafter those areas applicable to that dwelling shall be retained and remain free of obstruction except for the purpose of manoeuvring and parking of vehicles.
- 22) A metalled footway/cycleway, as shown on Drawing 5018 PA31 Rev H of a minimum 2.0 metres width, shall be provided from the site into Steeles Close, northwards to connect with the existing access in Steeles Close. The metalled footway shall be provided and made available for use prior to the first occupation of any dwellings in the development.
- 23) No dwelling shall be occupied until the highway improvements secured under Condition 12 above have been constructed in strict accordance with the approved details and made available for public use and thereafter retained post construction in the approved form.

### **Site Infrastructure/Other**

- 24) Within three months of the commencement of development a detailed lighting scheme for all public areas to be lit shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall show how and where external lighting will be installed, (through technical specifications and the provision of appropriate lighting contour plans which shall include lux levels of the lighting to be provided), so that it can be:
  - a. Clearly demonstrated that areas to be lit have reasonably minimised light pollution, through the use of minimum levels of lighting and features such as full cut off cowls or LED.
  - b. Clearly demonstrated that the boundary vegetation to be retained, as well as that to be planted, will not be lit in such a way as to disturb or

prevent bats using their territory or having access to their breeding sites and resting places or foraging areas, through the use of minimum levels of lighting and features such as full cut off cowls or LED.

All external lighting shall be installed in accordance with the specifications and locations as set out in the approved scheme and shall be maintained thereafter in accordance with that scheme.

- 25) Within three months of the commencement of development details of the provision of fire hydrants for the development, including a timetable for installation, shall be submitted to and approved in writing by the Local Planning Authority. The fire hydrants shall be installed in accordance with the approved details in their entirety and in accordance with the agreed timetable.
- 26) Within three months of the commencement of development, details of how superfast or ultrafast broadband infrastructures will be delivered to every household in the development, subject to network capacity being available, shall be submitted to and approved in writing by the Local Planning Authority. The approved superfast broadband infrastructures for each dwelling shall be installed prior to first occupation of that dwelling.
- 27) Within three months of the commencement of development, details of the areas to be provided for the storage of refuse/recycling bins shall be submitted and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the first occupation of the dwelling to which it relates and shall be retained thereafter and used for no other purpose.
- 28) The residential screen walls and/or fences as may be approved pursuant to the Landscaping Scheme under Condition 6 above, shall be erected prior to the dwelling/s to which they relate being first occupied and thereafter shall be retained in the approved form.
- 29) No dwelling shall be occupied until the archaeological site investigation and post investigation assessment, secured under Condition 3 above, has been completed and submitted to, and approved in writing by, the Local Planning Authority.

#### **POST OCCUPANCY MONITORING/MANAGEMENT**

- 30) Notwithstanding the provisions of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no development shall be carried out in such a position as to preclude vehicular access to those vehicular parking spaces and no alterations shall be carried out to the approved garage units that would preclude the parking of vehicles within them without planning permission being granted in that regard.
- 31) Within one month of the first occupation of any dwelling, the occupiers of each of the dwellings shall be provided with a Residents Travel Pack (RTP). Not less than three months prior to the first occupation of any dwelling, the contents of the RTP shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority and shall

include walking, cycling and bus maps, latest relevant bus and rail timetable information, car sharing information, personalised travel planning and a multimodal travel voucher. The RTP shall be maintained and operated thereafter.

End of Conditions Schedule

## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:**

Mr Asitha Ranatunga of Counsel	Instructed by the Council
He called:	
Luke Barber HND BSc FD C Eng.	Principal Engineer Suffolk CC
Nicholas Joubert MSc	Heritage Consultant
Andrew Ryley BA (Hons) MSc MRTPI	Associate Director DLP Planning Ltd
Alex Roberts BSc (Joint Hons) Associate RTPI	Director DLP Planning Ltd

### **FOR THE APPELLANT:**

Mr Paul Shadarevian QC	
He called:	
Gerry Bullard C Eng. MICE	Partner GH Bullard & Associates LLP
Andrew Crutchley BA (Hons) PG Dip (Oxon) MCiFA	Director The Environmental Dimension Partnership Ltd
Leslie Short BA MRICS MRTPI	Director Artisan Planning and Property Services Ltd

### **INTERESTED PERSONS:**

John Guyler	Chairman of Woolpit Parish Council
John Christie	Local Resident
Susan Eburne	Local Resident

### **DOCUMENTS SUBMITTED AT THE INQUIRY**

- INQ1 Notification Letter
- INQ2 Letters of Representation
- INQ3 Statements of Common Ground
- INQ4 Suggested Planning Conditions
- INQ5 Suffolk County Council Community Infrastructure Levy Regulations (CIL) Compliance Statement dated 27 March 2018

### **DOCUMENTS SUBMITTED BY THE LPA**

LPA1 Opening Remarks

LPA2 Pytches Road, Woodbridge – Traffic Calming scheme with buildout

LPA3 Letter from Storey Homes dated 13 August 2018: Land at Gardenhouse Lane, Rickinghall

LPA4 Mid Suffolk District Planning Permission: Reference 4455/16

LPA5 List of sites disputed by the Appellant

LPA6 Closing Submissions

### **DOCUMENTS SUBMITTED BY THE APPELLANT**

APP1 List of Drawings

APP2 HCC Decision *CPRE v Dover DC* [2015] EWHC 3808 (Admin) [APP2]

APP3 Agenda Document for MSDC Development Control Committee A 29.8.2018

APP4 Appeal Decision APP/N1730/W/17/3185513

APP5 Hart District Local Plan 1996-2006 Saved Policy RUR2

APP6 MSDC Minor Sites Outstanding Planning Permissions (April 2018)

APP7 Agreement to enter in to an Easement conditional on Appeal dated 29 August 2018 between Flagship Housing Group Limited and Landex Limited

APP8 Certified Copy of Unilateral Undertaking dated 29 August 2018

APP9 Letter from Burgess Homes Limited re site at Back Hills, Botesdale

APP10 Closing Submissions

### **INTERESTED PERSONS' DOCUMENTS**

IP1 Statement by John Guyler

IP2 Statement by John Christie

IP3 Statement by Susan Eburne