

# CD6.11

## Appeal Decision – Long Melford

### **Preface:**

This appeal decision is important because it deals with a scheme allowed despite there being a 5-year housing land supply and being outside the settlement boundary which is relevant to the consideration of the appeal scheme. The Secretary of State recognised that a 5-year housing land supply is a baseline and not a ceiling. He identified there was a local need in the settlement.

The relevant paragraphs referenced in the Appellant's proof are highlighted yellow.



Ministry of Housing,  
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Local Government

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CW12 1LB

Our ref: APP/D3505/W/18/3214377  
Your ref: n/a

1 April 2020

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL MADE BY GLADMAN DEVELOPMENTS LTD  
LAND OFF STATION ROAD, LONG MELFORD, SUFFOLK  
APPLICATION REF: DC/18/00606**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Kenneth Stone BSc Hons DipTP MRTPI, who held a public inquiry between 25 June 2019 and 2 July 2019 into your appeal against the failure of Babergh District Council to determine your application for outline planning permission for the erection of up to 150 dwellings with public open space, landscaping and sustainable drainage system (SuDS), and vehicular access point from Station Road, with all matters reserved except means of access, in accordance with application ref: DC/18/00606, dated 8 February 2018.
2. On 25 June 2019, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal be allowed and planning permission granted, subject to conditions.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. He has decided to allow the appeal and grant planning permission.
5. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

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## **Procedural matters**

6. As set out at IR2, the Secretary of State has noted that minor amendments were made to Site Access drawing P19007-001A prior to the public inquiry, with minor changes to footway arrangements to reflect the granting of an unrelated planning permission on an adjacent site.
7. As the document was available for public inspection as part of the Highways Statement of Common Ground, and as no objections were made by parties to this document being considered during the appeal (IR3), the Secretary of State does not consider that the modifications to this document raise any matters that would require him to refer back to the parties for further representations prior to reaching his decision on this appeal, and he is satisfied that no interests have thereby been prejudiced. He has therefore considered the scheme on this basis.

## **Matters arising since the close of the inquiry**

8. On 13 November 2019, the Secretary of State wrote to the main parties to notify them of a variation in the timetable due to the December 2019 General Election, and to afford them an opportunity to comment on Babergh District Council's Housing Land Supply Position Statement, published September 2019. A full list of representations received in response to this letter is at Annex A. Representations received in response to this letter were circulated to the main parties on 29 November 2019 for further comment, and then the final representations received were circulated for information purposes only on 9 December 2019.
9. The Secretary of State is satisfied that no other new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties. A list of representations which have been received since the inquiry is at Annex A. Copies of these letters may be obtained on written request to the address at the foot of the first page of this letter.
10. On 13 February 2020 the 2019 Housing Delivery Test measurements were published. Babergh District Council's measurement changed from 88% (2018 measurement) to 123% (2019 measurement). As this does not result in a material change relevant to this appeal, the Secretary of State is satisfied this did not warrant further investigation or necessitate additional referrals back to parties.

## **Policy and statutory considerations**

11. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
12. In this case the development plan consists of saved policies from the Babergh Local Plan Alteration No. 2 (BLP), adopted June 2006, and the Babergh Local Plan 2011-3031 Core Strategy & Policies (CS), adopted February 2014. The Secretary of State considers that relevant development plan policies include those set out at IR21 and IR 27.
13. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'), the Rural Development & Core Strategy CS11 (Supplementary Planning Document) (RCDS SPD), the Dedham Vale Area of

Outstanding Natural Beauty (AONB) and Stour Valley Management Plan 2016-21 (DVSVMPP), and Babergh District Council's Housing Land Supply Position Statement (HLSPS) (September 2019). The revised National Planning Policy Framework was published on 24 July 2018 and further revised in February 2019. Unless otherwise specified, any references to the Framework in this letter are to the 2019 Framework.

14. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.
15. In accordance with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

### *Emerging plans*

16. Emerging plans comprise the Babergh and Mid Suffolk District Council Joint Local Plan (JLP), and the Long Melford Neighbourhood Plan (LMNP). Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. As both documents are at an early stage and will require further consultation before undergoing examination, the Secretary of State agrees with the Inspector at IR29 that the JLP carries limited weight in the decision-making process, and at IR31 that the LMNP carries little weight in the decision-making process.

### **Main issues**

#### *District-wide Housing Land Supply*

17. The Secretary of State notes at IR425 that at the time of the Inquiry all parties agreed that Babergh District Council could not demonstrate a five-year supply of housing land, with the appellant calculating 4.11 years, and the Council calculating 4.86 years. He notes that the Inspector concluded it was in the region of 4.73 years (IR433), engaging the tilted balance set out at paragraph 11 of the Framework and attracting substantial weight in favour of the proposal (IR452).
18. In September 2019 Babergh District Council published the HLSPS. As set out in paragraphs 8-9 of this Decision Letter, the Secretary of State wrote to parties on 13 November 2019 to seek their views on this document.
19. Planning Practice Guidance (*Paragraph: 004 Reference ID: 68-004-20190722*) states that, for decision-taking purposes, an authority will need to be able to demonstrate a 5 year housing land supply when dealing with applications and appeals. They can do this in one of two ways:
  - using the latest available evidence such as a Strategic Housing Land Availability Assessment (SHLAA), Housing and Economic Land Availability Assessment (HELAA), or an Authority Monitoring Report (AMR);

- ‘confirming’ the 5-year land supply using a recently adopted plan or through a subsequent annual position statement (as set out in paragraph 74 of the National Planning Policy Framework).

20. In this case, the authority has not chosen to confirm its 5-year land supply.

21. The Secretary of State has carefully considered both the contents of the HLSPS, and the representations received from the parties in response to his letter. In the circumstances of this case, the Secretary of State considers that the HLSPS represents the most up to date evidence before him and agrees with its contents. He therefore considers that Babergh District Council can now demonstrate a housing land supply of 5.67 years.

22. The Secretary of State has also carefully considered the Inspector’s assessment of the most important development plan policies at IR444-450. For the reasons given there, he considers that, while elements of CS2 are inconsistent with the Framework and CS3 is out of date, when viewed in the round, the most important policies for determining this appeal identified in IR444 are not out-of-date. For this reason, and given his findings above in relation to housing land supply, the Secretary of State does not consider the tilted balance set out at paragraph 11 of the Framework to be engaged, and considers the appropriate weight for the delivery of housing to be that set out at paragraph 30 of this Decision Letter.

#### *The need for housing locally*

23. The Secretary of State notes (IR23-24) that CS2 and CS3 set out the district’s growth strategy, with CS2 identifying a settlement hierarchy and directing growth along that hierarchy, and CS3 setting out targets for growth, including a housing target, and allocating that growth within the existing settlement pattern and in “*new and balanced communities*”. Long Melford is identified as a “Core Village”, a second-tier settlement, and collectively the second and third-tier settlements are expected to take 1050 dwellings out of the 5975 total (IR24) across the plan period. The Secretary of State also notes that supporting text maintains the settlement boundaries set out in the BLP, with a review planned for when an allocations document was produced. He notes this document was not produced, and agrees with the Inspector that the production of the new JLP means it is now unlikely to occur (IR25).

24. Core Strategy Policies CS2 and CS11 require development proposals to identify a local housing need, and exceptional circumstances for development in the countryside, outside of towns/urban areas, core and hinterland villages. Development proposals must also satisfy the decision maker in relation to locally-identified needs for housing and employment, as well as specific local needs such as affordable housing (IR405). Supplementary guidance sets out more details out what this should include (IR409).

25. The Secretary of State has also noted the court judgement in *R (East Bergholt Parish Council) v Babergh DC & Aggett [2015] EWHC 3400 (Admin)* (henceforth the Bergholt judgement, or Bergholt), where the High Court determined that the reference to a local housing need in the context of Core Villages was the “*housing need in the village and its cluster, and perhaps in the areas immediately adjoining it*” (IR406).

26. The Secretary of State has carefully considered the Inspector’s interpretation at IR446 of the Bergholt judgement, that development can take place outside the settlement boundaries set out in the BLP if they fulfil the requirements of CS11, and if the Council is satisfied the circumstances are exceptional and there is a proven local need (IR446).

27. The Secretary of State notes that while the appellant failed to submit such an assessment with the original application, they did as part of this appeal (IR407; IR410), as did Save our Skylark Fields (SoSF) (IR416-419), which was endorsed by the Council. He has gone on to carefully consider the Inspector's analysis of both the appellant's assessment at IR410-415 and of SoSF's assessment at IR416-418.
28. For the reasons given at IR410-418, the Secretary of State agrees with the Inspector that the approach adopted by the Appellant provides a more robust assessment of the potential need across the Core Village and functional cluster, and the adjoining area, and agrees with the Inspector at IR420 that a demonstrable local housing need has been identified.
29. The Secretary of State has also carefully considered the Inspector's analysis of the local need for affordable housing (IR421-422), and agrees that the appellant has demonstrated that there is also a local need for the affordable housing included in the proposal.
30. For these reasons, the Secretary of State agrees with the Inspector that the appellant has identified a need locally for both market and affordable housing, in line with the expectations of CS2 and CS11 (IR420). He considers the provision of homes to meet an identified need in this location attracts significant weight.

*Impact on local character*

31. As set out at paragraph 23 of this Decision Letter, the CS sets out a settlement hierarchy, while also importing the settlement boundaries from the BLP, albeit without that specific policy reference being formally saved (IR447). While the appeal site is outside the settlement boundary as set out in the BLP, due to this policy not being formally saved and the age of the policy the Secretary of State considers the settlement boundary to be out-of-date. The Secretary of State therefore agrees with the Inspector that, as Babergh is a second-tier settlement, the proposal would in general be in accordance with the spatial strategy and settlement hierarchy (IR453).
32. The Secretary of State notes (IR447) that the appellant has not demonstrated the exceptional circumstances required for developments in the countryside, conflicting with CS2. However, he agrees with the Inspector at IR448 that as this element of CS2 is not consistent with the Framework, which requires no such test, the weight given to this conflict should be reduced.
33. The Secretary of State has noted the Inspector's description of both the site and the surroundings at IR15-19, and the further details provided from IR353-361. He notes the site sits in the several local and national landscape types, and has carefully considered the analysis of these landscape types set out at IR353-357.
34. The site is part of the Stour Valley Project Area (SVPA), which in turn is covered by the Dedham Vale Area of Outstanding Natural Beauty and Stour Valley Management Plan (the DVSVMP). PPG advises local planning authorities to have regard to management plans for AONB in determining applications (IR360). However, the Secretary of State agrees with the Inspector at IR360-361 that the inclusion of the SVPA within the DVSVMP does not confer AONB status on the site. For these reasons, he agrees with the Inspector that the DVSVMP is a material consideration and that the degree of weight given is dependent on the facts of the case (IR361).
35. As the proposal would turn a greenfield agricultural site into a housing estate, the Secretary of State agrees with the Inspector at IR362 that it is the extent of harm from the

proposal that is the issue, rather than whether harm arises. He has gone on to carefully consider the Inspector's analysis of these issues at IR364-376.

36. For the reasons given at IR364-365, the Secretary of State agrees with the Inspector that nothing elevates the site to the status of a "valued landscape" in terms of paragraph 170a of the Framework.
37. The Secretary of State agrees with the Inspector at IR367 that, while the site may be included in the SVPA, and subsequently within the DVSVMPP, there is a lack of evidence to link the qualities of the site and its immediate surroundings with the key characteristics set out in the DVSVMPP.
38. For the reasons given at IR369-370, the Secretary of State agrees with the Inspector that the proposal would neither remove the embankment or impede its functions as a public walkway and nature reserve. He has also carefully considered the analysis of the different "gateways" at IR370, and agrees that the embankment's function in defining the historic core of the village would remain (IR371), and that the closing of the narrow gap in the built frontage along Station Road does not raise issues in terms of character or appearance.
39. For the reasons given at IR372-376, the Secretary of State agrees with the Inspector that changing an agricultural field to a housing development would be an adverse change to the site itself, but that due to the existing development along Station Road, the contained nature of the site, and the mitigation provided as the planting matures, this would only represent a moderate adverse impact to the site overall (IR372). For these reasons, he agrees with the Inspector at IR377-378 that the loss of the agricultural field would present a harmful visual effect, conflicting with CS11 (IR447) and CS15 (IR450), but with a limited impact on the wider area, which would be further lessened as the planting and landscaping in the proposal matures. For these reasons, the Secretary of State considers this conflict carries moderate weight against the proposal.

#### *Impact on heritage assets*

40. The Secretary of State has noted that the impact of the proposal on heritage assets did not form a reason for refusal, and that the Council did not object to the proposal on these groups (IR379). However, he notes that concerns were raised by Save Our Skylark Fields (SoSF) in their role as a party with Rule 6 status about the proposal's potential impact on a number of local designated and non-designated heritage assets, as well as the Long Melford Conservation Area.
41. Given this, he has noted the Inspector's list of the heritage assets to be considered at IR380, and he has carefully considered the Inspector's analysis at IR381-403 of the impact on these assets. For the reasons set out both at IR404 and in the conclusions for each individual asset, he agrees with the Inspector that there would be no direct physical harm to any heritage assets or their settings, and agrees that the proposal therefore complies with the relevant policies in the development plan and the Framework on heritage.

#### *Other matters*

42. For the reasons given at IR434-435, the Secretary of State agrees with the Inspector that there would not be harm to the highways network.

43. For the reasons given at IR436, the Secretary of State agrees that the harm to skylark plots weighs neutral in the overall balance.
44. The Secretary of State agrees with the Inspector that the inclusion of land for a new early-years centre represents a significant benefit of the scheme, and for the reasons given at IR441 agrees that this should attract significant weight (IR454) in favour of the scheme.
45. The Secretary of State notes that the scheme would provide new footway connections and bus stop improvements. For the reasons given at IR440 he agrees these should be given only limited weight in favour of the proposal.
46. The Secretary of State notes that it was an agreed matter that the scheme would bring biodiversity benefits. For the reasons given at IR439 he agrees these attract moderate weight.
47. The Secretary of State notes that the scheme makes provision for public open space and a child's play area, and upgrades to existing public rights of way. For the reasons set out at IR442 he agrees these attract moderate weight in favour of the proposal.
48. The Secretary of States notes that there was disagreement about the weight to be attributed to the economic benefits of the proposal (IR443). He agrees that the benefits should not be discounted or ignored, and that identification and calculation of such benefits is not an exact science. As the economic benefits do not extend beyond the construction and future occupation of the scheme, the Secretary of State considers they carry moderate weight.

### **Planning conditions**

49. The Secretary of State has given consideration to the Inspector's analysis at IR333-344, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 55 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 55 of the Framework and that the conditions set out at Annex B should form part of his decision.

### **Planning obligations**

50. Having had regard to the Inspector's analysis at IR345-348, the planning obligation dated 2 July 2019, paragraph 56 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR347 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 56 of the Framework.

### **Planning balance and overall conclusion**

51. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with parts of Policies CS2, CS11 and CS15 of the development plan, and is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
52. The site is outside the settlement boundary, and would result in the development of a greenfield site into housing, which would cause visual harm. However, the settlement



boundary is out of date, and the visual harm would be confined to the site itself, with limited impact on the wider settlement. This carries moderate weight against the proposal.

53. The proposal would provide up to 150 new homes, including around 53 affordable homes. Although the local authority can now demonstrate a supply of housing land above 5 years, this figure is a baseline and not a ceiling. Relevant to this appeal, the appellant has demonstrated there is a local need in this settlement, in line with the expectations of the development plan, for both market and affordable housing. The Secretary of State recognises that there is now a five-year supply of housing land supply. However, in the light of the identified local need, and the Government's objective of significantly boosting the supply of homes (Framework paragraph 59), he considers that the housing delivery should carry significant weight. The proposal would provide land for a new early years centre, which attracts significant weight in favour. There would be economic benefits provided by the construction of the homes and from the new residents, which attract moderate weight. Improvements to existing public rights of way, public space and play areas, and biodiversity benefits each attract moderate weight in favour. Improvements to bus stops and footway connections attract limited weight in favour.

54. Overall, the Secretary of State considers that the material considerations in this case indicate a decision which is not in line with the development plan. Accordingly, he concludes that the appeal should be allowed and planning permission granted, subject to conditions.

### **Formal decision**

55. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your appeal and grants planning permission, subject to the conditions set out in Annex B of this decision letter, for the erection of up to 150 dwellings with public open space, landscaping and sustainable drainage system (SuDS), and vehicular access point from Station Road, with all matters reserved except means of access, in accordance with application ref: DC/18/00606, dated 8 February 2018.

### **Right to challenge the decision**

56. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

57. A copy of this letter has been sent to Babergh District Council and Save our Skylark Fields, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

*Andrew Lynch*

Andrew Lynch  
Authorised by the Secretary of State to sign in that behalf

**List of Annexes**

**Annex A - Schedule of representations**

**Annex B - List of conditions**

## ANNEX A - SCHEDULE OF REPRESENTATIONS

### Representations received in response to the Secretary of State's letter of 13 November 2019

<b>Party</b>	<b>Date</b>
Babergh District Council	15 November 2019
Gladman Developments Ltd	17 November 2019
Save Our Skylark Fields	25 November 2019
Gladman Developments Ltd	2 December 2019
Babergh District Council	9 December 2019

## ANNEX B - LIST OF CONDITIONS

- 1) Details of the access (with the exception of details of accessibility to/from the site as hereby approved), appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission.
- 3) The development hereby permitted shall be begun not later than 1 year from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 8104-L-04 and Site Access Drawing P19007-001A.
- 5) Prior to or concurrent with the first reserved matters application submitted, details of the mix of type and size of the market dwellings to be provided shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) All mitigation measures for Skylarks shall be carried out strictly in accordance with the approved details contained in the Technical Note: Skylark Mitigation Strategy (FPCR, April 2019), with the approved Skylark plots retained for a minimum period of 10 years from the date that development commences and no development shall commence until those plots have been provided.
- 7) Concurrent with the submission of the first reserved matters application, a Biodiversity Enhancement Strategy for Protected and Priority Species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:
  - i. Purpose and conservation objectives for the proposed enhancement measures;
  - ii. detailed designs to achieve stated objectives;
  - iii. locations of proposed enhancement measures by appropriate maps and plans;
  - iv. timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
  - v. persons responsible for implementing the enhancement measures;
  - vi. details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

- 8) Prior to the commencement of development, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

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

9) Before the development is commenced, a Construction Management Plan (CMP) shall have been submitted to and approved in writing by the local planning authority. The CMP shall include and address the following matters:

- parking and turning for vehicles of site personnel, operatives and visitors;
- loading and unloading of plant and materials;
- piling techniques;
- storage of plant and materials;
- programme of works (including measures for traffic management and operating hours);
- provision of boundary hoarding and lighting;
- details of the proposed means of dust suppression;
- details of measures to prevent mud from vehicles leaving the site during construction;
- haul routes for construction traffic on the highway network;
- monitoring and review mechanisms;
- details of delivery times to the site during the construction phase;
- location and nature of compounds and storage areas (including maximum storage heights) and factors to prevent wind-whipping;
- waste storage and removal;
- temporary buildings and boundary treatments;
- noise and vibration management (to include arrangements for monitoring, and specifically for any concrete breaking and any piling);
- litter management during the construction phases of the development;
- during any ground works/construction there shall be no burning of materials on the site;
- any external lighting associated with the development during any ground works/construction for the purposes of security and site safety shall prevent upward and outward light radiation.

Thereafter, the approved CMP shall be fully implemented and adhered to during all phases of the development approved.

10) A Construction Environmental Management Plan for Biodiversity (CEMPB) shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. The CEMPB shall include details of the following:

- i. risk assessment of potentially damaging construction activities;
- ii. practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction;
- iii. the location and timing of sensitive works to avoid harm to biodiversity features;
- iv. responsible persons and lines of communication;
- v. use of protective fences, exclusion barriers and warning signs;
- vi. the containment, control and removal of Schedule 9 invasive species;
- vii. precautionary mitigation measures for small mammals (Priority Species).

The approved CEMPB shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

11) 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:

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.

- 12) If, during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.
- 13) If any dwellings are to be completed and occupied prior to the development as a whole being finished, a scheme to protect those occupants from noise and vibration shall be submitted to and approved in writing by the local planning authority and implemented prior to their first occupation. The development shall be carried out in strict accordance with the approved details.
- 14) Prior to the commencement of development, a landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority. The content of the LEMP shall include the following:
- i. description and evaluation of features to be managed;
  - ii. ecological trends and constraints on site that might influence management;
  - iii. aims and objectives of management;
  - iv. appropriate management options for achieving aims and objectives;
  - v. prescriptions for management actions;
  - vi. preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
  - vii. details of the body or organization responsible for implementation of the plan;
  - viii. ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

- 15) The development shall be implemented and constructed in full accordance with the approved Arboricultural Assessment (FCPR, Jan 2018 Rev B).
- 16) Concurrent with the first reserved matters application submitted, a surface water drainage scheme shall be submitted to, and approved in writing by, the local planning authority. The scheme shall be in accordance with the approved FRA (Flood Risk

Assessment & Outline Surface Water Drainage Strategy ref: 881308-R2(02)-FRA) and include:

- i. Dimensioned plans and drawings of the surface water drainage scheme;
- ii. Further infiltration testing on the site in accordance with BRE 365 and the use of infiltration as the means of drainage if the infiltration rates and groundwater levels show it to be possible;
- iii. If the use of infiltration is not possible then modelling shall be submitted to demonstrate that the surface water runoff will be restricted to  $Q_{bar}$  or  $2l/s/ha$  for all events up to the critical 1 in 100 year rainfall events including climate change as specified in the FRA;
- iv. Modelling of the surface water drainage scheme to show that the attenuation/infiltration features will contain the 1 in 100 year rainfall event including climate change;
- v. Modelling of the surface water conveyance network in the 1 in 30 year rainfall event to show no above ground flooding, and modelling of the volumes of any above ground flooding from the pipe network in a 1 in 100 year climate change rainfall event, along with topographic plans showing where the water will flow and be stored to ensure no flooding of buildings or offsite flows;
- vi. Topographical plans depicting all exceedance flowpaths and demonstration that the flows would not flood buildings or flow offsite, and if they are to be directed to the surface water drainage system then the potential additional rates and volumes of surface water must be included within the modelling of the surface water system;
- vii. details of the implementation, maintenance and management of the surface water drainage.

Development shall be carried out in accordance with the approved details.

- 17) Prior to first occupation of any dwellings on the site, a footway improvement scheme to link the approved site access on Station Road to the footway link at Southgate Gardens shall be completed and made available for use by the public, constructed to details that shall have been previously agreed in writing by the local planning authority, in consultation with the local highway authority. Thereafter the footway shall be retained for use in the constructed and approved form.
- 18) Before the access is first used, visibility splays shall be provided as shown on Drawing No. P19007-001A with an X dimension of 2.4m and a Y dimension of 90m 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.
- 19) Prior to the occupation of the first dwelling, a scheme to deliver an upgrade to existing bus stops adjacent to the Long Melford Inn (including raised bus stop kerbs, bus shelters and real time bus information screens) shall be submitted to the Local Planning Authority for approval. The scheme shall include details of its implementation.
- 20) 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 and/or

ultrafast broadband infrastructures for each dwelling shall be installed prior to first occupation of that dwelling.

21) At least a 10% reduction in the predicted carbon emissions of the development shall be secured from decentralised and renewable or low-carbon energy sources or equivalent fabric first standards that would secure a 10% reduction in carbon emissions over Approved Document Part L 2013 (as amended) of the Building Regulations 2010. Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the local planning authority concurrent with the first reserved matters application(s). The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter.

22) No development shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation which has 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:

- i. The programme and methodology of site investigation and recording;
- ii. The programme for post investigation assessment;
- iii. Provision to be made for analysis of the site investigation and recording;
- iv. Provision to be made for publication and dissemination of the analysis and records of the site investigation;
- v. Provision to be made for archive deposition of the analysis and records of the site investigation;
- vi. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation;
- vii. 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.

23) No dwelling shall be occupied until the site investigation and post investigation assessment has been completed, submitted to and approved in writing by the local planning authority, in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 22 above and the provision made for analysis, publication and dissemination of results and archive deposition.

24) Details for a scheme to divert or under-ground the existing high voltage overhead electricity lines, including details of its implementation, shall be submitted and approved as part of the Reserved Matters application. This shall be between points A to B, C to D and D to E as identified on plan Ref OHC-001 Rev -.





The Planning Inspectorate

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# Report to the Secretary of State for Housing, Communities and Local Government

by **Kenneth Stone BSC Hons DipTP MRTPI**

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Date 26 September 2019

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TOWN AND COUNTRY PLANNING ACT 1990

BABERGH DISTRICT COUNCIL

APPEAL BY

GLADMAN DEVELOPMENTS LTD

Inquiry Held on 25 – 28 June & 2 July 2019

Land off Station Road, Long Melford, Suffolk.

File Ref: APP/D3505/W/18/3214377

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## TABLE OF ABBREVIATIONS

AH	Affordable Housing
AONB	Area of Outstanding Natural Beauty
ASoCG	Archaeology Statement of Common Ground
BDC	Babergh District Council
BLP	Babergh Local Plan Alteration No.2, June 2006
BUAB	Built Up Area Boundary
CD	Core Document
CIL	Community Infrastructure Levy
CS	Babergh Local Plan 2011-2031 Core Strategy & Policies, Feb 2014
DSoCG	Drainage Statement of Common Ground
DVSVMP	Dedham Vale Area of Outstanding Natural Beauty (AONB) and Stour Valley Management Plan
ELP	Emerging Local Plan
Framework	National Planning Policy Framework
GDL	Gladman Developments Limited
HLS	Housing Land Supply
HSOCG	Housing Statement of Common Ground
HSSA	The Heritage and Settlement Sensitivity Assessment for Babergh and Mid Suffolk
JLP	Babergh and Mid Suffolk District Councils Joint Local Plan
LMFC	Long Melford Functional Cluster
LMFC (Part)	Long Melford Functional Cluster (Part)
LMFC (Whole)	Long Melford Functional Cluster (Whole)
LMNP	Long Melford Neighbourhood Plan
LPA	Local Planning Authority
PPG	Planning Practice Guidance
PRoW	Public Right of Way
PSoCG	Planning Statement of Common Ground
RDCS SPD	Rural Development & Core Strategy Policy CS11, Supplementary Planning Document
SCC	Suffolk County Council
SOSF	Save Our Skylarks Field Group
SV PA	Stour Valley Project Area

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**File Ref: APP/D3505/W/18/3214377****Land off Station Road, Long Melford, Suffolk**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Gladman Developments Ltd against Babergh District Council.
- The application Ref DC/18/00606 is dated 8 February 2018.
- The development proposed is described as 'the erection of up to 150 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Station Road. All matters reserved except means of access.'

**Summary of Recommendation: The appeal be allowed**

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**Procedural Matters**

1. The appeal was recovered for decision by the Secretary of State for Housing, Communities and Local Government by a direction, under section 79 and paragraph 3 of schedule 6 of the Town and Country Planning Act 1990, dated 25 June 2019. The reason for the direction was that the proposal involves residential development of over 150 units or on sites of over 5 ha, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed, and inclusive communities.
2. The planning application was submitted in outline form, with approval sought for access at this stage. It was confirmed that the access details submitted were only in so far as the point of access to the site but not the internal access arrangements within the site. A location plan, FPCR 8104-L04 (CD1.2) and a site access plan P17068-004A (CD1.8) were submitted with the application. An updated Site Access drawing P19007-001A was attached to the Highways Statement of Common Ground which provided minor amendments, described as footway arrangements to the north of the site's access arrangements, following the granting of planning permission of the Former Downs garage site (an adjacent site).
3. There were no objections raised to this plan being considered during the appeal by any party and it was available for public inspection as part of the Highways Statement of Common Ground (HSoCG). It does not substantively change the scheme and the Highway Authority were a party to the Statement. The amended plan is also referred to in the general Planning Statement of Common Ground (PSoCG) between the District Council and the Appellant in describing the details of the proposal for which permission is sought. It's inclusion as a plan to describe the development would not prejudice the cases of any party. I have therefore considered this plan as forming part of the scheme and this was confirmed at the opening of the Inquiry. A development Framework Plan 8104-L02\_J (CD1.3), which was further updated to Rev K (CD 2.5), was submitted for illustrative purposes but is not a plan for which permission is sought. I have therefore considered the scheme on this basis.
4. The appeal is in respect of the failure of the local planning authority to give notice within the prescribed period of its decision on an application for outline planning permission. The Council considered the application at its Planning Committee on 12 December 2018 where it resolved that in the absence of an

appeal it would have refused planning permission. The putative reasons for refusal covered 4 grounds related to:

- Harm to the open countryside;
  - Lack of demonstration of a locally identified housing need;
  - Failure to demonstrate no adverse impact on protected and/or priority species; and
  - Failure to demonstrate no adverse impact upon surface water run-off.
5. A number of these matters were addressed before the Inquiry commenced through Statements of Common Ground between the Appellant and Suffolk County Council (SCC) related to Highways (HSoCG), Drainage (DSoCG) and Archaeology (ASoCG) and on General Planning Matters (PSoCG) between Babergh District Council (BDC) and the Appellant (GDL) and these are detailed in the Agreed Matters section below.
  6. Save Our Skylarks Field Group (SOSF) served a statement of case in accordance with Rule 6(6) of The Town and Country Planning (Inquiries Procedure) (England) Rules 2000, and took a full part in the proceedings of the inquiry.
  7. At the submission of proofs SOSF submitted evidence to address matters related to the following:
    - General planning, Local and neighbourhood plan and local housing need;
    - Landscape and heritage;
  8. On the basis of the foregoing I set out in a pre-Inquiry note dated 17 June 2019, (INSP 1) the main issues that I had identified at that stage, as well as those matters on which I wanted to ensure I had a full understanding of the parties' position, amongst other matters. The main issues identified were:
    - The effect of the proposed development on the landscape character and appearance of the area, including having regard to whether the site is part of a valued landscape;
    - Whether the proposed development would preserve the Grade I listed Church of the Holy Trinity, the Grade I listed Building known as Trinity Hospital, Rodbridge House and Barns, Grade II Listed Buildings, the Roman Villa NE of Rodbridge House, a Scheduled Monument, Melford Hall Park and Garden and Kentwell Hall Park and Garden Grade II\* Registered Parks and Gardens (including listed buildings) or their setting and the Long Melford Conservation Area and the former railway line;
    - Whether there is a locally identified need for housing in Long Melford and the surrounding area.
  9. The Inquiry sat between 25 June and 2 July 2019. I conducted an accompanied site visit on the 2 July 2019. I also undertook unaccompanied site visits before the Inquiry opened and during the Inquiry period. SOSF also identified some additional locations that they wished me to visit and I visited those unaccompanied after the accompanied visit on 2 July 2019.

10. Following the close of the Inquiry the Council have drawn to my attention to the publication of a draft Housing Land Supply Position Statement, for a 4 week consultation period ending on the 16<sup>th</sup> August. They have noted this represents the Council's annual update following the 2018 update attached to the Annual Monitoring Report AMR in July 2018. It is further noted that it demonstrates a land supply figure (with 5% buffer) of 5.78 years although accepting that it is a draft document which is subject to consultation and potentially subject to change. The other parties were given an opportunity to comment.
11. The Appellant observes that it is a draft document and not the Council's adopted position; the document contains figures delivery times and lead in times that are not fact but subject to opinion and discussion; expected completions on sites in this document are subject to change; the Council's position at appeal was different to their last AMR and it is not clear what sites have come into the supply and what has come out. Also the Appellant notes there is no disagreement between the parties on the data in April 2018 tested at the Inquiry but only on how it was interpreted.
12. SOSF believe moderate weight should be given to the document as it appears to be prepared in accordance with the appropriate guidance.
13. Given the draft and untested nature of the document at this stage it has very limited weight. Weight may increase as it progresses towards the Council adopting the document and the Secretary of State will need to be aware of the latest position at the time of his decision.
14. This report contains a description of the site and its surroundings, an explanation of the proposal, identification of relevant planning policies, details of agreed matters, and the gist of the submissions made at the inquiry and in writing, followed by my conclusions and recommendation. Lists of appearances and inquiry documents are appended. The written closing submissions on behalf of the Council, the Appellant and SOSF are included as inquiry documents: in delivery they were subject to some minor amendments.

### **The Site and Surroundings**

15. The appeal site is described in the PSoCG between the Appellant (Gladman Developments Limited (GDL)) and Babergh District Council (BDC).
16. The appeal site is located to the east of Station Road in Long Melford. It is approximately 8.23 ha in area and comprises one entire field and part of a second field in agricultural use. A hedgerow runs along part of the boundary between the two fields.
17. On the site's north western boundary is the Railway Walks Local Nature Reserve. A Public Right of Way (PRoW) (Footpath 40), the Melford Walk, runs through the Nature Reserve. A PRoW (Footpath 2) runs inside the site along the northern boundary of the site. Water Lane, which is also a PRoW, is adjacent to the northern site boundary. Footpath 2 and Water Lane can be accessed from the Melford Walk and from Roman Way on the edge of the village.
18. The site access is to be taken from Station Road to the west of the site. There are existing properties adjacent to the south-western corner of the site.

19. The site generally rises from Station Road towards the east with a high point towards the south east. The former railway line embankment separates part of the western boundary of the site from Station Road and a vacant development site, the Former Downs garage site, that is presently hoarded. The embankment is heavily wooded and covered with scrub vegetation on its banks reducing visibility of the site from the north west and village centre. The remaining Station Road frontage is limited in length and includes a gate and low boundary hedging beyond which the rising agricultural fields are visible. Further to the south along Station Road and adjacent part of the southern boundary are residential properties. Beyond the site to the east, south east, north and north east lies countryside with large undulating fields contained by hedgerows, including hedgerow trees.

## **Planning Policy and Guidance**

### ***Development Plan***

20. The development plan for the purposes of this appeal consists of saved policies from the Babergh Local Plan Alteration No.2, June 2006 (BLP) and the Babergh Local Plan 2011-2031 Core Strategy & Policies, February 2014 (CS).
21. The PSoCG ( at Paragraph 2.2.1) sets out those policies that the Appellant and Council consider to be relevant to this appeal. Furthermore, in the light of the putative reasons for refusal the Council has identified further policies it considers most important for the determination of this appeal; those being Policies, CS1: applying the presumption in favour of sustainable development in Babergh, CS2: Settlement Pattern Policy, CS11: Strategy for development for Core and Hinterland Villages and CS15: Implementing Sustainable Development in Babergh. All of which were from the CS. Added to this list the Appellant draws attention to policy CS3: Strategy for Growth and Development. SOSF in their evidence and closing do not seek to introduce or rely on other policies than these identified CS policies. On this basis I have concluded that these are the policies most important for the determination of this appeal and set these out below.

### *The Core Strategy*

22. Policy CS1 entitled applying the presumption in favour of sustainable development in Babergh is an over-arching policy that applies the national policy requirement in this local context. It was drafted having regard to the 2012 National Planning Policy Framework and applies the presumption as then formulated. The presumption in favour of sustainable development has evolved and is now as set out in the latest 2019 Framework at paragraph 11.
23. The Council's Strategy for Growth is set out in policies CS2 and CS3. CS2 identifies the settlement pattern and states that most new development (including employment, housing and retail etc) in Babergh will be directed sequentially to the towns/urban areas, and to the Core Villages and Hinterland villages. This being subject to scale and location of development which will be dependent on local housing need, role of the settlement, capacity of existing infrastructure and environmental constraints. Long Melford is identified as a Core Village. The policy further notes that Core Villages will act as a focus for development within their functional cluster. In respect of the Countryside it is stated that outside of the settlements identified development will only be permitted in exceptional circumstances.

24. Policy CS3 states employment and housing growth will be accommodated within Babergh's existing settlement pattern and in new mixed and balanced communities. In respect of the number and distribution of new homes the policy advises that provision will be made for 5,975 new dwellings between 2011 and 2031 in the District with 1,100 to be provided between 2011 – 2016 and 4,875 between 2017-2031. The target is to be achieved through existing commitments, windfall and provision for new dwellings in identified locations. In terms of this appeal the relevant location is the allocation for Core & Hinterland Villages which are identified as accommodating 1,050 dwellings.
25. Policy CS11 sets the strategy for Core and Hinterland Villages and states in respect of Core Villages that proposals for development will be approved where they score positively against CS15 and various matters are addressed including, landscape, environmental and heritage characteristics; the locational context of the village and development; sequential approach to site selection; locally identified need; locally identified community needs; and cumulative social, physical and environmental impacts from development. Paragraph 2.8.5.7 in the preceding text refers to Built Up Area Boundaries (BUABs) and notes '*The BUABs defined in the 2006 Local Plan Saved Policies and later in a future DPD for Site Allocations, provide a useful starting point when considering the relationship of proposed development in relation to the existing pattern of development for that settlement and for defining the extent of its developed area and a distinction between the built up area and the countryside. Policy CS11 intentionally provides greater flexibility for appropriate development beyond these, for identified Core and Hinterland villages subject to specified criteria*'. The future DPD for Site Allocations referred to has not been produced and given the Council is now in the process of preparation of a new local plan is unlikely to be. Moreover, policies HS02 and HS03 from the BLP which referred to the BUABs have been replaced by CS policies CS2, CS11 and CS15 as identified in Appendix 1 of the CS.
26. Finally, policy CS15 entitled implementing Sustainable development in Babergh is a policy that the CS notes brings together the elements of sustainable development and the principles of good design. It goes on to note that the principles behind the policy are relevant to all new development whether large or small, whether it is a domestic extension or a new supermarket, urban or rural, business or residential. As such it will be applied in a proportionate way depending on the scale and exact nature of the proposal. The policy contains some 19 individual criteria along with other wider statements.

#### *Babergh Local Plan*

27. Only a limited number of policies have been identified from the BLP as relevant to this decision these being HS31, CR07 and CR08. Policy HS31 requires residential development proposals on sites over 1.5 hectares to provide 10% of the site as public open space. CR07 requires development in the countryside to provide a high standard of landscaping which must reflect the characteristics of the locality and CR08 requires hedgerows of amenity and landscape significance to be retained or suitable mitigation provided.



## **Emerging Plans**

### *Babergh and Mid Suffolk District Council Joint Local Plan (JLP)*

28. During the Inquiry I was informed that BDC (25 June) and Mid Suffolk District Council (27 June) had resolved to proceed to public consultation on the Babergh and Mid Suffolk Joint Local Plan – Preferred Options Consultation (Reg 18). The Authorities both agreed to consult on the draft plan for a period of ten weeks beginning on 22 July 2019.
29. The emerging plan is at an early stage of the process, consultation has only just begun on the preferred options let alone comments received or examination. Given the advice in paragraph 48 of the Framework only limited weight can be given to the policies in the emerging plan. However, matters may have moved on by the point of decision by the Secretary of State and he may wish to inform himself of the up to date position.

### *The Long Melford Neighbourhood Plan (LMNP)*

30. The pre-submission draft of the Neighbourhood Plan has been the subject of consultation between January and February 2019. The plan has yet to be subject to Strategic Environmental Appraisal and further consultation is planned for summer 2019. I was informed during the Inquiry that a housing allocation, LMH9, in the plan, which allocated part of the appeal site adjacent Station Road for housing, was to be reconsidered and proposed for deletion. It would appear that further changes to the plan are potentially to be proposed. The anticipation was that such alterations and further consultation could be undertaken before the end of the year.
31. Given the advice in the Framework and as the Neighbourhood Plan is still at a relatively early stage and potentially to be amended before a referendum, little weight in the decision-making process should be given to it at this stage. This is not a point of dispute between the parties, although SoSF contend it demonstrates a strong public view of the acceptable development in the area and contains important background information.

## **Other documents**

### *Rural Development & Core Strategy Policy CS11 (Supplementary Planning Document)(RCDS SPD)*

32. This is an adopted supplementary planning document that provides guidance on the interpretation and application of Policy CS11 in the CS and the various factors to be taken into account. It is a material consideration, although not part of the development plan.

### *Dedham Vale Area of Outstanding Natural Beauty (AONB) and Stour Valley Management Plan 2016-2021 (DVSV MP)*

33. Section 2.1 contains the purpose of the document which is to set out the management objectives for the Dedham Vale Area of Outstanding Natural Beauty (AONB) and Stour Valley Project Area (SV PA). It has, in part, a statutory function as a management plan for an AONB as required by Section 89 of the Countryside and Rights of Way Act 2000. It goes on to state that the management plan is set in the context of national and local policy and strategy

and supports those policies and strategies that seek to advance the purpose of the AONB designation.

34. The AONB is some 90 sq km (the fourth smallest AONB in England) whilst the SV PA is some 302 sq km running from the western AONB boundary to near the Cambridgeshire border. The document sets out the natural beauty and special qualities of the AONB in some detail but these relate only and directly to the AONB. At section 2.6 it is noted that beyond the AONB boundary Local Authorities took a decision to offer an 'AONB service' to the Stour Valley Project Area. This however cannot be taken as to give the status or equivalence of the national designation of AONB to the rest of the SV PA. Much of the document is focussed on the AONB its special qualities and natural beauty with comparison or connection made with the remainder of the SV PA. As a management plan for the AONB it fulfils a statutory requirement. Beyond the AONB it is a policy document which provides advice around the quality of the area but cannot be equated to or afforded the same weight as a statutory requirement. It is not a planning document, is not a supplementary planning document and indeed sits outside the suite of such documents.
35. On the basis of the above and given that the appeal site sits outside the AONB area I have treated the document as a material consideration to which I have given some weight in assisting in assessing the special quality and value of the area.

### **The Proposals**

36. The application was submitted in outline with all matters, except for access, reserved for future determination. The proposal is for up to 150 dwellings with 35% being provided as affordable housing. In respect of the access arrangements it was clarified that this was in respect of the principle access to the site from Station Road as detailed on plan P19007-001A attached to the HSoCG.
37. The development Framework Plan 8104-L02\_J (CD1.3) submitted with the application and further updated to Rev K (CD 2.7) illustrates one way in which the development could be undertaken. It indicates a spine road accessing at Station Road and running through the centre of the site off which short spurs would be taken. A strong landscape buffer is identified around part of the southern, eastern and northern boundaries. Along the western boundary, adjacent to the Melford Walk raised embankment, an amenity grass land area incorporating a SUDs attenuation pond, children's play area and a suggested footpath route. As illustrated the green infrastructure would account for some 2.7 hectares.

### **Agreed Matters**

38. As noted earlier, various Statements of Common Ground were concluded between SCC, BDC and GDL. These covered general planning matters, Highways, Drainage and Archaeology. The SoSF were not a party to the SoCGs and where they presented contrary evidence this is set out as necessary under the section setting out their case.

39. It is agreed that:

- The site is in the countryside, comprises agricultural land and is not within any nationally or locally designated area.
- Long Melford is a Core Village where the CS directs growth within its functional cluster depending on needs and other factors;
- The proposal will provide 35% affordable housing, which would equate to 53 units if 150 dwellings were constructed.
- There are no objections on agricultural grounds.
- There are no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets and no items of significant interest were found during trial trenching or anything that would prevent development of the appeal site.
- The habitats within the site supported commonly occurring flora, with no rare or notable plant species recorded on-site. any loss of habitat being unlikely to result in a significant impact to local biodiversity.
- There is no objection from the Council's Ecology Consultee (Place Services, Essex County Council) regarding ecology subject to mitigation and enhancement measures.
- A total of 4 skylark plots (two plots per Skylark territory lost) should be provided within nearby arable land for this development and maintained for a period of 10 years. This can be secured by condition.
- The Council will not contest Reason for Refusal 4 (that related to surface water run off) at Inquiry as there is no outstanding objection from the Council's consultee.
- It is agreed that a number of economic benefits would accrue from the appeal site over its lifetime including (if 150 dwellings are built out) an estimated: Construction spend of £15.8 million; Support 136 FTE construction jobs; GVA of £5.4 million; New resident expenditure of £4.6 million; New Homes Bonus payments; Council Tax Payment payments.
- It is agreed that the Council cannot demonstrate a five-year supply of housing sites, at the time of the Inquiry.
- The proposed development is located within Flood Zone 1, where the Framework sequential risk based approach to the location of development seeks to direct housing.
- Neither the Environment Agency nor the Lead Local Flood Authority object to the proposals subject to conditions being attached.
- The foul sewerage system has available capacity for flows from the proposed development.
- There is no objection on heritage grounds nor would the appeal scheme pose any adverse impact upon any designated heritage asset.

- The parties agree that a safe and suitable access to the development can be achieved off Station Road.
- The site is considered to be well related and accessible by walking to the services and facilities in Long Melford.
- There are nearby bus stops providing access to the primary bus service - Bury St Edmunds to Colchester via Sudbury. It provides regular services throughout the day allowing for trips to be made to larger centres for commuting and leisure purposes.
- The appeal proposals will provide Public Open Space including provision of a new Children's Locally Equipped Area of Play.
- It is agreed that air quality, dust and noise are not considered to have a significant impact on new or existing residents, subject to appropriate planning conditions.
- Babergh operates a CIL policy and most matters necessary for payment are covered by this schedule to make the development acceptable in planning terms. Any matters arising not covered by the Council's CIL policy may be included in a Section 106 obligation for this Inquiry. There are no grounds to reject the proposal because of any unacceptable adverse impact on local services and infrastructure. The proposal complies with Policy CS11 in this respect.

### **The cases put by the parties**

40. I have set out the cases of the parties relying on the opening and closing statements. The closings were made in the normal sequence with the Appellant having the final say and there are therefore responses made to points in the other parties' closings included in the Appellant's closing remarks.

### **The Case for Gladman Developments Ltd**

41. The material points are:

#### **The shortfall in the housing land supply.**

42. It is common ground that the Council cannot demonstrate a five year supply. The Council's case is that it has a 4.86 year supply, the Appellant's is that supply stands at 4.11 years.
43. The parties have produced a Statement of Common Ground which illustrates the differences. It is agreed that the only 5 year supply period which can reliably be assessed is the period 1st April 2018 to 31st March 2023. This is because data is not available to allow for supply from 1st April 2019 to be considered properly. It is this need to use a base date more than a year in the past which provokes much of the dispute between the parties on this topic.
44. The first difference comes from the assessment of the requirement. The Babergh Core Strategy was adopted on 2nd February 2014, more than five years ago, and so paragraph 73 of the NPPF requires the standard methodology to be used to establish the housing requirement.

45. The first step is to calculate the household growth over a ten year period starting with the "current year". The Council say the current year is 2019 and so use that as the first year of the ten year period. It is indeed 2019, but as the NPPF requires a Council to be able to show a 5 year supply at any point, it clearly assumes that the base date of the calculation will be the current year. The current year clearly means the year containing the base date. To use 2019 as the current year in this case would mean that there is a temporal mismatch between the calculation of the requirement and of supply. It is clearly right to contend that the base date for the supply calculation and first year used in assessing housing growth must be the same. The Council point to the terms of the guidance on the Housing Delivery Test. That is produced for a different purpose and cannot help in this regard. It also pointed out that policy and guidance has shifted over time and calculations will change over time. That is obviously right, but that does not support the Council's approach. That is because the approach advocated produces changes which do not flow from revisions to guidance, but simply flow from when a calculation is carried out in relation to the same base date. The Council's approach means that for a five year supply calculation with a base date of 1st April 2018, the requirement would be different depending upon whether you calculated requirement on 31st December 2018 or 1st January 2019. That approach cannot be what is intended.
46. The Appellant argues that the Council considers that its approach is supported by the decision of Inspector Mr Baird in South Gloucestershire and that in fact, when read, the decision clearly supports the Appellant's position. In that case, the inquiry took place in 2019, but the base date for the supply calculation was in 2018. The case is comparable to the issue here. There was a dispute about which of 4 possible scenarios to use to determine the requirement under the standard method: Scenario 1 used 2018 as the first of the ten year period of household growth and scenario 4 used 2019. The Inspector said that whilst scenario 4 was "technically correct it does not allow for a like-for-like assessment of the position thoroughly tested at the inquiry" and he used scenario 1 for reasons of consistency. The Appellant argues that Mr Baird therefore accepted the precise point which the Appellant urges here. The requirement and the supply have to be comparable in temporal terms. Use of a ten year period from 2018 produces an annual figure of 298 units.
47. The LPA claims no support from Mr Baird's decision.
48. Step 2 in the calculation is to apply the relevant affordability adjustment. The same dispute arises. The Council uses the latest affordability ratio available in 2019, the Appellant uses that which applied at the base date. The issue is the same and the Appellant considers it is right on this issue for the same reasons, producing an uncapped annual figure of 434 units, rounded.
49. The next step is to consider the cap which applies. The PPG requires the figure derived from step 2 to be capped at 40% of whichever is the higher of (i) the projected ten year housing growth derived in step 1, or (ii) the "average annual housing requirement figure set out in the most recently adopted policies". It is the second of these comparators for the capping process that creates the issue here. Unfortunately, the PPG does not address the position where the plan has a stepped requirement. The Council takes the entire plan period average; The Appellant uses the annual figure in the plan for the period 2016 to 2031 (325 units per annum). In relation to this issue, the Appellant argue that a

consideration of the purpose of the cap clearly points to the Appellant being correct. The purpose of the cap is to limit the increase that a local planning authority has to deal with. Since 2016, the Council is supposed to have been providing dwellings at 325 per annum and so the increase produced by the standard method will be an increase over that figure, as 325 is the figure the Council would be working to, in the absence of the standard method and was working to before the NPPF revisions. It follows that the logic for using 325 as the second possible comparator is compelling. When that is the comparator, the 434 figure derived from the household change as adjusted for affordability is higher than the 298 figure derived from household change. As a result, the increase is capped at 40% above the 325 figure:  $325 \times 1.4 = 455$ . The uncapped annual standard method figure (434) is not higher than the 455 figure and so 434 is the figure to use. When an agreed 5% buffer is applied, the five year requirement is 2,276 units.

50. The supply has to be tested against this figure. The supply also has to be tested by reference to the question of whether there was clear evidence of non-delivery at the base date (for those types of sites in sub-paragraph (a) where deliverability is presumed unless contrary evidence is available) or whether there is clear evidence of delivery at the base date (for those types of site in sub-paragraph (b) of the NPPF definition of "deliverable", where deliverability has to be demonstrated).
51. In conducting the exercise of assessing supply, it is crucial to be rigorous about maintaining focus on the position at the base date. That is because, if focus is not maintained:
  - a. There is a risk that the question of whether the clear evidence existed at the base date of the calculation can be overlooked. Deliverability has to be tested as at the base date. A laxer approach can mean that, for example, type (b) sites which were included in the supply without the necessary clear evidence of deliverability being available at the base date stay in the supply because the Council retrofits evidence available now to the base date when it was not then available; and
  - b. The base date is effectively shifted forward in time for the purpose of the sites discussed, without considering what consequent other effects would flow from updating the supply position and also meaning that, in this case, the Council is effectively testing whether it has a supply of 3 years and 10 months worth of housing from June 2019.
52. These consequences have been forcefully warned against in an appeal decision at Woolpit. The Council's witness was the witness at Woolpit and clearly disputes the decision, but the decision was not challenged and stands.
53. In respect of the LPA's comments on post base date information the Appellant does not object per se but objects to the lack of evidence at the base date.
54. The Appellant's case on supply is straightforward. For the three sites which had outline planning permission at the base date, the only evidence which the Council has produced of their deliverability is post base date information. It produces no clear evidence of deliverability which was in the Council's possession at the base date. It cannot rely on later information to allegedly "validate" an earlier decision without producing the clear evidence of delivery which his later evidence

“validates”. The later evidence is not evidence of validating a judgment, but justifying it for the first time post base date. The Appellant contend the Council is making the very same error which was made at Woolpit. There is no evidence that those sites were deliverable at the base date and all 120 units from those three sites ought to be removed from the claimed supply.

55. The same is true about the Brantham Regeneration site. The residential element of that scheme which is in issue is 145 units. The residential element of that scheme was permitted in outline (the permission was hybrid) and so the Council has to show that there was clear evidence of delivery at the base date. The same issue, but compounded, arises in relation to this site. It is the same because the Council relies entirely on post base-date information to prove deliverability. There was no such clear evidence at the base date. But it is compounded because when the point was made by the Appellant in the hearing session, the response was that as the site had been granted reserved matters approval (on 21st June 2019, three days prior to the inquiry opening), the burden was now on the Appellant to show that the site was not deliverable, the point being that the site had shifted from type (b) to type (a) in the NPPF glossary definition. A more blatant example of category shifting after the base date could not be imagined.
56. The Council have not taken the Woolpit decision on board and are repeating the same errors made in that case, but on a less gross scale. The Council’s claimed supply (2,134 units) falls to be reduced by  $120 + 145 = 265$  units, giving a five-year supply of 1,869 units. Against the requirement for 2,276 units, that is a 4.11 year supply, or a shortfall of 407 units.

**Whether there is a locally identified need for housing in Long Melford.**

57. Policies CS2 and CS11 of the Core Strategy both require local need to be shown for development outside of, among other places, Core Villages such as Long Melford. The reference to need in policy CS2 is a very general one and applies to all types of development, not just housing. Policy CS11 draws attention to housing and employment need and also to specific local need such as affordable housing. The policies do not prescribe what degree of need has to exist nor do they prescribe any time period over which the need has to exist.
58. The Council complains that no needs assessment was provided with the application. That is a non-point. Such an assessment was not a validation requirement and the application was validated. An assessment is before the inquiry in the form of the submitted evidence. The Council have not objected to that evidence being admitted, have not sought an adjournment, have not produced much evidence of their own on the topic and have not sought to rebut the assessment in any detail. Their stated approach is to “remain unsatisfied” about the existence of a local need but do not present evidence to demonstrate an absence of local need; policy CS11 indicates that this is now a matter for the decision maker.
59. The Council themselves point to the High Court’s decision in the case of R (East Bergholt Parish Council) v Babergh DC & Aggett [2016] EWHC 3400 (Admin). In that case, the High Court determined that the reference to local need in policies CS2 and CS11 meant, in the case of the Core Villages, “housing need in the village and its cluster, and perhaps in areas immediately adjoining it.”

60. The Appellant's evidence follows the approach required by the East Bergholt case. Crucially, only the Appellant has attempted this exercise. The Council and SOSF both provide figures for the parish of Long Melford only. That is the wrong approach, because it excludes need arising in the rest of the functional cluster. In any event, the Neighbourhood Plan's calculation of need suffers from problems.
61. First, as stated at the inquiry, the Parish Council and the District Council both say that they obtained the figure from the other, which cannot be right.
62. Second, the calculation of need in the Neighbourhood Plan is not at all robust, at least for the purposes of policy CS11. As regards the approach of accepting a share of the District's housing need, the Neighbourhood Plan errs by using a figure derived from the population of Long Melford's parish, not the functional cluster. The Neighbourhood Plan also uses a figure derived from what is called a "Housing Needs Survey". That survey is no such thing, is defective and wholly unreliable because:
- a. It asks for views on development and other issues, and does not investigate need;
  - b. It asks some very leading questions; and
  - c. The gross need figure claimed in the plan does not appear in the plan or its evidence base, nor is there any explanation for why the plan proposes to take half of that gross figure as the net need, nor any justification for it as a ten year figure and there is no reference to which types of housing the claimed figure encompasses.
63. The Appellant assesses the question of need by reference to what it calls (i) part of the Long Melford Functional Cluster and (ii) the whole of the cluster, referring to them as LMFC (part) and LMFC (whole). LMFC (part) comprises the three parishes which fall exclusively within the cluster. LMFC (whole) comprises all of the parishes which lie within the cluster. Some of these parishes also lie within neighbouring functional clusters. Whilst some pipeline development in overlapping functional clusters outside those parishes may help to meet needs within them, no party presented any evidence to suggest that this would be at any scale, and it is thus right to look at need across both LMFC (whole) and LMFC (part) in drawing conclusions on the scale of need in assessing CS11.
64. The need figures have to allow for pipeline sites in the various parts of the cluster. The position is that there are 196 units in the pipeline in the parish of Long Melford, 208 in the LMFC (part) and 433 in the LMFC (whole). This is an update to the figures in the Appellant's evidence, as small sites in the pipeline were not available when the evidence was prepared.
65. Two methods are used to address need: a "top down" and a "bottom up" approach.
66. The top down approach looks at providing the LMFC with a share of District wide need, based on the cluster's population, not that of just Long Melford parish. When that exercise is done using the Council's standard method District wide requirement figure, the gross need arising in LMFC (part) is 306 dwellings to 2031 or 424 dwellings to 2036; and for LMFC (whole) is either 631 or 874, according to the end year of the period considered. When pipeline supply in LMFC (part) (208 units) and LMFC (whole) (433) are allowed for, there is unmet need



of 98 units in LMFC (part) to 2031 and a need for 216 units to 2036. The top down approach using the SHMA's objectively assessed need figure similarly demonstrates a need. For LMFC (whole) there is a residual need of 198 units to 2031 and 441 units to 2036. The top down approach demonstrates a clear need for both areas of the cluster.

67. The bottom up approach uses POPGROUP software to address need using the population and applying an affordability uplift drawn from that required by the standard method in the PPG and migration assumptions based either on a share of migration into the District (scenario A) or a share of the District wide population growth rate (scenario B). It was explained that whilst such assessments become cruder the smaller the geographical area considered, the Appellant was content that the LMFC (part) and LMFC (whole) were sufficiently large areas to mean that no materially anomalous consequences flow from applying these approaches, and this bears more than adequate comparison with the fixed percentage shares used in the evidence of The Council and SoSF in their attempts to present assessments of need in the Long Melford Parish. The outcomes are:

a. Bottom up scenario A:

- i. A gross need in LMFC (part) of 167 dwellings to 2031 and 178 dwellings to 2036, with no residual need allowing for supply; and
- ii. A need in LMFC (whole) of 547 dwellings to 2031 and 648 dwellings to 2036, with a residual need of 111 units to 2031 and 212 units to 2036;

b. Bottom up scenario B:

- i. A residual need in LMFC (part) of 83 dwellings to 2031 and 145 dwellings to 2036;
- ii. A residual need in LMFC (whole) of 257 dwellings to 2031 and 432 dwellings to 2036.

68. The upshot is that the Appellant's evidence shows that:

- a. As regards the LMFC (part), all but one method of calculating need reveal a residual need for dwellings to 2031 and 2036; and
- b. As regards the LMFC (whole) all methods of calculating need show that a residual need exists whether addressed to 2031 or 2036.

69. The criticisms levelled by the LPA and SOSF are unfounded. The use of the part cluster addresses criticisms that parishes outside the cluster overlap with it. The criticism that the needs assessment does not take account of the settlement strategy in the development plan is misconstrued and confuses need with how the need should be met. Need is need. Also to criticise the assessment as it does not take account of the population in the neighbourhood plan is misconceived as they are not relevant for the purposes of determining need.

70. There is also evidence of local affordable need. There are 53 registrations of households on the Council's Housing Register by people who are in housing need and who have a local connection to Long Melford and not merely a desire to live there. People have to prove they are in need in order to be placed on the register. These are people in need now. The Rule 6 party points to affordable

units which form part of recently built or permitted schemes in Long Melford, and the Council adopted that point after the Council's planning witness gave evidence (but not before or during his evidence) to suggest that affordable need has been met. However:

- a. The latest note from the Council establishes that not all locally arising need would be met by current schemes in Long Melford;
  - b. The draft Neighbourhood Plan proposes a site for 100% affordable housing, close to Kentwell Hall, and so the Parish Council must accept that unmet need exists in Long Melford; and
  - c. The mix of affordable housing sought by the Council through the planning obligation takes into account the mix that would already be provided by the existing schemes, and so there is an element of need arising from the provision of a suitable mix to consider.
71. The Appellant maintains that there is good evidence of unmet affordable need arising from people with a demonstrated connection to Long Melford.
72. There is thus a proven local need for housing, assessed in accordance with the East Bergholt case. The requirements of policies CS2 and CS11 in this regard are clearly met.

**The effect of proposed development upon the landscape character and appearance of the area, including having regard to whether the site is part of a valued landscape.**

73. There is clearly a considerable amount of individual professional judgment involved in assessing the landscape and visual effects of proposed development. Professionals' judgments will always differ to a greater or lesser degree.
74. The Appellant acknowledges that the appeal scheme would cause some adverse character and visual effects and contend that judgments were explained in a methodical way.
75. The appeal site does not form part of a valued landscape. That is for a number of reasons. First, the revised NPPF adopts a different approach to valued landscapes from that in the 2012 NPPF. Paragraph 170(a) requires decision makers to protect and enhance, among other features, valued landscapes and then goes on to say:
- “(in a manner commensurate with their statutory status or identified quality in the development plan).”
76. Those words must mean something. The NPPF does not qualify the reference to statutory status and identified quality in the development plan. It does not require protection or enhancement “in a manner commensurate with any statutory status or identified quality in the development plan”. The words are clear and firm. They require valued landscapes to have statutory status or qualities identified in the development plan. The appeal site has neither statutory designation nor is it in the Special Landscape Area. The initial reaction to the revised NPPF and the judgment of officers in the committee report to the question of whether the appeal site is a valued landscape were both correct. The legal advice of the Council suffers from the defect, if the summary of it in

evidence is complete, of not explaining what the words in brackets in paragraph 170(a) of the NPPF are there for.

77. In any event, conducting an assessment in accordance with the criteria in Box 5.1 of the GLVIA 3rd Edition shows that the appeal site does not form part of a valued landscape. There is no merit in rehearsing all of the differing judgments of the three landscape witnesses, but the following points are relevant.
78. The Appellant addresses the appeal site and its immediate context. The Council and rule 6 party both address larger areas. The Appellant's approach is right for the reasons given in oral evidence: if the net is cast too widely, aspects of the landscape are brought into account which have no relationship to the site under consideration. For example, references to Constable and Gainsborough can provide no cultural associations with the appeal site. Nor can the fact that Beatrix Potter was a visitor to Melford Hall really assist in assessing the value of the appeal site and whether it forms part of a valued landscape. Some of the ingredients of the Council's and Rule 6 party's assessments are overstated. The area has undergone substantial field amalgamation, as perusal of the historical maps show and the A134 by-pass and railway both adversely affected the condition of the agricultural landscape and field pattern.
79. It is also necessary to be careful as regards the factor in the Box 5.1 exercise that relates to representativeness. The GLVIA3 makes it clear that it is here referring to:

*"Whether the landscape contains a particular character and/or features or elements which are considered particularly important examples."*
80. That is the approach which the Appellant take. An approach which simply asks whether the appeal site is representative of its surroundings misses the point. That approach means that the more homogenous the landscape under consideration, the more a particular site is more likely to be representative of it, supposedly elevating the landscape's value. The Council's approach means that, to take an extreme example to make a point, a landscape which was uniformly bland and degraded would end up having enhanced value because each site within it represented that blandness and degradation.
81. It is always wise to take a metaphorical step back at the end of an assessment and ask whether it just looks right. To assess the appeal site as of high value, the top end of the scale for both the Council and rule 6 party is unrealistic given the nature of the landscape around Long Melford, particularly its north and west. If the appeal site is top of the scale of value for a non-designated landscape, then you would have to say the same thing about the landscape in the north of the village, in the Registered Parks. That is a clear indication that the assessment of the appeal site's value is overstated, unless it is, in truth, an assessment which is too influenced by the value of more distant landscape such as that north of the village.
82. The appeal site has a sloping topography, but it is not particularly complex topography, nor does the topography lead to heightened visibility. It seems to be common ground that the site is visible only in close proximity or from a limited range of points at distance. No landscape witness has drawn attention to any middle distance views which would be obtained. The Appellant's Zone of Visual Influence (ZVI) is a good general indication of where visibility may be obtained,

subject to topography, vegetation and built form. The Council's point that the ZVI is materially wrong by failing to include locations such as Windmill Hill and The Green is an unfair criticism given the notes to the ZVI say views may be obtained from other places and the Appellant's evidence addresses views from such other places in any event. Of particular note is the lack of any significant visibility between the appeal site and the historic core of the settlement. There are some views from The Green to the appeal site, but they are distant and most of the appeal site is obscured by trees. The church tower and the Hospital can be seen from parts of the appeal site, but not from places lawfully accessible to the public.

83. The appeal site draws its character from its surroundings. These are not limited to the agricultural land to its east and south, but its character is also informed by the proximity of residential development on the east side of Station Road to the south, as well as the development at Roman Way, the dismantled railway, power lines, as well as Back Lane and Water Lane. The site does not draw character from the concealed archaeology at Rodbridge Roman Villa. The site draws no character from the historic settlement, which is separated from the appeal site by a considerable amount of intervening modern development.
84. Although Long Melford is referred to a number of times in the character appraisal for NCA86, the references are to matters such as the street pattern, church, timber buildings, Melford Hall and similar aspects of the historic settlement. There is no reference to the setting of the settlement or anything that can be applied to the appeal site. The character exists despite the modern development in the settlement. The additional opportunity for the NCA expressly recognises that new development will take place.
85. The appeal site lies on the boundary of two landscape types in the Suffolk Landscape Character Assessment: the Ancient Rolling Farmlands and the Rolling Estate Farmlands. The boundary across the site is indicative only and the character description in the assessment is not intended to be definitive for a particular site, both of these points being made clear in the assessment. The site shares some similarities with both types, but cannot logically be fully representative of both.
86. The Rolling Estate Farmlands is the type that contains Long Melford itself. The section of the assessment on sensitivity and change makes it clear that the cores of villages in this type are generally on valley sides and so development on slopes is not uncharacteristic of the type. The assessment warns that development in this landscape type has the potential to have a profound effect upon the valley floor and the development management guidelines flag up the need for LPAs to alert applicants to unacceptable impacts at an early stage. The LPA did not flag up any such concern, presumably in the light of the advice given by Place Services who accepted the LVA's conclusions in full. The guidelines explicitly state that the impacts of developing on valley sides can be mitigated by planting within and around the development.
87. The appeal scheme performs well against this guidance. The chief risk from development in this type, that of adversely affecting the valley floor, is avoided by this scheme, as accepted by the Council's landscape witness. That is as a consequence of the general lack of visibility of the appeal site from the valley floor landscape. The appeal site is also separated from the valley floor by intervening development.

88. The Ancient Rolling Farmlands Development Management guidelines also recognise the role that planting can play in reducing the impact of development, albeit in the context of agricultural buildings. There are no guidelines expressly applicable to residential development.
89. Babergh and Mid Suffolk Councils have produced joint guidelines for development. Some key points not addressed by the Council include Paragraph 2.3.3 of the guidance:
- a. Provides general guidance to avoid ridge tops, upper valley slopes and prominent locations. The Council accepts that this guidance is complied with as regards the ridge tops and the upper valley slopes. There is an issue as regards the prominence of the location, which SOSF also has concerns about;
  - b. It expressly refers to the screening, filtering, softening or integrating effect of existing mature planting, which it is agreed is provided to some degree by the vegetation on the railway embankment; and
  - c. It advocates not breaking the skyline. The appeal scheme accords with that guidance save when a viewer is so close to the development that the skyline has to be broken by a house. In all but the closest views, the appeal scheme would sit below the skyline.
90. The 2015 guidance recognises that new planting can be used to assimilate development: see its section 2.5 for general guidance and section 2.12.2 which gives detailed guidance for development at the outskirts of villages, including references to whether the proposal “can be” physically and visually contained. The same section of the guidance also requires a judgment to be formed about whether the proposal would be a logical extension to the settlement and whether it is well related to the settlement and does not encroach into the open countryside. All new development on greenfield land at the edge of settlements will, to some degree, encroach into the countryside, as that is what the greenfield site is, but that, of itself, cannot make the development unacceptable. It must be a question of judging the residual effects of the scheme under consideration. Here, the scheme would be well contained by the embankment, Water Lane and existing housing to the south together with the substantial planting areas available within the 8.23 Ha site. The Appellant’s evidence about the nature of planting possible within the site, and its effects in softening the development was not challenged. Up to 150 units could be accommodated on about 5.45 Ha of land, leaving 2.78 Ha for Green Infrastructure. Further, paragraph 2.12.2(vi) of the guidance requires the visual relationship of the development to the settlement to be assessed. This is a useful reminder that the relationship to the settlement is not to be assessed in plan form or from the point of view of an aviator. It is the relationship as it would be perceived by someone moving around the landscape which matters.
91. The 2015 guidance provides 7 key design principles for the Ancient Rolling Farmlands. The first says that there are significant sized areas of landscape providing wide panoramic views, with the potential for any form of development to be visually intrusive “if it has been designed without sufficient screening, appropriate landscape design plan or appropriate siting”. The appeal scheme would not conflict with this guidance. The Council’s landscape witness accepted in cross-examination that development need not be invisible to be acceptable. The scheme would not be unacceptably visually intrusive, as set out later in these

submissions. Principle II is about settlement separation and the scheme complies with it by avoiding any coalescence. Principle III is about materials and does not apply here because Long Melford is not a settlement in this landscape type. Principles IV and V are irrelevant to the appeal scheme. Boundary treatment would be locally characteristic, as principle VI requires and principle VII is met through the planning obligation. Conditions would provide further control.

92. There are four Key Design Principles for development in the Rolling Estate Farmlands. The first is again about settlement separation and the appeal scheme accords with it. The appeal site is not part of the estate or parkland landscape and so principle II is probably irrelevant, but the Council would have control over the planting style and layout at reserved matters stage. Principles III and IV do not apply.
93. The appeal scheme complies with the Key Design Principles set out for both landscape types applicable to the appeal site.
94. The Heritage and Settlement Sensitivity Assessment for Babergh and Mid Suffolk ("HSSA") is also instructive. The Council deals only partially with this document, relying upon what the assessment says for the settlement as a whole. It is inadequate to consider only the whole settlement without considering what the Assessment has to say on a more refined basis. That is because, as the Appellant explained, there must be an element of relativity to the consideration of questions such as the sensitivity, susceptibility and value of the landscape.
95. The HSSA's content for Long Melford is helpful and supports the Appellant's position rather more than it does that of the Council or Rule 6 party. It deserves reading in full, but it explains that modern development has taken place but that the characteristics of the historic settlement are still well-defined and have been preserved. The HSSA identifies key views. The first five have nothing to do with the appeal site or its vicinity, and the sixth is unevidenced, for the reasons explained below in relation to heritage matters. On susceptibility, the assessment says that the settlement is highly susceptible to change. It describes the cause of that susceptibility by reference to the four compass points. In relation to the east, it describes the eastern boundary being formed by the RPG at Melford Hall at the north end, and the disused railway at the southern end. It describes the land to the south east in these terms:

*"This land to the south-east is less susceptible to change in relation to receptors. However, the railway has been cut into the landscape and the spoil appears to have been piled to the west of the railway. This has created a visually impermeable bund along this section of the settlement boundary which also creates a physical barrier to anything other than isolated areas of pedestrian access. The settlement boundary as it is currently formed also preserved the historic line of the railway."*

96. There are two points to be made about this:
  - a. It points to the land in the vicinity of the appeal site as being less sensitive; and
  - b. The references to the effect of the railway seem to be focussed on the places where the railway was cut into the landscape and spoil heaped to its west. That is not really apt to describe the area of the appeal site, where the line is on an embankment.

97. When dealing with the potential for enhancement, the HSSA recommends seeking contributions to enhance the interpretation of the dismantled railway "if development is proposed in this area." It is the recommendations of the HSSA which are key and which, disappointingly, the Council did not engage. Those recommendations could not be clearer. Development to the north of the village should be strongly resisted. Development along the western boundary of Long Melford would be on higher ground than the land to its west, which raises issues about the height, density, location and extent of development. This recommendation is clearly about development on the western boundary and the attempt to apply it to the settlement generally, in the cross-examination of Mr Holliday, was misplaced. Finally, development of Long Melford towards the south or of Sudbury towards the north has the potential to create coalescence and this too should be "strongly resisted". What is obviously missing is any recommendation about development to the east or south east. There is no mention of development having to be given careful thought, still less resisted. That chimes well with the discussion of susceptibility and the references to potential enhancement. If the dismantled railway was as important a containment for Long Melford as the Council and SOSF contend, that it would have been addressed in the recommendations of the report. It speaks volumes that it is not. This is the only landscape or heritage document which was not prepared for this inquiry which makes mention of the railway. There is thus nothing in any assessment document which supports the contention that the railway is a barrier to development which must not be crossed.
98. SoSF's assessment that there are six character areas in Long Melford corresponds well to the HSSA and to the Appellant's assessment. It's area of "Rolling Open Farmland" to the south of Long Melford can only be much less sensitive to development than the "River Valley" or "Historic Parkland and Village Green" areas around the village.
99. The Dedham Vale AONB and Stour Valley Management Plan 2016 to 2021 is a curious document insofar as it relates to the Stour Valley Project Area. It is a document which is justified as regards the AONB, indeed the management plan is a statutory requirement as regards the AONB and the AONB designation proves the quality and value of the AONB. But the absence of designation from the Project Area means that the qualities of the AONB cannot be translated onto the full project area, as the document seems to do. The AONB is small, some 90sq km. The Project Area is much larger, at 302 sq km. The Management Plan is not a landscape character assessment of the Project Area. It is not of value. It does not assess the value of the Project Area; it merely asserts it. The Project Area started as a landscape restoration project and its role has expanded over time: see the unchallenged evidence of Mr Holliday at his paragraph 3.60. Its origin as a restoration project means it is particularly important for the current quality and value of the Project Area to be explained. The document does not do that. Neither Ms Bolger nor Ms Finch could point to any document which set out any detailed explanation of the value or quality of the Project Area. The closest that the Plan ever gets to assessing the value and qualities of the Project area is at section 2.9 on pages 19 and 20, where there is a "Statement of Significance". Having set out the special qualities of the AONB, the document merely asserts on page 20 that:

*"Much of the Stour Valley Project area shares similar characteristics to the Dedham Vale AONB, particularly the area nearest the AONB."*

100. That is a wholly opaque assertion. It accepts that not all of the Project Area shares the same qualities, but there is no clue where they are, except that they tend to be closest to the AONB. One will search in vain for any reasoned explanation why the Project Area is 302sq km in extent, why its boundaries are what they are and how the extent of the area either side of the river included for inclusion in the Project Area was selected, tested and arrived at. As regards the Project Area, it is a most unsatisfactory piece of work. The fact that it was consulted upon does not remedy these defects.
101. The AONB and Project Area must not be equated in status, but the Management Plan comes close on numerous occasions to doing just that. The Vision Statement at section 2.10 treats the AONB and Project Area together. Similar elision of the AONB and Project Area can be seen in section 3.1.4 and in the 'policies' in sections 3.1.5, 3.2.2 and 3.2.7.
102. A document which asserts but does not establish value, or point one to where such an assessment can be found, is not a reliable basis for establishing landscape value. The Appellant is right to say it has no status as planning policy or guidance. Whilst it is clearly a material consideration to take into account when assessing the value of the landscape, it's weight must be negligible, given that it fails properly to deal with the very issue which the Council relies upon it for. It is accepted that Inspectors have taken it into account. The Inspector at Bures Hamlet took it into account as part of a more extensive evidence base on value – that site was in the area proposed for expansion to the AoNB and which had been addressed by Alison Farmer Associates. The Inspector does not ascribe any stated amount of weight to the Management Plan. The Appellant does not agree with the conclusion of the Steeple Bumpstead Inspector in paragraph 47 of her decision to give that site's inclusion in the Management Plan significant weight as an indicator of value, both for the reasons just set out, but also because the Inspector herself notes that not all parts of the Project Area will have the same quality. If that is so, then the simple fact of inclusion in the Project Area cannot, of itself, be a reliable guide to landscape quality or value.
103. The draft SHELAA is an unreliable guide to the appeal site's suitability for development from a landscape and visual point of view. That is because it was probably not written by a landscape architect, and because it did not address the appeal site's 8.23 Ha but a much larger area of 29.45 Ha, a point not at all clear from the Council's written evidence and which had to be clarify orally in chief. It is surprising that the Council seems to attach more weight to the SHELAA than the site specific consideration of the proposal by a landscape architect in Place Services, the very body which produced the HSSA in 2018.
104. The Built Up Area Boundary (BUAB) is immaterial in landscape and visual terms. It was a tool for decision making from a spatial planning point of view. There is no evidence it was devised as a result of a landscape character appraisal.
105. The Appellant has taken into account the effect of the appeal scheme on landscape types, as the GLVIA recommends. All landscape witnesses look at the effect of the proposal at a more localised level. The Appellant makes it plain it addresses the site and its immediate context as the most refined level of assessment, as looking at site level changes only tells you the unsurprising conclusion that changing a greenfield site to a housing scheme will create major change. All greenfield development is likely to have such an effect at the level of



- the site itself. The council's sole assessment of the significance of landscape change is expressed at a local level. It is difficult to be clear whether the Council is comparing like with like. The Council addresses value at the level of the site and "immediately surrounding landscape", but in its box 5.1 assessment takes in wider elements. The stated assessment of susceptibility refers to "the site" only. The overall conclusion on sensitivity is expressed by reference to "the site". The expressed judgment on the magnitude of change is expressed without reference to any area and the overall judgment on significance is stated as a major adverse effect "on the landscape". If one asks what area of the landscape would undergo that major adverse change, answer comes there none, either in the written proof or in cross-examination. Unless this is a judgment about the most localised of effects at site level, it is clearly overstated.
106. SOSF's assessment of both landscape and visual effects is undermined by its admission that it has not separated character and visual effects and that it has only looked at the elements of the landscape which would be worst affected. It's evidence is partial both in terms of being incomplete and biased.
107. The Appellant's evidence explains the various areas to which the various conclusions relate, allowing them to be understood and tested. The appeal scheme would take place south-east of the dismantled railway, but that is not a strong objection to the scheme. Some development has already taken place in the general vicinity of the site, east of Station Road and south of the site, making development on the appeal site limited in its effect. There is no particular need for development to be limited to the north-western side of the embankment. That submission is supported by SOSF's own material. Given how it defines each of the three types of gateway and given also that it's assessment of the gateways on the southern approach to Long Melford is that both the initial and intermediate gateways exist south of the site, the contention that the site is an important division between settlement and countryside is seriously undermined by SOSF's own material.
108. The appeal scheme would avoid breaking the skyline and the choice of the eastern boundary means that only the lower part of the slope would be developed, limiting effects to an acceptable degree. An appropriate new edge would be created as part of the scheme in a way compatible with the various pieces of local guidance suggest. The Council's fear of a "raw" edge to the development is groundless given the extent of area available for planting, the illustrative material and the degree of control that the Council would have at reserved matters stage. The scheme would have acceptable landscape effects.
109. In terms of visual impact, the impacts of the scheme are best assessed on site. The scheme's greatest effects would be on the site or in its immediate vicinity, as is inevitable. No incongruous views would occur and the development would not impact visually upon any relationship with the historic parts of the settlement when seen from the closest viewpoints. New housing would be seen from the Melford Walk but it would still be a "secretive world" as the Council draws attention to it as and housing would not "sandwich" the Walk as both the Council and Rule 6 party emotively contend. There is no reason why the view of the church from Mills Lane should be interfered with, given the means of managing vegetation height and controlling lighting on the site through reserved matters and/or conditions. There are no significant middle distance views. Longer distance views would be perfectly acceptable. The scheme would be seen in the

context of extant development, and would rest below skylines in all such views. Appropriate materials could limit effects. A site visit to the more distant views about which the Council and SOSF express concern will show that their assessments of impact are overstated. The appeal scheme would have to be positively looked for rather than making itself at all obvious to the viewer. The visual effects of the appeal scheme would be perfectly acceptable.

**The effect of the proposed development upon designated and undesignated heritage assets.**

110. The Council have no objection to the scheme on heritage grounds and it is common ground between the Appellant and the Council that the appeal scheme would cause no harm to the significance of any designated heritage asset. No consultee with heritage responsibilities or expertise objects to the proposal on heritage grounds. Nor is there any expert evidence before the inquiry that establishes that there would be any harm to any heritage asset, whether designated or not.
111. Only SOSF objects to the appeal scheme on heritage grounds. It's evidence wholly fails to adopt the correct approach as recommended by Historic England guidance on setting, containing a five step analysis of:
- a. Identifying the assets which may be affected;
  - b. Identifying the significance, if any, that each asset derives from its setting and the contribution the site under consideration makes to setting and thus to significance;
  - c. Identifying the effect of the proposal upon significance through the effect on its setting;
  - d. Considering how to avoid or minimise harm; and
  - e. Forming an overall judgment on harm.
112. SOSF's evidence only succeeds in relation to the basic first step. The rest of it's evidence fails to adopt the correct approach, as accepted in cross-examination. It never sets out how each asset derives significance from setting or how the appeal site contributes to significance. It seems to equate a visual impact on a viewpoint within an asset's setting as harm to the significance of the asset. The approach is fundamentally wrong and the evidence is completely unreliable as a result.
113. The Appellant's evidence, on the other hand is clear, compelling and robust. It approaches the relevant issues in the correct manner, in accordance with the relevant guidance.

*The Church of the Holy Trinity.*

114. The church is a grade I listed building and is plainly a designated heritage asset of the highest importance. It is a most impressive building. It plainly derives much of its significance from its fabric. It does derive some significance from its setting, but the elements that contribute to significance are limited to the churchyard, the settlement it served and serves and The Green, from where it is best appreciated. The church was not designed to have view out from the building. There are views of all or part it from an extensive area. There is no view

- of the appeal site from the southern face of the church – that has been established during the oral evidence. As the Appellant pointed out, if the view to the south from the church was so important, then the powerful church would have been unlikely to have allowed the Hospital to be built where it was. The appeal scheme can be seen from the church tower, but churches are not designed to give views from the tops of their towers. The appeal site forms a very minor component of a 360 degree view. The appeal site is not prominent and there is no reason to think people go up there (having had to arrange to do so) to see the appeal site.
115. The church is visible from the upper parts of the appeal site and there is a view over the appeal site to it from Mills Lane. But these are not designed views. Churches are often prominent from the wider landscape, but the church serves people, not landscapes. Views between the appeal site and church, in either direction, do not contribute to the church's significance. The appeal site does not contribute to the significance of the church through setting.
116. It is because churches are so often visible in the wider landscape that the Historic England guidance deals with views of churches specifically. It tells us that church towers and spires are often widely visible, but development is unlikely to affect significance unless the development (i) competes with the church, as a tower block or turbine might, or (ii) the development impacts upon a designed or associative view. Neither situation applies here. Affecting a view of the church does not, of itself, affect the church's heritage significance. SOSF, and to a still greater degree, Objectors, equate visual impact with heritage harm. The appeal scheme, depending on its layout, might block some views of the church from locations which are not publicly accessible, but it might also open other up to legitimate public view from newly public places in the appeal site. There is no reason why the view from Mills Lane should be obscured and no reason why any impact on views of the floodlit church caused by any light spilled from the appeal site would impact upon the church's significance.
117. The appeal scheme would cause no harm to the significance of the church.
118. SOSF totally fail to explain why views of the church from ground or tower level contribute to its significance. It fails to explain why the assessment of visual impact of the appeal scheme on the experience of a person on the tower top (which is plainly overstated), would have any effect upon the significance of the asset. The error of the approach is revealed still further by the fact that differing levels of effect are given according to whether considering views from ground level or from the top of the tower. The judgment should be whether the appeal scheme would affect the significance of the asset. That is one decision with one outcome, not multiple decisions with multiple outcomes.
119. Mr Russell's approach is even more erroneous. One only has to state his conclusion that the impact on view of the church from and across the appeal site upon setting is "maximum adverse, catastrophic" and therefore as bad as effects can be, to realise how misconceived it is. He could not express himself in more extreme terms.
- Trinity Hospital.*
120. The Hospital is a grade I listed building and therefore of the highest significance. Built in 1573 to accommodate poor inhabitants of the village, it

derives most of its significance from its fabric. There is some limited visibility of the site from the asset and the asset can be seen from the upper parts of the appeal site, but there is no current or historic functional historic link between the appeal site and the hospital. The asset derives some significance from its setting, but that is limited to the Registered Park and Garden within which it is located and where food for the inhabitants would have been grown. It derives some significance also from The Green and the settlement of Long Melford. It is surrounded by a high wall, which cuts off views from the ground floor of the building. The appeal site does not contribute to its significance and developing it would have no effect.

121. SOSF's evidence fails to explore whether the appeal site contributes to the significance of the hospital through setting. It equates some potential visibility of the appeal scheme with heritage harm. That evidence is unhelpful to a proper assessment of the impact of the appeal scheme.

*Rodbridge House and Barns.*

122. The House and Barns are both listed at Grade II. The buildings derive most of their significance from their fabric and draw some significance from the setting comprising the agricultural land with which it has a functional link and, less so, from wider agricultural land.

123. The appeal site has no clear intervisibility with these assets, there being glimpsed views of just the roofs of the barns from some parts of the appeal site, filtered by vegetation. There is no functional link between Rodbridge House and the appeal site and there is no evidence that there ever was. At the time of tithe apportionment, the two sites were in separate ownership and that was also the case in 1961. The site makes no contribution to the significance of these designated assets. As a result, developing the appeal site would have no effect upon the significance of these assets.

124. SOSF's written evidence contended that there was an impact on the farmhouse by reason of the impact of landscape planting at the appeal site obscuring views of the church. Such a point rested on two errors:

- a. That the planting would obscure the church. It would not, as shown by the Appellant's section; and
- b. That a view of the church made any contribution to the significance of the assets at Rodbridge House. It does not, as was accepted.

125. SOSF's heritage witness accepted in cross-examination that the appeal scheme would not adversely affect the significance of the assets at Rodbridge Farm.

*The Roman Villa NE of Rodbridge House.*

126. The remains of the villa are a scheduled ancient monument and thus of the highest significance. The remains are entirely underground and there is no indication of their existence at surface level, but its square courtyard plan has been identified through aerial observation of cropmarks. The asset derives the vast majority of its significance from the evidential value it holds in its archaeology, which has not been investigated (save for a very small part of the monument when the A134 by-pass was being constructed), and the illustrative

value of its floor plan. The site of the villa is not intervisible with either the other known villa site in Long Melford or the site of the Roman settlement as marked on the Suffolk HER. There are views over the appeal site, but not views of it, from the monument.

127. The villa's setting comprises agricultural land, the A134 by-pass and Rodbridge House and farm. The appeal site, as part of the wider landscape, makes no contribution to the significance of the asset as the historical extent of the landholding is unknown and there is no intervisibility between the two sites. The appeal site has been trial-trenched and contains no features contemporary with the villa. Developing the appeal site in the way proposed would thus have no effect at all upon the significance of the asset.
128. SOSF's evidence rests upon unsupported assertions that the villa was built by a wealthy person to be prominent in the landscape and to overlook the settlement. There is no evidence at all to support these claims. Roman villas had varying functions from farmsteads through to high status homes and religious sites. The purpose, function and appearance of this villa is unknown and must not be guessed at. It cannot even be inferred that the villa had external windows, let alone windows designed or intended to give views towards or over the appeal site or the settlement. It even seemed to be suggested at one point in cross-examination that if the landscaping at the appeal site were to interfere with a view of Holy Trinity church that that would detract from the significance of the villa. That is not correct, given the church obviously did not exist when the villa existed.
129. The Heritage and Settlement Sensitivity Survey for Long Melford makes the same types of unsubstantiated assertions when claiming that the view from the monument's site towards Long Melford contributes to a key view.

*Melford Hall Park and Garden.*

130. These assets can be dealt with shortly. They comprise a grade II\* listed Registered Park and Garden and the grade I listed Hall, together with other grade II\* listed buildings. These are assets of the highest significance, but the evidence demonstrates that the appeal site does not contribute to their significance and so developing the appeal site would have no impact upon their significance. No-one at the inquiry disagrees with that view.

*Kentwell Hall Park and Garden.*

131. The Hall is a grade I listed building and there is also one grade II\* and one grade II listed building within the park. The park is registered at grade II\*.
132. There is no evidence produced to the inquiry which contends that any of these assets would undergo any impact from the appeal scheme. The Appellant's assessment of these assets shows that the appeal site makes no contribution to the assets' significance through setting and so the appeal scheme would have no effect upon their significance. There is no contrary evidence.

*Long Melford Conservation Area.*

133. The Conservation Area contains 2 Registered Parks and Gardens, 188 listed buildings and 2 scheduled monuments. The Conservation Area is designated for the special interest of its character and appearance. It is thus the buildings and

- spaces within it which overwhelmingly provide its significance. There are long distance partial views of the site from The Green and the church tower. The Conservation Area derives some significance from its setting, but that is limited to:
- a. The illustrative value provided by the historic setting of the agricultural land to its west; and
  - b. The approaches from the north and west.
134. The appeal site is separated from the Conservation Area by a large amount of late twentieth century development of no special interest whatever and the Victorian railway embankment. This large amount of intervening modern development and the lack of significant intervisibility means that the appeal site makes no contribution to the significance of the Conservation Area through setting and developing the appeal site would thus have no effect upon its significance.
135. SOSF's evidence makes 3 fundamental errors in relation to the Conservation Area:
- a. As with the other assets, it makes no assessment of how the appeal site contributes to the significance of the Conservation Area through setting;
  - b. It equates an overstated visual impact with heritage harm; and
  - c. By looking at the effect on one viewpoint it singularly fails to consider the effect upon the asset as a whole, which should be the nature of the exercise.
136. In respect of the point regarding SOSF's photomontage it was pointed out that it was a montage that did not include any planting and only showed the housing.
- The dismantled railway line.*
137. This is not a designated heritage asset. Almost any historic feature can be a non-designated heritage asset. It is an asset of the lowest significance. Such significance as it has derives from:
- a. Its physical form, giving it some evidential, historic illustrative and communal value; and
  - b. A limited contribution from setting, limited to features of the former railway and also the settlements and industrial areas it linked.
138. Its wider setting, such as the land it passes through, makes no contribution to its significance.
139. For these reasons, whilst the appeal site lies within the asset's setting, it makes no contribution to the asset's significance. As a result, the appeal scheme would not affect the significance of the non-designated asset.
140. SOSF's case to the contrary again suffers from the defects of:
- a. Not explaining why the site being within the setting means that the site contributes to significance; and
  - b. Not explaining why a visual impact on the asset from within its setting would harm its significance.

*Conclusion on heritage issues.*

141. There is no reason to withhold planning permission from the appeal scheme on heritage grounds. Indeed, the evidence shows that there would be no harm to any designated or undesignated heritage asset. The balancing exercise required by paragraph 196 of the NPPF, as regards designated assets, and paragraph 197 as regards the non-designated asset, is not required in this case.

**The effect of the proposed development upon highway safety.**

142. Unusually, perhaps, for a development of this size which has generated some controversy, not a single person who has addressed the inquiry expresses any objection about highways or transportation issues. Concerns which had been expressed to SOSF were relayed, but made it plain that SOSF did not support them. Indeed, it is notable that SOSF's Statement of Case did raise highways issues, but SOSF were fair enough to volunteer the oral evidence that SOSF had consulted a transport professional who advised that such concerns were unsupportable. SOSF therefore withdrew its points on highway safety prior to the exchange of evidence. It was also made plain that SOSF was not relying upon the verge parking as an objection to the scheme because, like the Appellant, SOSF had been advised that it was probably unlawful.
143. In those circumstances, it is not necessary to say any more about this issue. Reference should be made to the Appellants transport evidence, which remains as a written representation, together with the Transport Assessment. There is also a Statement of Common Ground with Suffolk County Council, the highway authority, which has no objection to the appeal scheme. The evidence addresses the relevant transportation issues and demonstrates that the development of the appeal site, with suitable mitigation, would not cause any highway safety concern and that the effects upon the local network's capacity would be far from severe. In doing so, it has properly addressed existing traffic levels, vehicle speeds and trip generation from the appeal scheme and all other relevant stages of assessing the effects of the scheme. The assessment is robust and no-one is claiming it is not. The site access and its requisite visibility splays can be provided on land under the Appellant's control or on highway land. Any impact of a new proposed footway upon parking on the eastern verge of Station Road should not be a concern, as such parking may well be unlawful and it affects only a small number of vehicles. Any disbenefit would be amply outweighed by the benefit of the new footway, particularly that it would provide for pedestrian access to the primary school. There is no safety or capacity reason to withhold planning permission.
144. The Appellant's evidence also shows that residents of the appeal site would have good access to Long Melford's facilities on foot or cycle and that other settlements can be suitably accessed by public transport. The closest railway station in Sudbury is accessible by cycle and provides access to a range of more distant destinations. The appeal scheme would also secure bus stop improvements close to the site.

**Other Matters**

145. Long Melford is a sustainable settlement. It has a good range of services and facilities and was the top scoring village for sustainability in the Council's evidence base for the emerging Local Plan. The appeal site is well placed to access those facilities on foot or cycle. It has access to other settlements by bus,

with timings that allow for traditional working patterns to be catered for. Sudbury station is within cycling distance.

146. SOSF clearly have local support. They have a closed Facebook group with 400 members. But it has no formal membership. SOSF, as a body, comprises 8 people. They make the decisions. Clearly there are people who support their aims and have raised money to assist their cause, but it should not be thought that SOSF is a body which has a large membership or which represents local people in terms of taking their lead from them in respect of their attitude to the appeal scheme.
147. There is simply no evidence that building up to 150 units on the appeal site would materially harm tourism and visitor spend in Long Melford. There is no reason to think that building on the appeal site would deter a single person from visiting Long Melford for the first time or that if they chose to visit with the appeal scheme in place that they would be somehow be so repelled by the appeal scheme that they would never return.
148. Nor is there any evidence that the appeal scheme would harm the ecology of the Melford Walk LNR.
149. Granting planning permission would not present risks of the commitments offered by the Appellant being set aside by a later party, as Mr McDonald asserted. As someone with a professed 47 years of experience of the planning system, he should know that any later developer would be bound by planning conditions and the planning obligation. The risks of someone making an application for a material amendment to any permission or an application under section 73 of the Town and Country Planning Act 1990 are no greater than usual and if such applications were to be made, they would be assessed on their merits.
150. SOSF introduces harm to the Neighbourhood Plan process in closing that is a prematurity argument, there is no prematurity case made here in terms of paragraph 50 of the Framework. The Plan is insufficiently advanced to take a prematurity point.

### **Summary of Harm.**

151. The only harm to be weighed in the planning balance comprises:
- a. The harm arising from the simple loss of a greenfield site;
  - b. The limited landscape and visual harm identified by Mr Holliday; and
  - c. Some limited harm caused by the loss of skylark plots, which would be suitably mitigated for by the provision of new plots on land nearby. (The Appellant has generously included this as no other party has asked for it to be weighed in the balance).

### **The Scheme Benefits.**

152. The appeal scheme would create the following benefits.
153. It would provide market housing in a District without a five year supply. The Council seemed to be relatively unconcerned if the supply was 4.11 years, calling that a shortfall in supply which is not significant. It clearly is. Even if the Council



- is right on supply, it still lacks a five year supply. On any view of supply, the contribution of the appeal scheme to general housing need is a benefit of very significant weight.
154. The same is true of affordable housing. The Core Strategy identified affordable housing as a key priority for Babergh. Policy CS19 requires 35% of housing on all sites to be affordable. The Council is not meeting that target, as set out in the Appellant's evidence. The appeal scheme would make a contribution fully in accordance with the policy. The Council complaint that the Appellant is not proposing more than 35% provision is only relevant for the attitude to benefits which it displays.
155. The need for market and affordable housing exists at the more local level, as set out above. Contributing to that need is an important benefit of the appeal scheme. The LPA suggest that the development would be better directed towards an area with greater need or sustainability but have no evidence to identify any area of greater need or sustainability. The Appellant has assessed the proposal on its merits.
156. The Appellant's business model is that it promotes sites. It does not build houses. The Appellant has a clear incentive to assist the landowner to dispose of sites it promotes to housebuilders once planning permission is granted, as that is when the capital receipt from the site is realised. There is thus a powerful disincentive against landbanking the permission. It can be concluded that the Appellant would do all within its power to secure delivery from the site quickly. There is no evidence that this site would pose any difficulties in delivery, and the site could make a very valuable and prompt contribution to meeting local and District wide housing needs. The time limits in the conditions are deliberately suggested as shorter than the statutory limits to give effect to this.
157. Long Melford has an ageing population. Whilst it is not the case that the Appellant's advocates homogeneity of age profile, allowing more families to live in the village would be of benefit. More working age people in the village can help to sustain services and facilities and schools and add to the general diversity of the population. There is no public interest in reserving Long Melford for older people.
158. It is common ground with the Council that the appeal scheme, far from causing ecological harm, that it would bring net biodiversity gain. That too is an important benefit.
159. The appeal scheme would upgrade the bus stops on Station Road, nearest the site, to the specification sought by Suffolk CC. That would be of benefit to existing residents as well as residents of the appeal scheme.
160. The appeal scheme would create a new footway on the eastern side of Station Road for a length of 165m, to tie into the existing footpath at the southern end of the Roman Way development, again, to the advantage of existing residents as well as new ones.
161. Importantly, the appeal scheme would reserve land for a new Early Years Facility. Suffolk CC has obtained planning obligation contributions for such a use, to be spent in Long Melford, but has not found a site. Mrs Tipper raised, in her oral evidence, use of land at the Primary School but fairly made clear that this was an aspiration and that there were no firm plans. The appeal scheme provides

the only firm prospect for securing such a facility, subject to planning permission. This is a considerable benefit of the appeal scheme and would allow for the meeting of need which already exists, and not just the need generated by the appeal scheme.

162. The public open space, upgraded rights of way and children's play area could also be used by existing residents.
163. The scheme would bring economic benefits. It is true that there would be some displacement of some benefit if local people move to a new house within the local area, but that is not reason to dismiss these benefits or to materially reduce the weight to be given to them. Some of them are not subject to displacement: the construction of 150 units would be a net addition to the housing supply and not at the expense of other schemes. Even if concealed households in Long Melford moved onto the appeal site, they would spend money that they would not otherwise have spent by reason of moving to a new house and maintaining their own home, to give but one example.
164. The Council implicitly criticises these benefits as being merely what is to be expected for a scheme of this size and he says that there is nothing exceptional about them. That demonstrates his grudging approach to weighing the benefits and his desire to downplay them. The benefits are what they are and highly valuable for social, economic and environmental reasons.

### **The Development Plan.**

165. Core Strategy policy CS1 relates to the 2012 NPPF version of the PFSD. That has been overtaken by the approach in paragraph 11 of the revised NPPF, which is the version of the tilted planning balance to be used in absence of a five year supply.
166. The appeal scheme would comply with the settlement hierarchy and strategy in policy CS2, as the Council's witness accepted. It's development management test for development in the countryside is out of date as the Council accepts that the requirement to demonstrate exceptional circumstances for development in the countryside conflicts with the NPPF. That conflict means that the policy must have the weight afforded to it reduced. To reduce the weight to the policy from substantial to significant as a result of the lack of a five year supply, which is the Council's approach, shows that it affords too great a weight to the policy with its defective development management test. The NPPF does not contain a blanket approach to development in the countryside, still less does it impose a test of exceptional circumstances for such development.
167. The plan's treatment of the Built up Area Boundaries (BUAB) is also curious. The BUABs were established by policy HS02 of the 2006 Local Plan – a policy superseded by the Core Strategy. No Core Strategy policy operates by reference to the BUABs. The supporting text of the CS at paragraph 2.7.5 says that the BUABs remain unaltered, suggesting that CS2 operates by reference to those boundaries. But Paragraph 2.8.5.7 of the Core Strategy calls them merely the "starting point" when considering the relationship of development to the settled areas. Further still, the BUABs were designed to accommodate needs to 2015, derived from the Suffolk SP. Of the sites in the Council's deliverable supply for the years 2018-2023 which have planning permission, over 88% of units with permission are on site outside the BUABs. This is a clear demonstration that the

Council does not apply the BUABs as a dividing line between acceptable and unacceptable development or that locations outside the BUABs are ones where a more onerous development management test applies.

168. Policy CS3 of the Core Strategy contains the housing requirement and is clearly out of date, given the NPPF's requirement to use a standard methodology figure for requirement now that the plan is over five years old.
169. Policy CS11 is in conflict with the NPPF given its reference to a sequential site selection process. The Council do not, in any event, rely upon that criterion of policy CS11 as any part of a putative reason for refusal. Given the Appellant's landscape and local need case, there is no reasons for the decision maker not to be satisfied about the relevant requirements of policy CS11.
170. CS15 is a long policy, but the Council only relies upon it in reference to its landscape case and only contends that criteria (i) and (ii) are breached by the appeal scheme, together with the requirement to protect, enhance, compensate or mitigate effects in relation to, among other things, the landscape. The appeal scheme accords with this policy. In its own terms, this policy accords with the NPPF.
171. The Council does not allege that any other policy of the Core Strategy would be breached and relies on no policies from the 2006 Local Plan.

#### **Emerging Development Plan Documents.**

172. The emerging Joint Local Plan is only at preferred options stage. As Mr Stroud put it, it has reached the first step of a journey. It deserves no more than limited weight, as its content has not even been commented on, let alone examined. The ambition to have the plan adopted by 2020 is plainly unrealistic.
173. The emerging Neighbourhood Plan is also at a relatively early stage. It is to undergo some further change and will have to be consulted upon again. It has yet to be examined for compliance with the basic conditions. SEA of the plan has not been completed. It too deserves limited weight, but contains, for the present at least, an interesting indication of the Parish Council's attitude to the development of the appeal site frontage in policy LMH9.
174. Whether the weight to be afford changes as they progress depends on when the Secretary of State makes their decision and the Appellant will deal with that as and when or if it arises.

#### **The Planning Balance.**

175. Given the Appellant's heritage case, there is no harm to heritage assets of any kind and the balancing exercises in paragraphs 196 and 197 of the NPPF do not have to be undertaken. The absence of harm to designated assets means that footnote 6 of the NPPF is not engaged and the tilted planning balance is engaged.
176. Because the tilted planning balance has been engaged by the absence of a five year supply, the recent decision in the case of Wavendon Properties Limited v SoSCLG and Milton Keynes Council [2019] EWHC 1524 (Admin) is not key to a decision in this case. In that case, the SoS decided that a five year supply existed. He found that one Local Plan policy and one Neighbourhood Plan policy were out of date. That led the Claimant to argue that as a most important policy for determining the application was out of date, the tilted planning balance was

engaged. Dove J rejected the argument, holding that what was required was a holistic view about what the most important policies for determining the application were, and then forming a view about whether, collectively, they are out of date. This case is different, because the absence of a five year supply is the trigger for the tilted planning balance, as made plain by footnote 7 of the NPPF. Although a view about policy weight still has to be made in this, as in all cases, there is no need to conduct the exercise required by Wavendon, as that applies when there is a five year supply and thus the only trigger for the tilted planning balance is when, as a matter of planning judgment, the most important policies for determining the application are out of date.

177. The only part of the Development Plan with which the appeal scheme does not comply is the development management test in policy CS2 so far as it requires exceptional circumstances to be met. Overall, the appeal scheme accords with the Development Plan, but even if the breach of an out of date part of the Development Plan were to be equated with non-compliance with the plan taken as a whole, the Council's lack of adherence to the part of CS2 which the proposal breaches, the development management approach to the countryside in the NPPF and the benefits of the scheme are powerful material considerations which indicate that a decision otherwise than in accordance with the Development Plan should be taken in this case.

178. Furthermore, a consideration of the benefits and harms shows that this is far from a case where the adverse effects of the scheme would significantly and demonstrably outweigh the benefits of the scheme. The harm is limited and the benefits extensive and compelling. SOSF turns the relevant test on its head.

### **Conclusion.**

179. The appeal scheme represents much needed sustainable development in a sustainable location at a sustainable settlement. The landscape and visual harm it would create is limited and acceptable. There would be no heritage harm. The development ought to be allowed to proceed in the public interest.

180. The Appellant asks the Inspector to recommend, and the Secretary of State to decide, that the appeal should be allowed and that planning permission should be granted.

### **The Case for Berbergh District Council**

181. The material points are:

#### *The Issues*

182. At the outset of this inquiry the following were identified as the main issues in dispute:

- (1) The effect of the proposed development on the landscape character and appearance of the area, including having regard to whether the site is part of a valued landscape.
- (2) Whether the proposed development would preserve the Grade I listed Church of the Holy Trinity, the Grade I listed Building known as Trinity Hospital, Rodbridge House and Barns (Grade II Listed Buildings), the Roman Villa NE of Rodbridge House, a Scheduled Monument, Melford Hall Park and Garden and Kentwell Hall Park and Garden Grade II\*

Registered Parks and Gardens (including listed buildings) or their setting and the Long Melford Conservation Area and the former railway line.

- (3) Whether there is a locally identified need for housing in Long Melford and the surrounding area.

183. In addition to these main issues, the following matters have a significant bearing on the determination of the appeal.

- (a) The latest position in respect of the emerging Development Plan and the weight to be afforded to it.
- (b) The latest position in respect of the emerging Long Melford Neighbourhood Plan and the weight to be afforded to it.
- (c) The shortfall in the housing land supply.
- (d) The effect of the proposed development on highway safety.
- (e) The benefits of the scheme which are to be weighed against any harm if found.
- (f) In terms of decision making, the appropriate 'balance' that should be undertaken.

184. The Council has raised no objection to the appeal scheme on highways or heritage grounds and will not address them. Its submissions will focus instead on the first and third main issues, and matters (a), (b), (c), (e) and (f) listed above.

**(1) The effect of the proposed development on the landscape character and appearance of the area, including having regard to whether the site is part of a valued landscape**

185. The parties agree on the likely effect of the proposed development on landscape character and the appearance of the area to this extent: the construction of up to 150 dwellings on over 5 hectares of agricultural land located on the rising valley side immediately adjacent to the former railway embankment, a long-established boundary between Long Melford and the countryside to the east, would be harmful, even after landscape planting had matured. It is the extent of that harm that is in issue.

186. It was suggested in the course of the inquiry that, there is a choice between the evidence of the parties' landscape witnesses, but this is not really the case. This is not civil litigation and it is not required to find for one side or the other. Instead, it is for the decision maker to form a view on the likely landscape and visual effects. The decision maker might share the views of one or other witness, or none of them, and might find their assessments helpful or not in understanding what is valuable in the landscape, but the conclusions reached will be theirs.

187. It is right to observe, however, that the differences between the parties' witnesses is due in large measure to the different values placed on the landscape as it is. The appellant sought to stress the influence of Station Road and the properties on it on the character of the appeal site, but the so-called urbanising influences are minor elements in the composition. The appellant also brought into

it's assessment a comparison between the area of the appeal site and other areas around Long Melford, which is not the purpose of the exercise. While an assessment of the effect of the appeal proposals on the public rights of way network was carried out, the treatment of the existing recreational value of the Melford Walk and nature reserve and the footpaths to the north of the site was perfunctory.

188. The Appellant also failed to grasp the significance of the site's location in the SV PA, and was confused as to the relevance of the DSVV MP (CD12.1). The Stour Valley Project is described in section 2.4 of the Management Plan (page 12) in the following words:

"The Stour Valley Project area, upstream of the AONB, follows the River Stour that predominately forms the boundary between Essex and Suffolk. The Project area is 302 square kilometres (around 181 square miles) running from the Western AONB boundary past Sudbury and Haverhill to near the Cambridgeshire border at Great Bradley. It extends three to four kilometres either side of the River Stour with extensions along the Bumpstead Brook, Belchamp Brook and River Glem.

The Project area is predominately rural and often demonstrates medieval settlement patterns. In places the growth of villages and changes to agricultural practices have altered the landscape but not fundamentally changed it. Many of the villages retain their historic centres and have timber framed buildings, imposing churches and village greens. Historic hamlets and isolated farm buildings are scattered throughout the landscape.

The area has many woodlands situated within the tributary valleys but much of the valley floor is given over to arable crops with the notable exception of Sudbury Common Lands where large tracts of water meadows remain as an important feature of the landscape."

189. Section 2.9 of the Management Plan contains a Statement of Significance, the purpose of which is to define the natural beauty, character and special qualities of the Dedham Vale Area of Outstanding Natural Beauty (AONB) and Stour Valley Project area. It provides the criteria against which impacts on the nationally designated landscape can be judged, and in effect does the same in relation to the Project area. It begins (at page 19) by describing the AONB:

"The Dedham Vale AONB is a subtle lowland river valley with an assemblage of features associated with this landscape still in place and intact. These features include a gently winding river and tributaries; gentle valley sides with scattered woodlands; sunken rural lanes; picturesque villages with imposing churches and historic timber framed buildings; scattered farmsteads and agricultural buildings; small fields enclosed by ancient hedgerows; riverside grazing meadows with associated drainage ditches and visible and hidden archaeology providing evidence of human habitation over previous millennia.

The area remains an overwhelmingly agricultural landscape, free of incongruous development and large scale industrial developments. Despite some intrusions of human activity in the twentieth and twenty first centuries, the area retains a rural charm and tranquillity and is

largely free of infrastructure associated with modern life. The essential character of the Dedham Vale AONB was established in the middle of the previous millennium and has remained intact despite social, technological events. ...”

Then the key components of the AONB are described, including these:

- A gentle and subtle lowland river valley with the River Stour gently meandering through it. The valley is cut down through boulder clays that overlay sands and gravels into clay deposits and Thanet and Reading beds. As the River Stour winds its way to the estuary the floodplain becomes dominated by grazing marshes that are made up of alluvium deposits and gravel terraces.
- The settlements of the area are largely historic and dominated by timber framed buildings around the village centres. Churches with impressive towers dominate the surrounding countryside. The rural character is further defined by scattered agricultural farmsteads and the visible and buried archaeology of the area.
- The routeways around the AONB broadly follow the valley contours as they characteristically wind their way around the landscape. Other routes link the flood plains to the higher land and are often steep, sunken and bounded by banks with ancient hedgerows and wildflower rich verges.

190. At page 20, the Statement of Significance considers the Stour Valley Project Area:

“Much of the Stour Valley Project area shares similar characteristics to the Dedham Vale AONB, particularly the area nearest the existing AONB. The Stour Valley Project area is predominately rural with a medieval settlement pattern. The area has many of the characteristics associated with the AONB including the patterns of woodland on the valley sides, the River Stour running gently through it and a scattering of historic picturesque villages. Woodlands are situated within the tributary valleys and on the valley sides. Much of the valley floor has been given over to arable crops with the notable exception of the Sudbury Common Lands. Generally fields have been enlarged but some evidence of former boundaries can still be seen.”

191. Thus it is the similarity between the Project Area and the AONB that gives the former its significance. Having regard to the identified characteristics of the AONB set out above, it is evident that the appeal site and its surroundings, including Long Melford, share many of the features that contribute to the special qualities of both the AONB and Project area.

192. Turning to the Management Plan itself, it was subject to public consultation, and from the list of representatives on the Joint Advisory Committee and Partnership it is plain that the document is the product of long-standing engagement by a number of representative public bodies. It is a document that should be taken into account in planning decisions, and is particularly helpful in identifying landscape characteristics of value. For those who are confused about its status, the following passage from the Planning Practice Guidance might assist:

“Planning policies and decisions should be based on up-to-date information about the natural environment and other characteristics of the area. As part of this, local planning authorities and neighbourhood planning bodies should have regard to management plans for National Parks and Areas of Outstanding Natural Beauty, as these documents underpin partnership working and delivery of designation objectives. The management plans highlight the value and special qualities of these designations to society and show communities and partners how their activity contributes to protected landscape purposes.

National Parks and Areas of Outstanding Natural Beauty management plans do not form part of the statutory development plan, but may contribute to setting the strategic context for development by providing evidence and principles, which should be taken into account in the local planning authorities’ Local Plans and any neighbourhood plans in these areas.

National Parks and Areas of Outstanding Natural Beauty management plans may also be material considerations in making decisions on individual planning applications, where they raise relevant issues.”  
Paragraph: 004 Reference ID: 8-004-20140306

193. True it is that this guidance refers only to AONB management plans, but the reasoning is no less applicable to that part of the Management Plan dealing with the Stour Valley Project Area. In these circumstances the Council contends that the Project Area and Management Plan are factors that should be taken into account in assessing the site’s value. This is what the Inspectors did in the Colchester Road and Steeple Bumpstead appeals to which Ms Bolger refers and they were right to do so.
194. Finally, the Appellant and Council were some distance apart on the importance of the former railway embankment to the settlement pattern of Long Melford. For the Appellant the fact that the embankment provided a long-established, strong and readily understood edge to the settlement was of no consequence. The Appellant could see no harm in breaching the boundary, referring to houses along Station Road to the south as though they were comparable projections into the countryside (which they are not). It was contended “... The site boundary does not completely follow a historic field boundary, so the new boundary trees and hedges would establish a new landscape feature. This would be within a field that has been altered over the years and a valuable new feature and settlement boundary could be established”.
195. It is difficult to take seriously the assertion that proposed planting to the south and east along new boundaries lacking any landscape rationale would provide an effective settlement edge, or “valuable new feature”, in place of the former railway line. Instead, what the Appellant proposes is nothing more than a housing estate bolted on to the embankment, undermining its function as a settlement boundary and its enjoyment as a promoted walk and local nature reserve. Neither would the new woodland belts be “similar in form to the woodland established along Water Lane and the former rail line”: Water Lane is an ancient sunken lane and the former rail line sits atop the embankment.
196. On this issue, as on others, it is submitted that the Appellant’s evidence fails to engage with the features that are important to an appreciation of the existing



landscape. If you are looking for assistance in assessing the value of the landscape, the Council's evidence is much the surer guide.

197. On the discrete issue of whether the appeal site forms part of a valued landscape for the purposes of para 170(a) of the NPPF, I would simply point you to Ms Bolger's assessment at pages 37-38 of her proof. It may be that part of the difference in the parties' assessments comes down to whether designated landscapes are included (the Appellant) or excluded (the Council) in the scale of potential value, but whatever the methodological differences, it is submitted that this is a landscape of value, whether a "valued landscape" or not.

198. In summary, having regard to the nature, scale and location of what is proposed, it is submitted that major adverse landscape and visual effects are inescapable, contrary to policies CS11(i) and (ii), and CS15(i) and (ii) of the Core Strategy, and paras 8, 98, 127 and 170 of the NPPF.

### **(3) Whether there is a locally identified need for housing in Long Melford and the surrounding area**

199. Policy CS11(iv) states that proposals for development for Core Villages will be approved where (among other things) locally identified need – housing and employment, and specific local needs such as affordable housing – is addressed to the satisfaction of the decision maker where relevant and appropriate to the scale and location of the proposed development. As the appeal scheme is for up to 150 dwellings adjacent to the village of Long Melford, it is entirely appropriate that the Appellant should be required to adduce sufficient evidence of local need such as to justify the development.

200. Paragraph 14 of the supplementary planning document Rural Development & Core Strategy Policy CS11 goes on to give the following guidance: "... Developers should therefore set out how the proposal meets these locally identified needs. This should include an analysis of the number and types of dwellings in the village, an assessment the need for housing in the village and the identification of any gaps in provision. Proposals should provide affordable housing in accordance with Policy CS19. Proposals should therefore be accompanied by a statement that analyses the local housing, employment and community needs of the village and how they have been taken into account in the proposal. It is anticipated that such statements should be prepared in consultation with the Council using evidence from a number of sources."

201. This policy requirement is consistent with national policy. NPPF para 77 states: "In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs". Para 78 states: "To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities." Para 103 tells us that the planning system should actively manage patterns of growth in support of sustainable transport objectives. And para 170(b) requires planning policies and decisions to recognise the intrinsic character and beauty of the countryside. All of these strands of national policy seek to manage rural development so that it occurs where, and only where, it is needed.

202. Contrary to the requirements of the development plan, the application was not supported by any assessment of local needs. There was, moreover, nothing in the supporting material to suggest that it was a response to local circumstances

- or reflected local need. Instead, the Appellant relied on the need for housing in the district as justification for the scheme.
203. In the evidence given by the Appellant has attempted to demonstrate a need for the appeal scheme, notwithstanding a pipeline of 196 permitted dwellings in the parish and 433 permitted dwellings across the entirety of the functional cluster, and a proposed allocation of sites for 85 further dwellings in the Long Melford Neighbourhood Plan.
204. There are a number of weaknesses in the Appellant's evidence. First, the Long Melford Functional Cluster includes parishes whose needs would also be met by other Core Villages. It would be wrong in principle to expect Long Melford alone to meet the needs of all the villages in all the parishes that are said to fall within its functional cluster when there are other Core Villages that also serve some of those villages. The Appellant has made no attempt to apportion the needs arising between Core Villages and on this ground alone his assessment of need across the LMFC (whole) cannot be accepted.
205. The Appellant attempts to address this issue by also assessing the need arising in Long Melford and the three parishes which fall exclusively in the LMFC, but this brings into play the second error of approach.
206. The Appellant has calculated the LMFC population share of the need of the district as derived from the 2017 Strategic Housing Market Assessment (at para 7.6) and the standard method (paras 7.7-7.11). What he has not done is to have any regard to the settlement hierarchy and current spatial strategy in the Core Strategy, which plainly does not distribute new housing in the district purely according to population. The Core Strategy requires 1050 new dwellings to be delivered in the Core and Hinterland Villages to 2031. Core Strategy policy CS2 lists 10 Core Villages and 43 Hinterland Villages, yet the Appellant considers that from 2018 to 2031 the LMFC (whole) should deliver 631 new dwellings, and the LMFC (part) 306 dwellings. The Appellant's calculations simply ignore the development plan.
207. To achieve even higher numbers, the Appellant also calculates the LMFC population share of the SHMA assessment of need (even though SHMAs have been superseded by the standard method), as well as the LMFC population share of local housing need, to 2036. Looking further ahead obviously generates higher need figures, but again they pay no regard to the existing settlement hierarchy, distributional strategy or plan period. If we are to look at the period to 2036 then it is only right that we should have regard to the emerging spatial strategy in the Babergh and Mid Suffolk Joint Local Plan – Preferred Options Consultation (13 June 2019) ("EJLP"). Reflecting the draft strategy in that plan, there is a proposed requirement for 217 dwellings in the Long Melford Neighbourhood Plan area to 2036. Set against the pipeline of 196 dwellings and potential allocation of sites for 85 dwellings in the draft Neighbourhood Plan, there would be no significant residual need for further residential development in Long Melford for some time.
208. The Appellant has also attempted a "bottom-up" assessment (section 8), using two growth scenarios, resulting in a residual assessed need to 2031 for the LMFC (whole) in scenario A (share of migration) but not for the LMFC (part), and a residual assessed need for both the LMFC (whole) and LMFC (part) in scenario B.

209. None of this convinces. It applies district data to the level of the parish; it continues to use the LMFC (whole) population share without apportioning any need to other Core Villages serving the functional clusters; it ignores the wishes and aspirations of the residents of Long Melford; and it treats the current and /emerging spatial strategy as irrelevant.
210. The Appellant sought to add to the evidence of need by referring to the 9 May 2018 response of the Council's enabling officer (CD4.23), in which it was said: "The most recent information from Babergh Council's Housing Register shows 66 applicants registered who have a connection to Long Melford ...". The Appellant sought to suggest that the figure of 66 was the net figure taking into account affordable housing in the pipeline, but that is not what it says and it would be a nonsensical way to account for housing need.
211. An update has now been provided showing a total of 53 applicants on the housing register with a connection to Long Melford. While that is an indication of need at the moment, the need fluctuates from time to time, as it has over the past year. Of the 53 current applicants, up to 19 households with a local connection to the village could be assisted by the prospective rented accommodation at the Bull Lane development, and others would have an opportunity to bid for housing in the Ropers Lane development. In light of this, not even the current need for affordable housing warrants development on the scale proposed.
212. The burden of showing that there is a local need for 150 new dwellings falls squarely on the Appellant. For the reasons given, its evidence is flawed in approach and does not provide the justification needed to satisfy the development plan's requirements.

**(a) The latest position in respect of the emerging Development Plan and the weight to be afforded to it**

213. The emerging development plan in the form of the Babergh and Mid Suffolk Joint Local Plan – Preferred Options Consultation (13 June 2019) ("EJLP") was considered by the two local authorities on 25 and 27 June 2019. They both resolved that the draft should proceed to public consultation<sup>18</sup> for a period of 10 weeks, beginning on 22 July 2019.
214. At present, the draft policies in the EJLP merit limited weight, given the early stage of the plan and the guidance in para 48 of the NPPF. In light of the decision of the Secretary of State to recover this appeal, it is possible that the EJLP will have reached a more advanced stage of preparation before the appeal is determined and the Council will wish to update the Secretary of State if this happens.

**(b) The latest position in respect of the emerging Long Melford Neighbourhood Plan and the weight to be afforded to it**

215. The pre-submission draft Long Melford Neighbourhood Plan ("DNP") was published for consultation in January 2019. In April 2019 Babergh District Council determined that the DNP requires an appropriate assessment for the purposes of the Conservation of Habitats and Species Regulations 2017.
216. At the time of this inquiry, the Council submits that the DNP should be given limited weight. As with the EJLP, if the DNP reaches a more advanced stage

before determination of this appeal, the Council will wish to update the Secretary of State accordingly.

### **(c) Shortfall in housing land supply**

217. The Council accepts that it cannot currently demonstrate a five year supply of specific, deliverable housing sites. This is a change from the position shown in the Babergh and Mid Suffolk Joint Annual Monitoring Report 2017-2018, published in July 2018, which was of a 6.7 years' supply set against its Core Strategy requirement. This assessment of supply was based on the 2012 version of the NPPF, which has since been revised, as has the relevant Planning Practice Guidance.

218. The Statement of Common Ground on Housing Land Supply records the parties' current positions. The Council considers it can show 4.86 years' supply of housing sites. The Appellant contends for 4.11 years' supply. The difference between them is attributable to divergent approaches to the following elements in the assessment:

#### Calculation of local housing need

(1) The relevant 10-year period used to calculate the projected average annual household growth (step 1 in the standard method).

(2) The relevant median workplace-based affordability ratio used in adjusting projected household growth (step 2 in the standard method).

(3) The "average annual housing requirement" used to calculate the cap applied to the minimum annual local housing need figure (step 3 in the standard method).

#### Housing land supply

(4) The supply of dwellings from three sites with outline permission: Norman Way, Lavenham; Hadleigh Road, Sproughton; Chilton Woods, Sudbury.

(5) The supply of dwellings from the Brantham Regeneration Site.

*(1) The relevant 10-year period used to calculate the projected average annual household growth*

219. The Planning Practice Guidance states: "Set the baseline using national household growth projections (2014-based household projections in England, table 406 unitary authorities and districts in England) for the area of the local authority. Using these projections, calculate the projected average annual household growth over a 10 year period (this should be 10 consecutive years, with the current year being used as the starting point from which to calculate growth over that period) ...". Following this guidance, the 10-year period should be 2019-2029.

220. The Appellant prefers the period 2018-2028, essentially for the reason that the parties have agreed a base date of 1 April 2018 for determining the housing land supply and (the Appellant asserts) the guidance should be read in the context of the five-year period being assessed. Although at first blush it might seem logical to adopt the same starting year for the two calculations, there is an obvious

objection to it: it is not what the guidance requires. The passage from the guidance quoted above makes it perfectly clear that the projected average annual growth over a 10 year period begins with the current year. If the authors of the guidance had wished the starting point for the assessment of annual average household growth to be the same year as the first year of the 5-year housing land supply assessment they could easily have said so. The purpose of the standard method is to allow local housing need to be calculated in a relatively simple, formulaic manner, which may in some circumstances sacrifice accuracy for ease and predictability. It should also be borne in mind that the average annual household projection is not tied to the five year period of the housing land supply calculation. It is instead the increase in household growth averaged over 10 years, which inevitably introduces a degree of approximation in the process.

221. The difference between the parties bears this out. For the Council, the 10-year annual average household growth is 293.2 households; for the Appellant it is 298 households. As one would expect, this difference in the annual average of two 10-year periods beginning one year apart is not particularly significant. Nonetheless, where (as here) the guidance is clear about what is required, it is not appropriate to "re-interpret" it as the Appellant has done in the name of supposedly greater accuracy. The standard method is a relatively rough and ready approach to the assessment of local housing need and it is not improved by deviating from the guidance, as the Appellant seeks to do.

*(2) The relevant median workplace-based affordability ratio used in adjusting projected household growth*

222. The PPG begins its description of step 2 as follows:

"Then adjust the average annual projected household growth figure (as calculated in step 1) based on the affordability of the area. The most recent median workplace-based affordability ratios, published by the Office for National Statistics at a local authority level, should be used. ..."

223. The most recent median workplace-based affordability ratios are those for 2018, published in March this year. It is these the Council has used. The Appellant, however, has used the 2016 ratios, which were the latest ones published before 1 April 2018. The Appellant's rationale for using the 2016 ratios is: "... again my interpretation of the PPG is that the guidance should be read in the context of the five-year period being assessed, and the base date of that period. The District Council has stated that it considers that the most appropriate period to assess is 2018/19 to 2023/24 and thus the base date for the assessment is 1st April 2018. The guidance that dictates the use of the 'most recent' ratio should therefore be applied in the context of the base date, to calculate the LHN for the respective five-year period."

224. Here again the Appellant misconstrues the guidance so as to make it fit with its own view that there is a neat equivalence between the assessment of local housing need using the standard method and the calculation of the five year housing land supply. If the guidance had intended that the latest affordability ratios applying to (or published before) the first year of the five year housing land supply period be used, it could have said so. Instead, it states that the "most recent" should be used, without mentioning the calculation of housing land supply.

225. The Appellant's approach does not follow the guidance. And it compounds its error by insisting on using the 2016 affordability ratios, ignoring the 2018 ratios that were published after 1 April 2018. It does so because it confuses two quite different things: (a) the period of assessment and (b) proof of elements within the assessment. The fact that the period of assessment begins on 1 April 2018 does not mean, and the guidance does not require, that one should ignore evidence relevant to that period which emerges afterwards.

226. On the issue of the relevant affordability ratio the Council has followed the guidance and the Appellant has not. The Council's approach is correct.

*(3) The "average annual housing requirement" used to calculate the cap applied to the minimum annual local housing need figure*

227. Step 3 of the standard method provides:

"...Where the relevant strategic policies for housing were adopted more than 5 years ago (at the point of making the calculation), the local housing need figure is capped at 40% above whichever is the higher of:

a. the projected household growth for the area over the 10 year period identified in step 1; or

b. the average annual housing requirement figure set out in the most recently adopted strategic policies (if a figure exists)."

228. This raises the question, what is the average annual housing requirement figure set out in the Core Strategy? In relation to the number of new homes in the district, Policy CS3 of the Core Strategy states: "Babergh District Council will make provision for 5,975 new dwellings between 2011 and 2031 in the District. These dwellings are planned as follows: 1,100 between 2011 - 2016; and 4,875 between 2017-2031." Across the plan period the average annual housing requirement is 299 dwellings. Across the period 2017-2031 the average annual housing requirement is 325 dwellings.

229. Table A on page 25 of the Core Strategy gives a rounded-up figure of 300 as the "Future annual average growth rate = Total housing to provide for divided by 20 years", which is the only place where an annual average housing requirement is given in the document.

230. It is evident that the Planning Practice Guidance draws a distinction between an annual average requirement and a stepped requirement:

"How is 5 year land supply measured where authorities have stepped rather than annual average requirements? Five year land supply is measured across the plan period against the specific stepped requirements for the particular 5 year period. ..." (Paragraph: 033 Reference ID: 3-033-20180913)

231. The same is also evident in the Housing Delivery Test measurement rule book at paragraph 12:

"... EITHER the latest adopted housing requirement, including any unmet need from neighbouring authorities which forms part of that adopted housing requirement. This requirement will be the stepped housing

requirement (or the annual average requirement where there is no stepped requirement).”

232. It can be seen in both quoted passages that an annual average requirement is treated as different from a stepped requirement. In the present case the Core Strategy is more than five years old, so the assessment of housing land supply will in fact be based on the local housing need figure, but the distinction in guidance between an annual average requirement and a stepped requirement remains.
233. Interpreting the guidance in an internally consistent manner leads to the conclusion that where it refers to an “annual average housing requirement figure” it is referring to the total housing requirement for the plan period, divided by the number of years in that period. In the present case, this produces a figure of 298.75 (or a round 299) dwellings per annum.
234. This may appear a relatively mechanistic approach, but as has already been said the standard method provides a means of assessing housing need in simple, formulaic way. Adopting this approach, the Council has calculated that the applicable cap is 418.25 dwellings per annum. This is lower than the uncapped local housing need figure. Applying the cap, and a 5% buffer, produces a 5-year local housing need figure of 2196 dwellings.
- (4) The supply of dwellings from three sites with outline permission: Norman Way, Lavenham; Hadleigh Road, Sproughton; Chilton Woods, Sudbury*
235. The three contested sites at Lavenham, Sproughton and Sudbury all had outline planning permission on 1 April 2018 and were included in the Annual Monitoring Report published in July 2018. The Council has presented evidence showing that all three sites have a reasonable prospect of housing being delivered within the 5-year period of assessment, and indeed the Appellant conceded at the round-table session that there was clear evidence of deliverability at the date of the inquiry.
236. The Appellant’s objection is to the introduction of recent evidence of deliverability, which is said to constitute “an attempt to retrospectively justify the inclusion of all three sites in the supply”. It requires only a moment’s thought, however, to see that this is to misunderstand the nature of the exercise.
237. A five year housing land supply may be demonstrated in a number of ways: in a recently adopted plan; in an annual position statement; through annual monitoring reports; and (where it is disputed) through evidence given in an appeal. However it is done, the five year period will always begin at a point in the past. It is simply not possible to show a five year housing land supply instantaneously because even if the housing requirement or local housing need figure is readily ascertained, information relating to the supply of sites takes time to gather and in reality cannot be completed until after the start date for the five year period. In every appeal where housing land supply is in issue, there is a need to look back, to see what the position was at a certain point in time. The evidence showing what the position was as at 1 April 2018 (or any other point in the past) will inevitably come later.
238. The Appellant has taken the view (inspired, it appears, by the Woolpit decision) that it is wrong to have regard to evidence – be it affordability ratios or supply-side information – that emerges after the base date chosen for the start

of the five year period of assessment. That, however, is what the Planning Practice Guidance requires when assessing a five year housing land supply for the purposes of plan making –

“In order to demonstrate 5 years’ worth of deliverable housing sites, strategic policy-making authorities will need to provide robust, up to date evidence to support plan preparation.”

239. It is what every local planning authority does when producing its annual monitoring report, and it is difficult to see why an authority that may be required to demonstrate a five year housing land supply “at any point”, including at inquiry, should be denied the opportunity to provide up to date evidence going to either the need or the supply.

240. When the Joint Annual Monitoring Report was published in July 2018 it will have been based on evidence gathered after 1 April 2018, which is what one would expect. But it will also have been informed by the definition of “deliverable” in the 2012 NPPF and the guidance on deliverability in the Planning Practice Guidance at the time, which stated: “Deliverable sites for housing could include those that are allocated for housing in the development plan and sites with planning permission (outline or full that have not been implemented) unless there is clear evidence that schemes will not be implemented within five years”.

241. The revised NPPF was published on 24 July 2018. The relevant Planning Practice Guidance was updated on 13 September 2018. The change in both meant that local planning authorities are now required to assemble clear evidence of the prospect of delivery on sites with outline permission, including evidence of their current planning status, timescales and progress towards detailed permission. To do so in this case, the Council has provided the inquiry with up to date evidence showing just that on the three sites.

242. Neither the NPPF nor the Planning Practice Guidance applies a cut-off point to the admission of such evidence. The observation of the Inspector in the Woolpit case at para 70 that

“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”,

is, with all due respect, both unfair (given that the AMR in that case was published before the NPPF and PPG were revised) and wrong (in that it assumes that proof of deliverability cannot be based on up to date evidence).

243. The Council accepts that in the present case it would be improper to introduce sites that did not feature in the supply as at 1 April 2018 and has not sought to do so, but where sites with outline permission were properly included in the supply at that point, it is entirely appropriate to refer to up to date evidence of deliverability on those sites. Having regard to that evidence, the contribution from the three sites in question should be included in the supply.



*(5) The supply of dwellings from the Brantham Regeneration Site*

244. The same arguments apply to the evidence concerning the Brantham site, a site with the benefit of a part outline/part detailed permission, which has now received reserved matters approval. This site, too, should remain in the supply.

245. For these reasons the Council submits that it has properly applied the guidance in assessing local housing need and evidenced specific deliverable sites equivalent to 4.86 years' supply. While any shortfall in the five year housing land supply is regrettable, it equates to 62 dwellings. In the past year the Council has granted permissions for 1,254 dwellings, and viewed in context it is submitted that the shortfall is modest and likely to be made up soon.

*(e) The benefits of the scheme which are to be weighed against any harm if found*

246. These are set out and considered in the proofs' of the planning witnesses of the parties.

247. The most significant benefits are the provision of market and affordable housing, which can be said to help meet the need for housing in the district, if not a local need. The Appellant seeks to add a gloss to this benefit by suggesting that there is an imbalance in the age profile of Long Melford residents, which (it asserts) the appeal scheme would help to right. There is, however, no evidence that the village's demographics threaten its vitality or cause any other problem that requires "alleviating".

248. As to the quantum of housing that might be delivered on the site in five years, The Appellant stated that "Most commonly on Gladman sites it takes 13 months from receipt of planning permission to commencement of delivery". Most Gladman sites took longer than 13 months to begin delivery of housing, with 20 months being the average, this was an odd and demonstrably untrue statement to make. While it is accepted that some housing would be delivered on site within five years, it would be less than the amount claimed by the Appellant.

249. Furthermore, although the provision of housing is a significant benefit of the scheme, it would be better directed to an area with greater need and/or greater sustainability.

250. Another matter to which the Appellant draws particular attention is the provision of an area of 0.06 hectares of land for a new early years setting, as requested by the County Council, which is said to be a significant benefit. The need for this land would be triggered, however, by the appeal scheme itself, which is why it is more properly seen as mitigation of the scheme rather than an additional public benefit.

251. While the other so-called environmental benefits of the scheme pale into insignificance compared with the harm to the landscape and appearance of the area, the Council accepts that in addition to new housing there would be other modest economic and social benefits.

*(f) In terms of decision making, the appropriate 'balance' that should be undertaken*

252. The Council considers that the policies which are most important for determining the application are up to date. However, given the current shortfall

in the housing land supply, the Council accepts that the “tilted balance” in para 11(d) of the NPPF is engaged and constitutes a material consideration.

*Concluding submissions*

253. Long Melford is a historic village set in an attractive, rolling, valued landscape in the Stour Valley. The proposed development would intrude into the countryside, relate poorly to the settlement and result in major adverse landscape and visual effects. The Appellant has failed to show that there is a need for the amount of housing proposed or that there is any other compelling reason why the development should proceed. It would be contrary to development plan and national policy and there are no material considerations that justify a departure from those policies. In terms of the tilted balance, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits.
254. Accordingly, the Council invites dismissal of the appeal.

**The Case for Save Our Skylarks Field Group**

255. The material points are:

*Introduction*

256. The main issues, namely, that of need, landscape and heritage impact, the Development Plan and its importance, coupled with consistency with the NPPF are considered followed by the alleged benefits and the planning balance.

*Need*

257. The starting point must be Policy CS11 which gives the strategy for development in Core and Hinterland Villages. This Policy amongst other things requires a number of matters to be addressed to the satisfaction of the LPA or decision maker. One such matter is locally identified need. This in short means “housing need in the Village itself and its cluster, and perhaps in the area immediately adjoining it” (Para 23 – R v Babergh District Council and others Ref: CO/2375/2016 – CS11.5).
258. The Appellant made no effort whatsoever to satisfy this requirement at the application stage. Moreover, even now their efforts do not stand up to close scrutiny or examination. SOSF contends that there is certainly no need now or indeed for many years to come and moreover that any long-term need should not be met by allowing this proposal. There are other preferable means of meeting this need.
259. The Appellant through its assessment of local housing need utilising both a top down and bottom up approach has suggested that the residual need to 2031 in LMFC (part) ranges from 95 dwellings (MS – table 8.3) to 197 dwellings (MS – table 8.1) and in the whole cluster a range between 197 (MS – table 8.1) and 343 dwellings (MS – table 8.3). SOSF contend that there are a number of flaws in this analysis all of which lead or are likely to lead to there being an over-estimate of need.
260. Firstly, an annual requirement of 434 dwellings has been assumed whereas the LPA have adopted an annual requirement of 418 dwellings. SOSF have not

- engaged in the debate as to which party is correct but a finding in favour of the LPA will significantly reduce the need in the Plan period to 2031 (potentially 208 dwellings – 16 x 13 years).
261. Secondly, it is abundantly clear that some of the Hinterland Villages fall in to one or more of Core Villages. For example, Great Waldingfield falls not only into the Core Village of Long Melford but also the Core Villages of both Sudbury/Great Cornard and Lavenham (see map at page 19 – CD 7.1). There are other examples shown on this map of Hinterland Villages falling into one or more core villages. Thus, in assessing local need within the Long Melford cluster, it is necessary to ascertain to what extent the need arising in a Hinterland Village, included within another cluster, is being met elsewhere. This has not been attempted in any way whatsoever by the Appellants. It must therefore follow that the Appellant's assessment for the whole of the Long Melford cluster is almost certainly too high.
262. Thirdly, the Appellants have applied a 45% uplift within their assessments to reflect market and/or affordability factors. SOSF explained why this was inappropriate when looking at a Parish only. Indeed, the Appellant acknowledged that the use of district figures at Parish level was not particularly robust.
263. Fourthly, the Appellant has acknowledged that their assessment of the pipeline supply is an under-estimate. SOSF understand that they accepted during the round table discussion on need that within the pipelines supply for Long Melford (part) there were 208 units (an additional 12) but perhaps more importantly within the Hinterland Villages there were some 235 (i.e. an additional 86 units) giving total supply within the whole of the Long Melford cluster of 433 dwellings.
264. This is a very substantial number given the overall allocation within the Core and Hinterland Villages in Policy CS2 of 1050 dwellings. SOSF recognise that the annual requirement within that Policy was some 375 dwellings (4875 / 13) and the current annual requirement is not less than 418 dwellings but even so, it is contended that within the Long Melford cluster there is ample supply of land for housing.
265. Indeed, this is also demonstrated by the Appellant's own evidence using the agreed pipeline supply of 433 dwellings. It is the Appellant's own evidence utilising their 434 DPA that the requirements within LM (part) and LM (whole) is 24 and 49 dwelling per annum respectively. This therefore means that within LM (part) there is a supply of 8.6 years (208 / 24) and in respect of the LM (whole) there is 8.8 years supply (433 / 49).
266. It therefore follows that even using the Appellant's figures which for the reasons mentioned above are either not accurate or robust and must be treated with extreme caution. There is certainly no need for the proposed development currently and any need will not arise for many years. Moreover, importantly there is a far more preferable way to meet that need.
267. It is abundantly clear that Long Melford Parish Council have the intent to make a Neighbourhood Plan. This plan has started its journey towards ultimate adoption. Moreover, the intention is to do so as soon as possible, and this realistically should be within the first quarter of 2020. The whole community has been engaged within its production to date. To therefore allow a very substantial development now will be very damaging to this plan. It is likely, to essentially

destroy it and send the Parish back to the drawing board. This should not be allowed to happen particularly given the encouragement within national policy for Parish Councils to produce neighbourhood plans.

268. SOSF have themselves attempted to assess the need within Long Melford. They have looked at the overall requirement within BDC and have assessed what would be a proportionate and a fair share of growth to be accommodated within Long Melford. Their approach of establishing what is fair and proportionate fully accords with guidance (see page 5 CD 14.1). However, of significance the results of the analysis by SOSF have been endorsed by BDC. They should therefore be given substantial weight. Taking an annual requirement of 18 dwellings gives many years supply and certainly sufficient to the end date of the Plan 2031.
269. In conclusion therefore, SOSF invite you to conclude and report to the Secretary of State that;
- a. The Appellant has not clearly demonstrated a locally identified need as required by Policy CS11. This Policy is accordingly breached, and significant weight should be given to that breach.
  - b. On the evidence of the SOS and the LPA there is no doubt that there is currently no need and that any future need will be small given the number of extant planning permissions and moreover that such need should be met by other means namely through the emerging neighbourhood plan.
  - c. The Appellant's own evidence is flawed or unreliable in a number of respects all of which result in an over-estimate of need such that little or no weight should be given to it.

#### *Landscape Impact*

270. Again, as with the question of need Policy is the starting point. Policy CS11 requires the Appellant to address to the decision maker's satisfaction the local landscape, environmental and heritage characteristics of Long Melford. In addition, Policy CS15 stipulates the development "must respect the local context and character" and further, "respect the landscape, landscape features, streetscape/townscape, heritage assets, important spaces and historic views". This proposal is in fundamental conflict with these policy requirements in many ways.
271. The form of Long Melford is largely dictated by its landscape context. The topography of the village and its setting confine the village to a linear composition. This was something which was broadly accepted by the Appellant. Indeed, the Appellant accepted in cross examination that SOSF's assessment of what makes Long Melford special was a perfectly fair analysis. This included the essential linear character of the settlement.
272. This proposed development does not reflect this linear character. It is development in depth which climbs up the valley slope and will be seen as totally out of character to the settlement as a whole. It is no answer or justification for the Appellant to say that there has been infill in depth between the main street and the former railway line.
273. This is only correct to a very limited extent but in any event each development should be treated on its own merits. SOSF maintain that Long Melford retains its

essential linear character. Moreover, the former railway line has clearly provided for many years a defensible boundary to the Village and limited infilling has been entirely appropriate. Moreover, the majority of this infilling has been at a lower level than now proposed by the Appellant. The two are not comparable. Similarly, the contingent allocation within the emerging neighbourhood plan does not either support the Appellant's case. The contingent allocation would have fully respected the linear character of the settlement.

274. Whilst the former railway and its embankment has for many years been seen as a defensible boundary in contrast what is now being proposed is significantly different. There is simply no defensible boundary on most of the southern and eastern boundaries to the appeal site. They are no more than lines on a plan. Indeed, even now it is not entirely clear whether this boundary follows the 45m contour or is slightly below it. The Appellant's plans are contradictory which is clearly not helpful in assessing the overall impact. What however is clear is that there will be both close, medium and longer distance views of any development and hence an impact.
275. The development will be seen from Station Road and whilst this may not be crucial albeit that at present it gives a pleasant view of the countryside coming "into" Long Melford. There will, if this development is permitted, be fundamental change particularly for those using the former railway line. Users of the railway line would no longer have the experience of seeing the countryside but instead would be looking at a modern housing estate. This would also be true when using the local footpath network. Thus, their experience would be different and moreover it would be to their substantial visual detriment. Moreover, this development does not respect the former railway line as a landscape feature.
276. There are also views from Borley, Liston, Windmill Hill and The Green. These are best assessed as part of the site visit in due course. However, two points: Firstly, from these vantage points by and large the development will be seen climbing up the valley side which is uncharacteristic of Long Melford. This will be particularly so from The Green, have particular regard to viewpoint 2 – figure 17C of LF's evidence (appendix 4). The accuracy of this montage has not been challenged whatsoever. It can therefore be taken as accurately showing the extent of the development and its potential impact. This impact will be significantly greater in the winter months.
277. Turning to the potential views from Mills Lane of Holy Trinity Church. Both SOSF and the Appellant have produced sections. It was not put to SOSF that it's section was wrong. It was taken from a different position on Mills Lane. Moreover, as mentioned above there is uncertainty as to the extent of the appeal site. However, even the Appellant's own section shows that once the boundary trees reach maturity there will be an impact and loss of some views. This could perhaps be overcome by ensuring low level landscaping in some places, but this may well then expose views of the dwellings themselves.
278. All parties have examined the proposal against various character assessments etc. It has been helpful to do so in that it undoubtedly demonstrates the importance of the Stour valley and hence the need to take great care in permitting large scale development. All the evidence is not rehearsed or attempted to be summarised here. It ultimately does depend upon a judgement.

279. It follows from what is said above that this proposal in terms of landscape fails to respect the local context and character together with landscape features and as such therefore is contrary to both policies CS11 and CS15 of the Core Strategy.
280. Both SOSF and the Council have concluded that the overall effect on the landscape would be major adverse. This evidence has to be preferred to that of the Appellant. Also even the Appellant does not say that there will be no harm but merely as a matter of judgement in its opinion that harm will not be significant. Moreover, your attention is also drawn that in the original LVA and to a very large extent in the Appellant's own evidence it has underplayed, if not actually ignored the fact that the site is clearly visible from The Green and to that extent it cannot have taken this into account when making its ultimate judgement. In other words, the Appellant may well have failed taking everything into account in reaching its judgement.

#### *Heritage Impacts*

281. The heritage assets are well known. The issue between the Appellant and SOSF is whether the setting of an affected heritage asset makes a contribution to its significance. Further, the setting of a heritage asset is the surroundings in which a heritage asset is experienced (see generally paras 20 and 26 of The Setting of Heritage Assets CD13.3).
282. SOSF remain of the opinion that views to and from the conservation area, the hospital, the churchyard and The Green form a major part of their setting. The views are timeless and are a key to understanding and appreciating the significance of these heritage assets and the scene across the valley is probably the most iconic and well known within the village. The proposed development would be a jarring element towards the horizon. From the tower, the development would be at odds, reducing the ability to understand the very strong linear form of the village within the valley.
283. The Appellant tried to convince us that views to the church tower were unimportant, despite the fact that the church is specifically and perhaps unusually listed for its topography. Furthermore, topography is a specific matter listed within Historic England's guidance. What we say is that the church's dominance in the surrounding countryside, the sense of awe when approaching from the distance both now and throughout its long history are important. It is the recognition of the wealth and status of Long Melford both now and more particularly, in the past. It is the reminder of the cultural power asserted by the church. Views from the site and across from Mills Lane afford, we say, by far the best impressions of this power when approaching Long Melford, viewing the Church with its long and imposing southern façade. Such views are not commonplace and SOSF would say are indeed rare.
284. Similarly, the Appellant contested whether there was any harm to the setting of the Roman Villa on the basis of the lack of knowledge about its functional relationship with the village. The setting is now the only appreciable feature of this ancient monument. The site visit will illustrate both this and the obvious most likely aspect of this feature.
285. Turning to the former railway line, as a heritage asset, this has provided a very strong visual and physical settlement edge, allowing the village to retain its

linear form. As mentioned above, the proposal under consideration will fundamentally alter views of and from the railway line and to this extent therefore, there is an impact on its setting.

286. It is important that SOSF's evidence on heritage assets is put into context. As previously mentioned, Long Melford is a special place and heritage is one aspect which has to be considered. It is their case that this development will result in less than substantial harm to the significance of designated heritage assets and accordingly this harm should be weighed against the public benefits of the proposal. In other words, it is a negative factor to be put into the overall planning balance in due course. It also obviously follows that if there is any harm whatsoever then that would not accord with relevant development plan policy.

287. It would not be right to dismiss SOSF's evidence simply on the basis that it's witness holds no heritage qualifications. Clearly they are a person experienced in dealing with historical landscapes and moreover, as set out in evidence and explained in cross-examination, closely followed guidance provided by Historic England.

#### *Interim Conclusion*

288. This conclusion is that this development proposal is in fundamental conflict with important or significant policies within the Core Strategy. It is therefore contrary to the development plan as a whole. Furthermore, SOSF would contend that these policies are entirely consistent with the NPPF and should be given full weight.

289. It is also worth here just noting and reflecting upon the Appellant's responses in cross examination about the development plan and the policies within it. When asked on several occasions whether if the decision maker found that there was a breach of policy CS11 and CS15 it led to a conclusion that the proposal would be contrary to development plan as a whole. This was after all the approach taken by the LPA. This was a very simple question to which the Appellant could have agreed or acknowledged, but refused to do so. Perhaps the inability or failure to answer that simple question, somewhat taints the evidence as a whole.

290. The Appellant is in a very difficult, if not impossible position, as if the proposal is contrary to the development plan it needs to convince the decision maker that there are material considerations and/or benefits which outweigh the breaches of the development plan. It is necessary to bear in mind that we operate through a plan led system and significant weight should be given to the development plan.

291. The importance of a plan led system was emphasised by SOSF, who would have preferred to have seen a full application to allow the sustainability of the proposal be scrutinized more fully. Likewise, the need was emphasised to consider all relevant aspects in the round and not to dissect them into isolated or separate topics. Thus the importance of combining the overall landscape, heritage, need, economic and other aspects into one's overall conclusion was emphasised.

### *Benefits*

292. Inevitably there will be benefits associated with a development proposal of this nature. SOSF however contend that they have been grossly exaggerated by the Appellant and are not nearly as significant as claimed. In overall terms there is relatively little weight to be given to the benefits.
293. Likewise, it is not disputed that given national policy to boost the supply of land for housing any development which delivers housing is to some extent a benefit. However, in this particular case that when there is no need for the development and the development is in the wrong place then little weight should be given to this factor.
294. Furthermore, SOSF contend that the Appellants have grossly overplayed the benefit derived from provision of affordable housing. There is undoubtedly affordable housing in the pipeline already and the Appellant's correlation of the number of households on the housing register as automatically denoting a need for affordable housing for those people, is not correct. SOSF firmly contend as a matter of law that anybody can put their name on the housing register, but it does not automatically follow that they are in need of accommodation. They may have suitable accommodation, but merely have an aspiration or preference to be a Local Authority or Housing Association tenant.
295. The Appellant's timescale for delivery is undoubtedly over optimistic. SOSF carried out a detailed analysis of the Appellant's evidence in this regard and advised the inquiry that the average time for commencement of delivery from the grant of planning permission was 21 months, here emphasising commence delivery not completion of actual housing itself. This evidence was unchallenged.
296. In addition, SOSF also explained why the economic benefits had been incorrectly assessed. Again, this evidence went unchallenged.
297. Finally, SOSF also contend that the Appellants have "overplayed" the possibilities of them providing land for the provision of an early years education facility. Firstly, it is abundantly clear from Suffolk County Council's CIL compliance statement that they wish to keep their options open and look at matters once a decision is known. Suffolk County Council do not say that the appeal site is the only place that an early years provision can be made. Indeed, they cannot say that because the discussions between SOSF and the Head Teacher of the primary school clearly show that the Head Teacher is interested in expanding the school and importantly there is scope to do so on site. Whilst this evidence is not in writing it nevertheless is reliable. This reduces the weight to this alleged benefit.

### *Conclusion*

298. SOSF's overall conclusion are therefore as follows;
- a. The Development Proposal is contrary to the Development Plan and in particular the policies CS2, CS11 and CS15 of the Core Strategy.
  - b. Whilst policy CS2 may not be entirely consistent with the NPPF there is good reason to give it moderate weight in this instance, namely because the settlement boundary is the railway line – a long standing and logical, defensible, boundary.



- c. Policy CS11 into CS15 are both totally consistent with the NPPF and should be given full weight.
- d. This proposal for the reasons sets out above would have a major adverse impact on the landscape, harm the setting of a number of heritage assets and moreover there is no need for it. This development would not be beneficial to Long Melford.
- e. The benefits of the proposal come nowhere close to outweighing the significant harm in terms of both policy and landscape etc.
- f. The appeal must therefore be dismissed.

### **The Cases for Interested Persons**

299. At the Inquiry three interested parties spoke. The material points raised in their evidence were as follows:

*Mr Kemp*

- 300. A local resident of Long Melford who has owned and run a number of businesses in the village over the years he also noted he had previously represented the community on the District Council and Suffolk County Council as well as having been a local magistrate.
- 301. Mr Kemp contended that over the years the village has welcomed careful development maintaining the rural character. Primarily these have been on flat land meaning most of the houses were hidden from view from the road into the village.
- 302. The Long Melford Economy is crucially dependant on the history and setting of Long Melford. People visit Long Melford because of its wealth of historic property and outstanding landscape. Maintaining the attraction of Long Melford is crucial. To expand a village too much, too quickly and beyond its accepted, natural boundaries to me spells disaster. Within the last 2 years we have accepted 200 houses in three major developments, two of which are on brown field sites. Unlike this site on a very visible rising agricultural field beyond the old railway track, which on all the maps Mr kemp had looked at is the determining boundary for development.
- 303. The field is crucial to maintain the rural setting of Long Melford and its historic buildings. The development would completely change the landscape and would ruin the rural aspect of the much loved Railway Walk (a local Nature Reserve) and other official and unofficial footpaths in the area, much used by dog walkers and others.
- 304. 150 houses would be a huge suburban development, twice the size of the largest of the three developments recently permitted in the village. Permission to build a huge development outside the natural boundary of the village of the old railway line will lead to further applications with development potentially continuing all the way up to he bypass. That would turn Long Melford into a town and completely ruin its attraction to residents and visitors.
- 305. This application is completely unacceptable and will be a blot on the landscape. Refuse the application for the reasons identified by others but also because

further development in an unacceptable rural location will turn this beautiful medieval village into a sprawling urban location.

*Mr Kistruck*

306. Has lived in the village for over twenty years opened a pottery and has been secretary and chairman of the Long Melford Business Association. Was involved in the Parish Plan 2006 and in the Neighbourhood Plan of 2018, managing the resident and household survey.
307. There are two great manor houses from the Tudor period, Melford Hall and Kentwell, together with Holy Trinity Church grouped at the north end of the village. There are still many buildings from the prosperous periods of the 18<sup>th</sup> and 19<sup>th</sup> centuries which contribute to the street scene as much as the medieval buildings do. In the 20<sup>th</sup> century most of the workshops gave way to independent retailers while Kentwell and Melford Hall opened their doors to tourists. The village became a high-quality shopping centre with a focus on antiques and works of art. The village now depends on visitors for its prosperity.
308. Visitors can be described as tourists and repeaters. Tourists come once or infrequently. Repeaters enjoy Long Melford well enough to come back again and again. Businesses in Long Melford benefit from the on-going custom and this attracts more repeaters who support and drive the businesses. This then also enhances the village for residents.
309. The attractions of Long Melford are set against the background of countryside; fields and trees are always just around the corner. There is still a 'Green-and-Country' look, but it is already crumbling.
310. Until a few years ago the main eastern approach, Bull Lane, had fields on both sides; now only on one. Gladmans proposal will do something similar for the southern approach, which is a busier road with at least three times the traffic of Bull Lane.
311. The southern approach along Sudbury Road has its own heritage of charm; the smart new buildings of the Nethergate Brewery, while on the horizon 'The Drays', majestic Victorian buildings. The Drays were constructed as the largest Maltings in Long Melford, placed beside the railway station to serve the London Market. The Old station is still there albeit the railway has gone. In the middle of Hall Street Victorian buildings stand among timber framed medieval houses. However the aesthetics of the natural environment are at least as important. To the east, Railway Walk is a treasure store with badgers burrowing in the cutting to the north and slow worm and other reptiles basking on the embankment at the other end, right under the swell of the Skylark Fields. Don't spoil it.
312. The results of a full survey of opinions was done last year for the Neighbourhood Plan. 1996 valid forms returned provides a 75% sample of the population. 90% were in favour of designating specific sites for future development, not a Nimby response.
313. In terms of how big developments should be 20 or less was the most popular. How big should houses be 70 % thought 2 bed were needed whereas 70% though 4 bed or larger were not needed. Affordable housing was seen as important by 90% with 75% of the survey agreeing that 35% + should be provided on developments, and 90% agreeing that some affordable housing

should be reserved for locals. Long Melford residents are seeking new homes that are affordable to them not just token offerings at a bit less than a calculated 'market price'.

314. This is an outline application there are therefore many opportunities for variation when a developer takes over the site. Even the promised affordable dwellings may fail if the developer or chosen Registered provider considers them not viable. The proposal is a trojan horse presented as a gift to penetrate the villages defences. Serious damage to our environmental assets will result. With the natural barrier of the Railway Walk finally breached further incremental applications will certainly follow and be impossible to resist until the bypass road provides the next obstacle. Long Melford is not against the right kind of development. There are proposals in place within the Neighbourhood Plan for development sites of the right size, in places where the majority of residents want them and with genuinely affordable housing that would be available to local people.

*Mr Russell*

315. A local resident of the area for forty years. Challenges three points in the LVA (Landscape and Visual Assessment) namely, the site is common place, has no scenic quality and is of no heritage value.

316. In making his comments Mr Russell noted he had regard to concepts and guidelines for cultural landscapes that stemmed from the World Heritage Convention, Ouseley J's principles that valued landscapes in paragraph 170 of the national Planning Policy Framework are not coterminous with designated areas; facts and arguments determine cases, and paragraph 171 of the National Planning Policy Framework that plans should allocate land with the least value. He also noted the 1981 Babergh Long Melford Survey which he described as setting the scene.

317. The site is on a hill of great significance to Long Melford as it is its natural boundary to the south. Rodbridge was a separate Roman settlement. The hill slopes down westwards to an area of land that has accommodated a Roman road, an Anglo-Saxon Mill and a notable 19<sup>th</sup> century railway settlement including a station, maltings and cottages.

318. The site was once part of Prowds field, part of the Melford Hall Manor estate; the development would affect the integrity and significance of the manor estate, a well preserved heritage asset of inestimable value. Beyond Prowds, above Water Lane and Back Lane, Middle Newe Close is visible from Station Road. This is Melford's only remaining view of its historic fields which would be lost to thousands every day. The view from Middle Newe Close is an authentic cultural landscape. In adapting the WHC Operational Guideline for valuing a property it has value if it is a good example ..... with an adequate management system. The Babergh development Plan and Stour Valley management Plan would suffice to protect this landscape.

319. Babergh and other funding partners have committed to use The Dedham Vale and Stour Valley management Plan as a framework for maintaining its special qualities. This puts it on a par with the development plan.

320. The partners' commitment to the wider Stour Valley shows the Stour Valley is seen as a valued landscape. The fields near Melford Walk are indispensable to

Melford's heritage and are identified on the 1850 map. The bypass bisected Water Lane, Back Lane and Kings Lane. The development would impact a large area of the remaining land.

321. The site is a focal point in the landscape which affords views of the surrounding area these would be lost or damaged.
322. In a parliamentary debate it was noted that the presumption in favour of sustainable development does not, and should not, mean development at all costs. Any adverse impacts will still need to be taken into account.
323. The greatest adverse impact would be on the setting of the Holy Trinity Church in its landscape. The setting of a heritage asset is the surroundings in which it is experienced and its extent is not fixed. Views of this great church in this landscape must be of great significance. The contribution a setting makes to the significance of the asset does not depend on there being public rights or an ability to access that setting. The 1580 map shows Long Melford as a long narrow triangle with the church at the apex. The base is the Lane from Chapel Green to Back Lane and Water Lane. This triangle is illustrated by Lisa Finch's sight lines. The high point of the site under the power lines is between those sight lines. The development is slap bang in the middle of the prime setting of church and village. Loss of this setting would be maximum adverse (catastrophic).
324. The World Heritage Committee has emphasised the role of buffer zones to cope with new challenges and threats. Long Melford has a de facto buffer zone – the Special Landscape Area together with the undesignated land between the embankment and bypass. The site is a key part, essential to the setting of the church in its Stour valley landscape, the historic farming countryside along side Melford Walk and its local cultural landscape. The significance of Holy Trinity and its landscape is recognised in Sir Nikolaus Pevsner, English Heritage, Sir Simon Jenkins etc.

### **Written Representations**

325. There were 7 letters of objection received by the Planning Inspectorate in respect of the appeal. These included an objection from James Cartlidge MP and an objection submitted by Lisa Tipper on behalf of Save Our Skylarks Fields Group, who appeared at the Inquiry as a Rule 6 party.
326. Over 750 objections were received by the Council at the time it produced its report to committee in respect of the application.
327. The main reasons for objection at that time are summarised in the report to committee (Appendix A to the BDC Statement of Case at CD5.1).
328. In general terms these were identified as: the site is outside village development limits; the Applicant's public consultation was inadequate; the access is too close to the Nature Reserve; the sewers in Station Road will be unable to cope; the development would result in the loss of high quality agricultural land; there would be a loss of rural landscape and green fields; the development would place excessive strain on infrastructure, including education, health facilities, highways, electricity, gas, telecoms; there would be a significant impact on wildlife, biodiversity, contrary to ecology regulations; and there would be an increased flood risk and stormwater management issues.

329. Concerns were also raised with regard to Parking and congestion in the village being exacerbated; that highway safety was an issue, particularly regarding the proposed access which it was suggested has limited visibility; and There would be increased traffic on country roads, in the region of some 270 additional vehicles.
330. The objections contended there is limited employment in the village; an alternative location should be considered as the Village is already at capacity with recent planning approvals; there would be a loss of privacy and loss of views with an adverse change to the character of the village; the Scale of the proposed development is disproportionate to the village Heritage impacts given the proximity to a scheduled monument and Long Melford Conservation Area; that no archaeological evaluation has been undertaken; and that the Village has the highest sensitivity rating in the Heritage and Settlement Sensitivity Assessment for Babergh and Mid Suffolk Districts March 2018.
331. Moreover, concerns were expressed that drainage requirements have not yet been proven and the viability of the proposed drainage works has yet to be identified; and that there will be a harmful effect on the Local Nature Reserve in terms of views out from it as well as on the Nature Reserve.
332. It was further contended that the Proposal is premature given the early stages of the Long Melford Neighbourhood Plan.

## **Conditions and Obligations**

### *Conditions*

333. An agreed schedule of conditions between the Appellant and Local Planning Authority was provided, in advance of the Inquiry, in response to my pre-inquiry note. This was updated during the Inquiry, prior to the conditions session, and was submitted by the Council as Inquiry document BDC9. In considering the conditions to recommend to the Secretary of State in the event that the appeal is allowed I have had regard to the advice in the relevant section of the Planning Practice Guidance. The conditions that are recommended are set out in Annex B and the following references to condition numbers are in relation to the conditions there. Minor textual changes to those in the schedule have also been made to ensure the conditions are precise and enforceable.
334. Conditions 1 to 3 inclusive are standard outline conditions which define the reserved matters that will be the subject of approval. Insofar as access is concerned the application provided details of accessibility to and from, but not within, the site and these are detailed on the site access drawing, which are secured through condition 4. Accessibility within the site would be covered as a reserved matter. Conditions 2 and 3 set 2 and 1 years as the respective time periods for submission and approval of the reserved matters and are less than the standard time limits to ensure that the eventual developer of the land brings forward the housing in good time given the agreed lack of a five year housing land supply.
335. Condition 5 is required to ensure control is exercised over the type and size of market dwellings to ensure the development would provide for the appropriate need in the locality.
336. Conditions 6, 7 and 8 are required to ensure the development includes appropriate mitigation for the potential impacts on ecology. With condition 6

- providing for skylark mitigation, condition 7 securing the proposed biodiversity enhancements and condition 8 providing for control over lighting of the development, in particular to safeguard foraging routes for bats.
337. Conditions 9 through to 13 inclusive are required to control construction activities in the interest of road safety, biodiversity and general amenity. Condition 9 has been amended to remove areas of duplication and a separate condition on HGV movements has not been included as this can be addressed under traffic management in condition 9. Condition 12 is required to ensure appropriate actions are undertaken in the event of contamination not previously identified being found and condition 13 is required to ensure adequate protection of the amenity of future residents if occupation of units occurs in advance of the completion of the development.
338. Conditions 14 is required to ensure a landscape and ecological management plan is provided to ensure a proper framework for the landscaping reserved matters is put in place and fully justified. While condition 15 is required to ensure the development is carried out in accordance with the submitted Arboricultural Assessment. Additional conditions on site levels, finished floor levels, hard landscaping, planting seeding etc are not necessary as these are properly matters to be considered in the context of the landscaping reserved matter.
339. Condition 16 is required to ensure the development is appropriately drained. A separate condition on a Sustainable Urban Drainage System (SUDS) components is not required as this would be part of the overall surface water drainage scheme and moreover there are specific SUDS requirements secured through the Unilateral Undertaking provisions, which would be duplication.
340. Conditions 17 and 18 relate to access and are part of the details for which permission is sought. The further details required are necessary in the interests of highway safety and to ensure proper accessibility to the site. Additional highways conditions, as suggested in the agreed list of conditions, related to discharge of surface water, details of estate roads, carriage way surfacing, parking, loading, refuse and electric charging points are all matters that are adequately addressed through reserved matters or are covered by other conditions.
341. Condition 19 is required to ensure the proposed upgrade to the nearby bus stops is secured. The information submitted demonstrates that the Council has previously secured funding for such improvements through the Community Infrastructure Levy and therefore it would be inappropriate to secure through the Unilateral Undertaking.
342. Conditions 20 and 21 are necessary to ensure appropriate infrastructure is secured for the new development in accordance with development plan policy and to meet objectives in the Framework.
343. Conditions 22 and 23 are necessary to ensure that buried archaeological remains are appropriately addressed and secured and there is no need for them to be amalgamated to meet the tests.
344. Finally, condition 24 secures details of a scheme for the diversion or undergrounding of existing over-head power lines. This is promoted by the developer as an improvement to the landscape and is required to ensure the benefits derived from the scheme in this regard would be secured.

### *Planning Obligation*

345. A planning obligation in the form of a Unilateral Undertaking by the landowner to Babergh District Council and Suffolk County Council (Inquiry Document APP9) was submitted on the final sitting day of the Inquiry. It is dated 2<sup>nd</sup> July 2019 and signed by the Trustees of the Will of David Westropp Cutler deceased and is made pursuant to s106 of the Town and Country Planning Act, as amended (TCPA). The Deed is conditional on the grant of planning permission and the commencement of development, defined as any material operation (as defined in s56 of the TCPA) forming part of the development.
346. The Unilateral Undertaking secures a number of covenants through the schedules. Schedule 2 addresses the covenants to Babergh District Council and make provision for notification of the progress of development, the works to and transfer of open space, the submission, provision and management of a SUDS scheme and affordable housing. Schedule 3 contains the owner's covenants to Suffolk County Council including notification of the progress of development, a financial contribution for improvements to various footpaths, the provision and implementation of a Travel Plan, a financial contribution towards early years education and the potential for the transfer of land for the provision of an early years facility. Schedules 4, 5 and 6 set out provisions related to the specifics of matters related to the transfer of the open space, SUDS, early years land and a draft nomination agreement for the affordable housing.
347. Babergh District Council and Suffolk County Council have submitted statements of compliance with the Community Infrastructure Levy Regulations 2010 (CiL Regulations), setting out the policy justification for each of the obligations provided. In my judgement each of the obligations is 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 proposed. I am therefore of the view that each obligation meets the requirements of CiL regulation 122 and the Framework paragraph 56.
348. Clauses in the Unilateral Undertaking regarding reference to the CiL regulations, including clauses at 3.2, may be out of date after the Regulations are amended. However, at the time of the drafting and the signing of the Undertaking and the Inquiry these are in accordance with the extant Regulations. Moreover, the amended Regulations remove any restrictions insofar as the pooling restrictions on contributions. I have not found any such impediments but, in any event, they would not longer be a bar to having regard to them if such had been contested.

### **Conclusions**

349. Throughout my conclusions, numbers in [] are references to other paragraphs in my report. Those in () are to the parts of the documentary or oral evidence upon which my conclusion or inference is based.
350. The reason the Secretary of State recovered the appeal for his own determination is set out above. In short, this was related to the scale of the development and the objective to ensure an appropriate balance between housing demand and supply and high quality, sustainable, mixed, and inclusive communities. [1]

351. On the basis of the reason for recovery, the main issues I identified in advance of the Inquiry, and the evidence I heard at the Inquiry the main considerations in this appeal are [8]:

- the effect of the development on the landscape character and appearance of the area;
- the effect that the development would have on the significance of heritage assets;
- whether there is a locally identified need for housing in Long Melford and the surrounding area;
- whether proposals would be consistent with the Development Plan; and
- The effect of other considerations, including housing land supply, on the overall planning balance.

Landscape Character and appearance of the area

352. I have described the appeal site and surroundings above. This is generally agreed by the Appellant and the Council as is set out in the PSoCG. In general, SOSF did not have anything significantly different to say on this matter. [15-19]

353. The parties all identify that the site sits within National Character Area (NCA) 86 – South Suffolk and North Essex Clayland (details of which are set out in Appendix 4 to Ms Bolger’s evidence). In general this Area includes an open landscape of gentle clay ridges and valleys; an undulating plateau dissected by river valleys giving a topography of gentle slopes in the lower wider valleys; the agricultural landscape is predominantly arable with a wooded appearance; a dispersed settlement pattern; winding narrow and sometimes sunken lanes and a strong network of public rights of way. [84,]

354. Unsurprisingly given the extensive area of land covered by this landscape character area and general form of these characteristics many are evident in the site and surrounding area. The site is agricultural arable farmland, gently rising from Station Road towards the east and south east and forms the lower part of a valley side. There are sunken lanes to the north of the site and a wooded belt along the raised former railway embankment. There are public footpaths adjacent to the boundaries of the site to the east and north. [17-19, 84, 185, 195 272, 273 & 274]

355. The parties also agree that the site falls within the Rolling Estate Farmlands Character Type, towards the west, and the Ancient Rolling Farmlands Landscape Type (LT), towards the south and east, as defined in the Suffolk Landscape Character Assessment (provided at CD12.2). The key characteristics of the Rolling Estate Farmlands LT include gently sloping valley sides, an important foci for early settlement, plantations with some ancient woodlands and landscape parks. [85 & 86]

356. The greater part of the site is covered by the Ancient Rolling Farmlands LT the key characteristics of which include rolling arable landscape, dissected by river valleys, hedges, scattered and ancient woodland parcels, networks of winding lands and paths and dispersed settlement pattern villages often associated with village greens.[88]



357. There is a significant overlap and similarity in aspects of the Landscape Types and the LTs are not contained within rigid boundaries. There is therefore not a clear segregation on the ground and aspects of both LTs are visible on the site and immediate surroundings.[85]
358. The 'Joint Babergh and Mid Suffolk District Council Landscape Guidance' was published in 2015 (CD 12.3) to improve the quality of development coming forward in the countryside. It is advised that this study should be read in conjunction with the Suffolk Landscape Character Assessment. The Landscape Character Types cover the same geographical areas in both documents. [89]
359. The parties also draw attention to the Heritage and Settlement Sensitivity Assessment for Babergh and Mid Suffolk, March 2018 (CD13.4) and the Historic Landscape Character Assessment, 2008 to provide further information on establishing the historic characteristics of the surrounding area.
360. The appeal site is within the SV PA which is covered by the DVSV MP (CD12.1). It is a composite plan that includes reference to the management of an AONB, which is a statutory requirement. However, it goes beyond the extent of the AONB. The Planning Practice Guidance (PPG) advises that local planning authorities should have regard to management plans for AONBs and it was submitted that this advice was as applicable to this whole plan including the SV PA. However, there is a specific and legal identification of Areas of Outstanding Natural Beauty and the same degree of protection cannot be conferred on land not within them because of association. [99, 100, 101, 102, 188-193]
361. Whilst I accept that the management plan insofar as the Stour Valley may be a material consideration to which I give some weight that cannot be to the same degree or extent as it would be to an AONB. I recognise that other Inspectors have given weight (Appeal references APP/Z1510/W/17/3173352 – Steeple Bumpstead and APP/Z1510/W/18/3207509 – Bures Hamlet) to it along with the fact the land is in the SV PA in considering the value of land within the area. The approach I have adopted does not conflict with that approach. The inclusion of the SV PA within the DVSV does not confer AONB status on the land and the views of other Inspectors were case and site specific. The degree of weight attached is dependent on the facts of the cases and matters addressed in those decisions included site specific issues. [99, 100, 101, 102, 188-193]
362. Turning then to the landscape effects, it is the extent of harm that is at issue rather than whether harm arises. The parties ascribe different levels of harm and effect due in the main to weighting and judgement [105-107, 185, 187, 269, 278]
363. Much of the difference between the parties relates to a number of discrete conclusions; firstly, the value ascribed to the site, with the Council and rule 6 parties case based on a conclusion that the site is a valued landscape whereas the Appellant contends it is not; secondly, and linked to the value judgement, the contribution the location of the site in the Stour Valley Project Area should influence that judgement; and thirdly, the contribution or importance of the railway embankment as a defining feature in the landscape to act as an appropriate feature to contain and demark the settlement edge. [75, 77-81, 187-195, 273, 274]

364. All parties have undertaken an assessment of the value or contribution the site makes to the value of the landscape with reference to Box 5.1 of the Guidelines for Landscape and Visual Impact Assessment, edition 3 - GLVIA3. In my view the site is an arable agricultural field on the lower part of a rising valley side that is relatively contained by topography and tree belts along Water Lane and the former railway embankment. This results in the site being a relatively contained landscape element. The site is reasonable quality farmland typical of an agricultural field and area and is of moderate quality in terms of landscape and scenic value. The site does not contain particular features that are rare or representative. There are sunken lanes and tree belts adjacent, but these would not be lost as a result of the development. The site is not identified within any conservation designation. [77-81, 197, 271-274]
365. Whilst it is contended, by the Rule 6 party, that the site contributes to the significance of surrounding heritage assets this is not a point I agree with for the reasons set out below. There are public rights of way adjacent and within the site boundary and there is therefore some recreational benefit derived which I would ascribe as medium given the limited nature and connectivity around the site. The site is otherwise private land and is not used for significant recreational activity. The site, although part of the setting of Long Melford, is not particularly tranquil or wild given its proximity to the settlement and road network. Whilst it is suggested by Ms Bolger there are associations with landscape artists in respect of the wider landscape, no evidence is provided to provide a link with the site or its immediate surroundings. The site is not subject to any landscape designation in a development plan or any statutory protection. Overall, I would conclude that whilst it is evidently an area much appreciated by local residents there is nothing that would elevate it to the status of a valued landscape in the terms of paragraph 170a of the Framework. [77-81, 197, 271-274]
366. The site is located within the Stour Valley Project Area. There is a Management Plan which addresses the Area of Outstanding Natural Beauty of the Dedham Vale and the wider Stour Valley Project Area. The document makes a comprehensive assessment and identification of the key characteristics of the AONB. However, insofar as the wider area outside the AONB is concerned, the analysis is less analytical. It is noted that much of the wider area shares similar characteristics, particularly closest to the AONB. But not all the project area shares the same qualities. The project area covers a geographical extent of some 302 sq km with the AONB making up only a 90 sq km. The assessment of value of the AONB cannot be taken to be an assessment for the whole area as there must be differences in quality and value otherwise it would all be designated AONB. [99-102, 188-193]
367. There are proposals to extend the AONB but again this is in areas closest to the AONB boundary and not in the vicinity of the appeal site. Whilst I accept that some weight can be ascribed to the document in planning decisions to build a picture of the value of the landscape it is not by itself a decisive factor. Previous appeal decisions have made reference to the Management Plan and had regard to it. However, read properly these are in the context of site-specific matters and in the context of an overall conclusion. On the basis of the evidence before me I have had regard to the site's inclusion in the Project Area but given this limited weight of itself due to the lack of direct evidence to link the qualities of the site and its immediate surroundings to the key characteristics in the plan. [99-102, 188-193]

368. BDC and SOSF have placed significant reliance on the disused railway embankment as a substantial and important landscape feature in defining the settlement extent at this location. It is identified by those opposing the scheme as an important landscape feature that delineates and demarks the edge of the settlement and that to breach it would significantly undermine its function and potentially open the door to further development beyond the feature. [4, 193, 274, 275]
369. The raised embankment, which has now become a wooded walk and nature reserve, does contain development on the east side of Station Road. However, there is further development to the south a short distance beyond and there is only a narrow gap in the built frontage at this point. There is development on the opposite side of Station Road for the whole of this length. The closing of the street frontage is not of itself an issue in terms of the character or appearance of the area. A point re-enforced by the fact that in the published draft Neighbourhood Plan an allocation is identified which infills the gap on the Station Road Frontage, although not to the depth of development proposed in the appeal scheme. At the point of publication of that plan therefore the Neighbourhood Development Plan did not see the closing of the frontage as a critical concern to be resisted. [107, 194, 195, 274, 275]
370. At the Inquiry it was put in oral evidence by SOSF that the Neighbourhood Plan team were reviewing the document and that it would be proposed to delete this allocation however that has not been published, there has been no consultation on it and it has not been tested. Furthermore, in SOSF's evidence it sought to identify and categorise gateways into the village. Three such categories were identified; these being an initial an intermediate and an Historic gateway. From the south the initial gateway was identified as south of Nethergate Brewery; the intermediate gateway was identified around the maltings providing the first sense of arrival. The appeal site and the embankment are on the village side of these gateways. It is only the historic gateway, which is identified around Chapel Green, that the site sits outside. SOSF states from this gateway that there is an appreciation of the historic buildings and following which views of the historic core are revealed. The proposed development would not remove or physically encroach on the embankment. Its function as a nature reserve and public walkway would not be altered. [107, 194, 195, 274 & 275]
371. On this basis I conclude that the feature could be retained as an important natural asset, as a green corridor providing recreational landscape and visual benefits and that these would not be lost as a result of the proposed development. Its function to assist in defining the historic core of the village would remain and the gateway analysis would remain a valid interpretation and understanding of the approach to the village.
372. The proposed development would result in an existing agricultural field(s) being changed to a housing estate. There would therefore be change which would be adverse to the appeal site. The site however is contained by topography, by the former railway embankment, by wooded lanes to the north and by development fronting Station Road. It would be influenced by existing development on the west side of Station Road and by development further to the south on the east side of Station Road and would not appear as an isolated intrusion on the Station Road frontage. The overall effect on the landscape would

- be moderate adverse but would be mitigated by planting and landscaping as it matures. [105, 108, 151, 194, 19 & 198]
373. The proposed development would have some depth and would rise up the lower slopes of the valley side on which it would sit. It would rise to approximately 45m. This however would not significantly affect the overall impact and the rough guide is sufficient to enable a rational assessment of the effect. The development would be seen against the rising land behind and would not, except for the closest views within the site or standing directly in front of the site on Station Road, break the skyline. There would be limited views of the development from the valley floor given intervening development and the limited intermediate views would not be significantly affected. [83, 86, 87, 108, 272, 274 & 275]
374. Longer views from Windmill Hill, The Church of The Holy Trinity and the Green, around Liston and the other view points on my site visit demonstrated that the site is seen in glimpsed views against the backdrop of the rising topography and within wooded areas. The site does not hold a particularly prominent position and much of the effect would therefore be substantially mitigated by the landscape proposals for the development once matured. On this basis the development could be undertaken in a manner that would be consistent with the advice and guidelines in the Babergh and Mid Suffolk Councils joint guidelines for development and The Heritage and Settlement Sensitivity Assessment for Babergh and Mid Suffolk (HSSA). In particular, by avoiding ridge tops and upper valley slopes and prominent locations, by its integration through landscape proposals and their screening, filtering and softening effect, and by not breaking sky lines. This could be done without materially interfering with key views identified in the HSSA. [2, 94, 108, 109, 194-196, 276 & 277]
375. The urban form of the village as a long linear composition dictated by the topography would not be substantially altered. In effect, the village would still retain a linear form with a short extension. The development would rise up the valley side more than the development to the south and this would be visible but there would still be fields visible beyond and above and the landscape context of development set within a rural hinterland contained by topography and running primarily along the alignment of north south along Station Road would be retained. The historic core would be detached by the former embankment which would protect its integrity.
376. The views of the site enjoyed by users of the surrounding footpaths, including the former railway embankment, would be glimpsed views through existing vegetation. Presently these views are across open fields which would be altered to a housing development with open fields beyond. The effect would be adverse. But reduced by the screening from existing vegetation. There would be limited views from the sunken lanes given the changes in land levels and from the footpaths to the north views would be limited given the existing wooded areas. [107-109, 187, 194, 195, 274, 275 & 276]
377. I conclude that there would be a harmful visual effect through the loss of the agricultural fields but that this would be limited to the immediate surroundings and have a limited effect on the wider area which would reduce over time as planting matures.

378. Overall in terms of the effect on the landscape character and appearance of the area I conclude that the effect would be moderate and adverse reducing to minor adverse as planting and landscaping matured.

### *Heritage Assets*

379. The effect of the proposals on heritage assets did not form a reason for refusal and the Council do not object to the scheme on the grounds of its effect on the significance of any designated, or indeed non designated heritage assets. SOSF have raised concerns in respect of the potential effect on a number of heritage assets [110, 111, 112, 279, 280]

380. The heritage assets that are potentially affected are: The church of the Holy Trinity; Trinity Hospital; Rodbridge House and Barns; The Roman Villa NE of Rodbridge House; Melford Hall Park and Garden; Kentwell Hall Park and Garden; The Long Melford Conservation Area; and the dismantled railway line. None of the assets are suggested to be directly physically affected by the proposed development rather it is the effect resultant from development in the setting of the assets that is suggested. Given the locations and relationships this is how I have considered the effect on heritage assets. I will deal with each of these in turn below. [114, 120, 122, 126, 130, 131, 133, 137, 282, 283, 284, 285]

#### *The Church of the Holy Trinity*

381. The Holy Trinity Church is without doubt an impressive building. The church was constructed in the mid to late 15<sup>th</sup> century with the Lady Chapel (at the eastern end) added in 1496, and the west tower constructed between 1898-1903. It is described as a fine example of late perpendicular architecture, indicative of the area's wool wealth in the Long Melford Conservation Area Appraisal. The Building is Grade I listed, a designated heritage asset of the highest significance. [114]

382. It derives much of its significance from its architectural quality, scale, location and presence providing evidential illustrative and aesthetic value. It forms a local landmark and can be seen from significant distances in the surrounding area however visibility is not the test of the contribution to significance albeit it may influence that. These values are best appreciated in reasonably close proximity to the church, the adjacent graveyard, the Green and the more immediate surrounding area. [114, 116, 282, 283]

383. Views out from the church provide for no significant views of the appeal site, although I was taken up the tower and the site was distinguishable from the top of the tower which afforded a 360 panoramic view of a wide and significant area. It is evident that the appeal site is not within a designed or key view out from the church and views southward at ground level are restricted by the proximity of the Trinity Hospital. Views towards the Church from the site are available. Mostly from the higher ground at the south east and from Mill Lane across the site. However again it is evident these are not designed views but are as a consequence of the prominence and scale of the building. [114, 115, 282, 283]

384. It was suggested this was a purposeful aspect to show the power of the church. However Historic England's The Setting of Heritage Assets advises that being tall, structures towers and spires are often widely visible across land but, where development does not impact on the significance of heritage assets visible in a wider setting or where not allowing significance to be appreciated, they are

unlikely to be affected by small scale development, unless that development competes with them. Given the degree of separation, the likely limited height of housing on a site set within a landscape which would not be competing with the height or prominence of the church, I do not take the mere inter-visibility as having an effect on the significance of the Holy Trinity Church. Even if I accept that it is within the setting the proposal would not affect the contribution that its setting makes to the significance of the Church. It would still be a church within a wider landscape which included a village in the intervening space and this development would be a continuation of the urban form of that village. [114, 116 282, 283, 286]

#### *Trinity Hospital*

385. Trinity Hospital is also a Grade I listed building again of the highest significance. It was originally constructed in 1573 as alms houses. The hospital was constructed with an outer walled garden and major renovations were undertaken in 1847, with further modern renovations completed in 1964 with the south and east faces of the garden wall rebuilt in 1981. [120, 282]
386. The hospital sits within an associated Grade II Registered Park and Garden which is bounded to the north by the church yard of the Holy Trinity Church, the village green to the east and south and residential development on Church Walk to the west. [120, 282, 286]
387. Its significance is principally derived from its architectural quality and historic fabric providing evidential value and illustrative value derived from it being an example of a hospital built for the poor. The more immediate setting of the park and garden contributes to this significance utilised for growing food used to help the poor of Long Melford. [120]
388. Views towards the site from within the Hospital and walled garden are limited and from just outside and adjacent the Green there are limited filtered views of the site comprising a small and not material part of the panoramic views towards the south. [120]
389. From the site the hospital is visible from higher parts of the site along with the church but these do not contribute to an understanding of the significance of the Hospital. Whilst some views may be obscured from within the site due to the built form of houses this would be limited in effect and other views could be created when considering landscaping and layout. [120, 121, 283 & 286]
390. Overall there would be no effect on the setting such that contributes to the understanding of the significance of the hospital.

#### *Rodbridge House and barns*

391. There is a collection of buildings which are designated heritage assets at Rodbridge House. Rodbridge House is a Grade II listed building built in the 17<sup>th</sup> or 18<sup>th</sup> century which derives its significance from the evidential value of its historic fabric and illustrative value as an example of building from around the 17<sup>th</sup> century. There are two barns - one late 17<sup>th</sup> to early 18<sup>th</sup> century having a timber frame and weatherboarding with the second an early 19<sup>th</sup> century barn constructed of red brick. They derive their significance from the evidential value of the historic fabric and illustrative value as examples of barns which have retained a good amount of their original fabric. [122]

392. The development would not have a direct effect and would not impose on Rodbridge House. There is a potential effect on the inter-visibility between Rodbridge House and the Holy Trinity Church through buffer planting to the south of the proposed site obscuring views of the Church impacting on the ability of the Church to be appreciated from this location. However, this would not affect the significance of Rodbridge House or barns and landscaping is a reserved matter. There is no associative link between the site and the lands associated with Rodbridge farm and any views to the site from the house would be limited and filtered. There would remain agricultural land in the vicinity of the house. [122, 123, 283]
393. The proposed development would not result in harm to the understanding of the significance of Rodbridge House and barns.

*The Roman Villa NE of Rodbridge House*

394. The Roman Villa NE of Rodbridge House is a scheduled Monument and therefore of the highest significance. The Villa was identified by aerial photograph which identified a square courtyard and associated smaller building in a crop mark. There are no above ground remains or earth works for an observer to understand. This is one of two Roman Villas located at Long Melford The Roman Settlement of long Melford is some 300m north-west of the Scheduled Monument. [126]
395. There will be no direct effect on the integrity of the scheduled monument itself. There is no documentary or conclusive evidence as to the nature of any relationship between the scheduled monument and the Roman Town. There would have been limited visibility between the two given surrounding topography and the route of the Roman Road south of the settlement is unknown. Excavations and trial trenches undertaken in evaluating the appeal site have not identified any contemporaneous finds including ditches and there has been no evidence to suggest a functional relationship with the site. There is no evidence to suggest that an understanding of the relationship between the two would be compromised by the development of the site. [126, 127, 128, 283]
396. The development would result in development some distance from the scheduled monument of because of the sloping ground and intervening landscaping there would be very limited visibility of it from within the monument area. There is no associative link to the appeal site and any built development would also be seen in the context of other modern built development. [126, 127, 128, 283]
397. There would be no harm to the significance of the scheduled monument.

*Melford Hall Park and Garden & Kentwell Hall Park and Garden*

398. Melford Hall Park and Gardens include a Grade II\* listed registered park and garden and the Grade I listed Hall together with other Grade II\* listed buildings. Kentwell Hall is Grade I listed building and there is also a Grade II\* and Grade II listed building within the park; the Park is registered as Grade II\*. [130, 131]
399. No evidence was presented to the Inquiry which disagreed with the Appellant's witness's evidence or sought to challenge the evidence that the appeal site does not contribute to the significance of these assets as part of their setting and

therefore that the appeal scheme would have any effect on these assets. [132]  
This is my own conclusion.

*The Long Melford Conservation Area*

400. The conservation area is designated for the special interest of its character and appearance. The Appellant considers it is the buildings and spaces within it which overwhelmingly provide its significance. Ms Finch highlights the Green, Grade I Melford Hall, Holy Trinity Church and the Trinity Hospital as a major part of the overall value and legibility and grandeur of this part of the village and that the Church and Hospital form a key aspect of the Conservation Area and the effects on these buildings needs to form part of that assessment. However, these are only part, albeit an important part, of the conservation area. The conservation area contains two registered parks and gardens, 188 listed buildings and 2 scheduled monuments. The significance is than a product of those assets at its northern end but also includes the street pattern and form of village into and including its historic core. [133]
401. The former railway embankment, vegetation and later parts of the village shield much of the lower site from the core of the conservation area and indeed from the northern section. However, part of the development would be visible in a section of the distant views from the north of the Conservation Area around the Green but this view does not take account of any mitigating landscaping. The proposed development would affect a small section of the whole view obtained from this location and when trees matured the development would appear integrated within the wooded landscape and would only be visible in filtered and limited views. That impact would not affect the appearance of the conservation area nor the character of its surroundings as the site would be viewed beyond the conservation area at the far end of the village and not in the immediate vicinity of the Conservation Area. Given the wider context and considering its setting the proposed development would have no impact on the appreciation of those matters. From within much of the conservation area the development would not be visible at all. [134, 135, 282, 286]
402. Overall, I am satisfied that the proposed development would not harm the setting of the conservation area which would therefore be preserved.

*The Dismantled Railway Line*

403. The dismantled railway line is not a designated heritage asset but as a historic feature could be viewed as a non-designated heritage asset. It was accepted by the Appellant that given its close proximity the proposal would be within the setting of the feature. However, the contribution the setting makes to the asset would be more related to the towns, villages and industrial areas that it connects rather than the countryside it passes through. Also rail infrastructure like stations etc may contribute to that significance. In this regard the site itself makes little or no contribution to the understanding of the feature as a heritage asset. Furthermore, given that it is undesignated its level of significance is of the lowest level and what the significance is relates to its physical form giving some evidential historic, communal and illustrative value which would not be affected by the development of a parcel of land adjacent to it. It may be important in the historical development of the village, but the feature would remain and would still provide those elements of value which would not be diluted by the development of the adjoining field. [137-140, 285]



*Conclusions on heritage issues*

404. On the basis of the conclusions drawn above on each of the individual heritage assets that have been drawn to my attention I conclude that the proposed development would not result in harm to the setting of any of the heritage assets. There was no direct physical harm contended in respect of the assets and therefore the proposed development would not harm any heritage asset and would not therefore conflict with the development plan in this regard, including CS15, nor government guidance in the Framework.

Local Housing Need

405. There is a policy requirement in the Core Strategy through policies CS2 and CS11 to identify a local housing need and exceptional circumstances for development in the countryside, outside of towns/urban areas, core and hinterland villages and to satisfy the Council in relation to locally identified need-housing and employment and specific local needs such as affordable housing.[57, 199, 200, 257]

406. The correct interpretation of these requirements was considered in the case of R (East Bergholt Parish Council) v Babergh DC & Aggett [2016] EWHC 3400 (Admin). This case is referenced by the main parties who accept the interpretation. In this case the High Court determined that the reference to local need in these policies in the context of Core Villages was the "housing need in the village and its cluster, and perhaps in areas immediately adjoining it". [59, 257]

407. The Appellant failed to submit such an assessment with the application and there was no such assessment in the form set out in the supplementary planning document Rural Development and Core Strategy Policy CS11 which provides guidance on the matter.[202]

408. Policy CS11 requires the identification of a local housing need to the satisfaction of the Local Planning authority (or other decision maker) alluding to the potential for decisions to be taken at appeal. The fact there was no such assessment at the time of the application is now not the point at issue and does not remove the substantive issue for the necessity for the decision taker to consider the matter. [58]

409. The advice in the Rural Development Supplementary Planning Document provides advice at paragraph 14 that 'developers should therefore set out how the proposal meets these locally identified needs. This should include an analysis of the number and type of dwellings in the village and the identification of gaps in provision'. It goes on 'proposals should therefore be accompanied by a statement that analyses local housing employment and affordable community needs of the village and how they have been taken into account in the proposal'. The advice is limited and what it does not do explicitly is provide a template, framework or an identification of how that analysis should be undertaken except in the broadest terms. [58, 199, 200, 206, 208, 257]

410. The matters before this appeal relate to housing need. The Appellant has sought to engage with the interpretation of local housing need and produced an assessment of supply and need within the whole functional cluster associated with Long Melford and a part of the functional cluster, limited to those parishes wholly within the functional cluster. In that regard they have sought to identify

- figures that have a relationship with the Core village, its cluster and perhaps areas immediately adjoining as suggested in the Bergholt judgement. [59, 60]
411. The appellant has produced a variety of figures for the whole and part of the Long Melton Functional Cluster in various scenarios, even taking account of the Councils lower affordability ratio and lower dwellings per annum produced by the Council's lower figure using their calculation of the standard method, these fall within a broad range of 167 dwellings, or 13 per annum, to 2031 (leaving no residual need) to a high of 865 dwellings, or 48 per annum, to 2036 (leaving a residual need of 432). [66, 67, 204, 206, 259]
412. The Council provided additional evidence on small sites that added to the supply side of matters and result in a supply figure of some 208 dwellings for the period 2018-2023 for the part Long Melford Functional Cluster of the Appellants and 433 for the whole of the Long Melford Functional Cluster. These were accepted by all parties. [64, 203, 265]
413. Whilst the upper figures of the Appellant at the longer time frame are more likely to have greater potential to have a higher degree of error in their figures overall the assessment demonstrates that at the lower end, in the part functional cluster, there would be no residual need allowing for supply on the basis of scenario A but that there would, over this period, be a residual need of some 111 units to 2031 and 212 units to 2036. Discounting the upper longer range figure there is an unmet need in this scenario. In scenario B there would be a residual need of 83 dwellings to 2031 in the part and of 257 in the whole to 2031. Similarly, on the top down approach there would be a residual need across all timescales and in each scenario. [67, 204, 206, 265]
414. There are matters related to the over inflation of the need through points such as the potential for that need to be addressed by development in adjacent Core Villages with overlapping functional clusters and wider areas. There is also the potential for the inclusion of past under delivery being inappropriately included. However, whilst these may introduce a degree of uncertainty, the appellant has sought to engage with the wider definition of the geographic area and in that regard its evidence is more robust. [58-70, 199-209, 257-268]
415. Criticisms that the appellants approach disregards the spatial strategy of the development plan or the emerging development plan are not well founded as the need is the need and should be identified outside a proposed strategy and used to inform that strategy. [69, 206, 264]
416. The SOSF estimates on the other hand, to which the Council are in general agreement (or so close to as to not make a material difference) appear to have the potential to underestimate the need. Converting the annualised figure to the same time horizons as adopted by the Appellant related to the Core Strategy (to 2031, 13 years) or the Neighbourhood Plan (2036, 18 years) the figure identified by SOSF, 18 dwellings per year, would give a range of 78 to 2031 to 324 to 2036. [69, 203, 206, 207, 268]
417. SOSF adopt an approach of need through adopting a proportionate approach of that derived from the share for Core Villages from the overall district requirement and the share for Long Melford within the Core Villages total. This does not engage with the need being related to the village its cluster and perhaps in areas immediately adjoining it. The Council adopt much of the evidence from the draft

Neighbourhood Plan including its apportionment methodology to apply against the current Local Housing need for the district as identified by the Appellant. In effect BDC and SOSF rely on each other to justify their respective positions and assert this is supportive evidence albeit that this is not independently verified. The Neighbourhood Plan has not been tested through examination, this includes its evidence base, I do not therefore agree with the Council that it can be given significant weight whilst giving the Plan only limited weight. The Council's approach recognises that it does not deal with need other than in relation to the Core Village. [58-70, 199-209, 268]

418. The SOSF figures assessed against the agreed supply figure would suggest that there is no residual need across the periods.
419. Whilst there are criticism that can be levelled against each of the methodologies proposed in my view the approach adopted by the Appellant has a more robust assessment of the potential need across the Core Village and functional cluster and adjoining area. It seeks to qualify the locations and break down the areas in a more rational approach rather than the crude apportionment adopted by the SOSF and Council. [69, 207, 260-263]
420. In this regard I am satisfied there is a demonstrable local housing need that has been identified.
421. The local housing need to include affordable housing is also of specific interest in the policy. There is evidence to demonstrate that there are people on the housing register in housing need, at the close of the Inquiry it was agreed this was in the region of 53 at present. The SOSF contend that this can be met by from recently built or permitted schemes. However, the Neighbourhood Plan includes provision for a site for 100% affordable housing suggesting that there must be a demonstrable need in that context. I have already indicated the Neighbourhood Plan and therefore its evidence base has not yet been the subject of testing and is therefore not an accepted robust evidence base upon which to rely, however it still points to concern in the locality of some existing need. The Council also contend that the names on the register are only an indication of need at the moment and the need fluctuates from time to time. Indeed so, but it may then go up as well as down. It is what we have at present and is an indicator that demonstrates there is some local need/demand for affordable housing. [70, 210, 211, 212 ,293]
422. The proposed scheme secures affordable housing with the mix and dwelling type to be secured. The reserved matters application and conditions can ensure that dwelling mix and size is also considered further at the reserved matters stage. The provision of 35% affordable units would equate to some 53 units which would meet the need presently on the register in the local area, albeit some may be accounted for through permitted schemes, as well as contributing towards a wider district need. [70, 71, 211, 294]
423. On this matter I am satisfied that the Appellant has demonstrated that there is a local housing need including affordable housing and the proposal therefore meets policy CS2 and CS11 in this regard.

#### Other Matters

424. There are a number of other matters which potentially have a bearing on the decision making process and matters to be considered. I will deal firstly with

housing land supply as this will set a general context and the appropriate test to apply in the planning balance before considering Highway safety and the benefits of the scheme.

### *Housing Land Supply*

425. The parties accept that the Council cannot identify a 5 year supply of housing land as required by the Framework. This is confirmed in the Planning Statement of Common Ground and is not contested by SOSF. The Council identify a 4.86 years supply and the Appellant a 4.11 year supply. The difference being 0.75 year. The difference arises from different conclusions in respect of the requirement and supply sides. [39, 42, 218]
426. In terms of supply the Council and Appellant both agree that as the plan is more than five years old the standard method is the appropriate way to calculate the requirement. The differences arise with regard to the appropriate ten-year period to use to calculate the average annual household growth, the affordability ratio, and the average annual housing requirement. [44, 219]
427. The interpretation of which figures to use derives from the words in the Planning Practice Guidance (PPG) and the relationship with the base date year to ensure consistency of assessment periods against the supply. The PPG advises the use of the current year from which to calculate the ten-year period. The Council contend that on a plain reading the current year is 2019 and that that should be the starting point. The Appellant suggests there should be consistency with the base date year for the supply and therefore 2018 should be used. [45, 46, 219, 220]
428. The position has been considered at a recent appeal APP/P0119/W/17/3189592 with the Inspector concluding that the use of the current year in which the decision was made was technically correct to ensure consistency with the base date for the supply side. I have some sympathy with that position but it is not what the PPG guidance says and should the Government have wished the year to relate to the base date of the year assessed it would have said so. The advice appears quite unequivocal. The nature of the ten year period is also over a different period than the 5 year period being assessed. On this basis I follow the advice in the PPG and use the current year. In any case the difference this produces is 293.2 for the Council and 298 for the Appellant and is not substantial. [45, 46, 218-221]
429. In the context of the affordability ratio similarly the advice is to use the most recent affordability ratios which at present are those published in 2018 and are those adopted by the Council. The Appellant suggests that if this is interpreted with reference to the base date for the five year calculation the latest published at that point were those from 2016. [48, 223-226]
430. The advice should be taken to mean what it says and so the latest ratios are those most recently published being from 2018. I have therefore applied the adjustment factor on that basis. [48, 223-226]
431. The final matter in dispute relates to the average annual housing requirement used to calculate the cap. The Council have adopted an annual average across the whole plan period whereas the Appellant has averaged the increased stepped requirement in the CS. The guidance does not directly engage with this scenario. However the guidance does seek the use of the cap to limit the increase that a

local planning authority has to deal with. In this regard the Council, according to the policy in the latest development plan, is applying the higher stepped requirement. This is necessary to account for the lower figure earlier in the plan period to ensure that the annual average in the plan is met. If the annual average is used not accounting for the stepped higher requirement this would underestimate the requirement for the remainder of the plan period. In this regard I prefer the Appellant's approach in this respect and consider that the cap should be derived from the higher figure of 325, which results in a cap of 455. [49, 227-234]

432. Taking these matters together, and using the variables that most closely accord with the PPG advice there would be an annual average household growth of 293.2 and the uncapped annual standard method figure would be 429 applying the adjustment factor using the 2018 affordability ratio. The cap at 455 would be greater than the uncapped figure so I have used 429 as the figure for local housing need. This produces a five-year requirement with 5% buffer of 2,253.
433. Even if I were to accept all of the Council's supply position this would reduce the five year supply to in the region of 4.73. This is not a precise science and there is little value in producing an exact figure. What I am confident of is that the Council cannot demonstrate a 5 year supply and that the shortfall would, at best, be 4.73. Even if all of the Appellant's assumptions were accepted the supply would reduce to in the region of 4.24 years. Therefore whilst any shortfall is significant it is not indicative of a very low and limited supply of housing sites.

#### Highway Safety

434. The Appellant has provided undisputed evidence to demonstrate that the development would not result in a material impact on highway safety. Whilst there were concerns raised in the original responses on the application from objectors there has been no substantive evidence before the Inquiry to demonstrate a harmful effect. [142-144, 310, 329]
435. I have therefore no evidence before me to demonstrate that there would be harm to the highway network and this is a neutral factor in the overall planning balance.

#### Skylarks

436. The proposal will have an effect on skylark plots, there would therefore be some limited acknowledged harm in this regard. However, A scheme of mitigation has been agreed and is to be secured by condition and this therefore becomes a neutral factor in the overall balance. [39, 151, 336]

#### Benefits

437. The benefits of the scheme are as identified above in the summary of the Appellant's case. Whilst there were concerns regarding the weighting to be applied to the benefits there were not substantive issues raised with regard to their identification. [152-164, 246-251, 292-297]
438. In respect of the provision of general housing and given the Government's stated aim to significantly boost the supply of homes I consider this to be a significant benefit of the scheme. Similarly, given the need for affordable housing I would ascribe the provision of affordable homes, secured through the planning

obligation as a significant benefit. The Council and SOSF suggest that the benefit derived from additional housing may not be as significant as suggested by the Appellant for various reasons including the time taken to deliver the housing that it would be better directed towards more sustainable locations or to locations with greater need, or that there is not the claimed benefit in addressing a suggested disparity in the age profile of Long Melford. However, the Appellant has proposed a condition which reduces the time for implementation and as a land promoter it will be in the Appellants interest to move the site on quickly. The Council has not identified locations that would be more sustainable and I have concluded that there is a local need. For these reasons I give these benefits significant weight. [153, 154, 155, 247, 248, 249, 293, 294, 295]

439. There is agreed common ground that the scheme would bring biodiversity gains and this was not robustly challenged. However, the gains are of only moderate weight. [39, 158, 251]
440. The scheme would result in a new footway connection and improvements to bus stops. These are primarily secured to address the impact of the development but there would be some residual benefit for existing residents. In view of this I would give these benefits only limited weight. [159, 160]
441. The scheme reserves land for a new early years facility. It was suggested by SOSF that there were discussion on going with the County Council that suggested the facility may be provided at the local primary school. However, from the information before the Inquiry it appears that Suffolk County Council have secured planning contributions for such a facility but have not been able to find a site. In this context this is a significant benefit of the scheme that could result in a needed community facility. [161, 250, 297]
442. The scheme makes provision of a public open space a children's play area and upgrades for the public rights of way. These have primarily been justified on the needs of the development and its impacts. There is however undoubtedly the potential for this to benefit the local community and therefore I ascribe these benefits moderate weight. [162, 251]
443. There would be economic benefits associated with the construction and future occupation of the development and given the scale of the development these would not be minor benefits. Both the Council and SOSF sought to reduce the weight attributable to these benefits due to displacement or because they were not necessary or that they were to be expected for a development of this size and no more. Concerns were expressed that much of the economic benefits claimed were exaggerated. The identification and calculation of such benefits is not an exact science but with the construction and potential additional population there would be undoubtedly increased economic activity. This would be of benefit to the immediate Long Melford Village and to Babergh district and may indeed spread wider. The benefits cannot be ignored or completely discounted and given the scale of the development I still afford them significant weight. [163, 164, 251, 297]

#### Development Plan

444. Policies CS1, 2, 3, 11 and 15 are the policies most important for determining this appeal. [21] In this section I set out my findings in relation to those policies

- and comment on the weight that, in my view, should be given to any conflict with them.
445. CS1 relates to the presumption in favour of sustainable development and although based and formulated in respect of the 2012 Framework is not in general terms significantly inconsistent with the presumption in the latest Framework. However, there are matters, in particular related to the approach to the balance included at paragraph 11 of the Framework, commonly referred to as the tilted balance, which are important in the context of this appeal and therefore it is the approach set out in the latest iteration of the Framework that should be adopted. [22, 163]
446. Policy CS2 sets out a settlement hierarchy and settlement pattern strategy. While CS11 sets out the strategy for development for Core Villages and Hinterland Villages amongst other matters. The Bergholt case, cited above, construes the relationship between these policies such that development can take place outside built up area boundaries in the 2006 Local Plan if they fulfil the requirements of CS11 and if the Local Planning Authority are satisfied that the circumstances are exceptional and subject to a proven identifiable need. I have concluded above that there is a justifiable local need that has been demonstrated. [23, 24, 412]
447. The Council or SOSF have not sought to argue that there is a sequentially preferable site that issues arise in terms of locational context, community needs or cumulative impacts. The Appellant has questioned the use of the Built Up Area Boundaries from the 2006 Local Plan as the policy reference there has not been saved. In this regard the Core Strategy suggests that these boundaries are a starting point and the Council accept that this introduces greater flexibility in its interpretation for the boundaries. On this basis I conclude that in terms of the broad overall strategy the development would be in accordance with the settlement hierarchy and settlement pattern for Core Villages contained in Policy CS2. There is some minor harm in the context of landscape which would be a conflict with criteria i) of policy CS11. There is no specific exceptional circumstances case made out for development in the countryside and in this regard there would be conflict with this development management test in the policy. [378, 412]
448. The exceptional circumstances test is not consistent with the Framework which requires no such test therefore CS2 is inconsistency with the Framework in this regard and the conflict on this ground reduces the weight I give to that conflict. In terms of CS11 there is landscape and visual harm which results in conflict with this development plan policy, which is generally consistent with the Framework's aim to recognise the intrinsic character and beauty of the Countryside. [23, 378, 412]
449. Policy CS3 sets out the Strategy for growth including the number and distribution of houses, identifying the requirement for 5,975 new dwellings between 2011 and 2031 with some 1,050 to be provided in Core and hinterland villages. It is therefore inextricably linked to policies CS2 and CS11. This policy is not referenced in the reasons for refusal and the Council do not argue that there is conflict with this policy. Furthermore, as the CS is more than 5 years old the Framework therefore requires the use of the standard method so that the policy relies on an out of date housing requirement. In these circumstances the

policy is out of date and would only be afforded limited weight in any case. [24, 168, 228]

450. In the context of this appeal the important parts of the Policy CS15 are criteria i) and ii) as many of the issues of detail can subsequently be addressed through the consideration of reserved matters or conditions should permission be granted. In this regard I have concluded that there would be harm to the landscape and character of the area, albeit minor. The proposal would therefore not respect the landscape or make a positive contribution to the local character in the context of the policy. The policy is reasonably consistent with the aims and aspirations of the Framework and the weight given to the policy conflict should not be reduced. [378]

### **Planning Balance**

451. The appeal proposal would conflict with policies in the development plan. The appeal site is a greenfield site in the countryside beyond the settlement boundary and there would be harm to the landscape and visual harm, albeit limited. It has been identified that there would be some limited harm resultant from the loss of skylark plots, albeit this would be mitigated by the provision of new plots nearby secured by condition. On this basis I therefore conclude that the proposal would conflict with parts of policy CS2, CS11 and CS15, given the nature of these it would therefore conflict with the development plan as a whole. [445, 446, 447, 449]

452. I have concluded that the Council cannot demonstrate a five year supply of housing land and that the current level of supply is most likely around 4.73 years. I have also concluded that the development plans policies in respect of the amount and distribution of housing are out of date, including for reasons of consistency with the Framework. I have further concluded that there would be no harm to heritage assets. On this basis the tilted balance in paragraph 11 of the Framework is engaged. This attracts substantial weight. [432]

453. Given the location of the site adjacent to a core village and the conclusion that there is a local need including affordable housing the proposal would in general be in accordance with the spatial strategy. This attracts some weight but this is not significant given my other conclusions on these policies. [442, 446]

454. The proposal would provide for additional housing, including affordable housing, to which I have attributed significant weight, economic benefits and provision of land for a new early years centre again to which I attribute significant weight. There would be benefits derived from the provision of open space, improvements to public rights of way, children's play facilities, and improvements to biodiversity to which I attribute moderate weight. There are also improvements to the accessibility of the scheme through bus stop improvements and a new footway connection to which I attribute limited weight. [436-442]

455. Taken together the conflict with the development plan and the limited harm I have identified would not significantly and demonstrably outweigh the benefits of the scheme. In my judgement therefore the proposal represents sustainable development as defined in the Framework and planning permission should be granted as other material considerations indicate that a decision should be made other than in accordance with the development plan.



456. There are a number of additional matters that could influence that decision. In respect of the emerging Babergh and Mid Suffolk Joint Local Plan the parties all accept that given its progression towards adoption the policies within it merit limited weight. This could change dependant on the stage reached at the time the Secretary of State makes the decision. [172]
457. Similarly, in the context of the emerging Long Melford Neighbourhood Plan it can only attract at most limited weight given that it has not been subject to examination and that during the Inquiry it was suggested amendments would be made to it. Again this position could change dependant on the stage reached at the time the Secretary of State makes the decision. [173, 267]
458. In the context of my conclusions on the five year housing land supply position the Council recently notified me that it had published a draft Housing Land supply Position Statement in which it claimed to be able to demonstrate in excess of a five year supply. This is draft, is subject to public consultation and comments will need to be considered before being finalised. On this basis I prefer the evidence considered and tested at the Inquiry and consider it to be more robust. Even should it be accepted that there were a five year supply and the decision were taken on a plain balance under section 38(6) I am satisfied that the minor harm that would result from the development would be outweighed by the significant benefits that would arise from the development. [10]

### **Recommendation**

459. I recommend that planning permission be granted subject to the conditions contained in schedule B.

*Kenneth Stone*

INSPECTOR

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Robin Green of Counsel                      Instructed by Jo Hooley, Solicitor to the Council

He called

Michelle Bolger Dip.La,                      Director, Michelle Bolger Expert Landscape  
BA, PGCE, BA                                  Consultancy

Alex Roberts BSc (Joint                      Director, DLP Planning – Strategic Planning and  
Hons), Assoc RTPI                              Research Unit

Steven Stroud BA, LLB,                      Strategic projects Manager, Babergh District  
MA, MRes MRTPI                                  Council

### FOR THE APPELLANT:

Martin Carter, Barrister                      Instructed by Stuart Carvel Planning Manager  
Gladman Developments Limited.

He called

Jonathan Dixon BA                              Director Savills (UK)  
(Hons), MA, MRTPI

Matthew Spry BSc                              Senior Director, Lichfields  
(Hons), Dip TP (Dist),  
MRTPI, MIED, FRSA

Gary Holliday BA                              Director FPCR Environment and Design Limited  
(Hons), MPhil, CMLI

Gail Stoten BA (Hons),                      Heritage Director, Pegasus Planning Group  
MCifA, FSA

Stuart Carvel MTCP                              Planning Manager, Gladman Developments  
(Hons) MRTPI                                  Limited

### FOR SAVE OUR SKYLARKS FIELD GROUP:

David Whipps, Solicitor                      Homes and Hills Solicitors

He called

Lisa Finch BA (Hons),                      Principal, Classic landscape Architecture  
CMLI,

Ian McDonald MA, DipTP Long Melford Parish Council

Lisa Tipper Chairman, Save Our Skylarks Fields Group

INTERESTED PERSONS:

Richard Kemp Long Melford resident, County Councillor for Long Melford

Roger Kistruck Local resident

Ian Russell Local resident

## **Annex A**

### **Documents Submitted During the Inquiry**

#### DOCUMENTS submitted by Appellant

APP1	List of Attendances for the Appellant
APP2	Section AA FPCR Drawing No. 8104-L-09
APP3	Opening Statement on behalf of Appellant
APP4	Inquiry note on Housing Allocations
APP5	Inquiry Note by Lichfields entitled 'Local housing needs in Long Melford and Functional Cluster
APP6	Drawing OHC-001 Overhead Cables to be Undergrounded
APP7	Closing Submissions on behalf of Appellant
APP8	Amended Site Visit locations – suggested itinerary
APP9	Certified copy of Unilateral Undertaking under the Town and Country Planning Act 1990 section 106

#### DOCUMENTS submitted by Babergh District Council

BDC1	Hard copy of Babergh and Mid Suffolk Joint Local Plan – Preferred Options Consultation (Reg 18)
BDC2	Opening Statement on behalf of Babergh District Council
BDC3	List of Appearances for the Council
BDC4	Decision Notice of Approval of Reserved Matters for Application DC/19/00881
BDC5	Details of Consultation on Dedham Vale AONB and Stour Valley Management Plan
BDC6	Details of Membership of the Joint Advisory Group for the Dedham Vale & Stour Valley Project
BDC7	Email correspondence between Steven Stroud (Babergh District Council and Almudena Quiralte (Landscape Architect Consultant – Place Services Essex County Council) confirming basis on which consultation comments provided (no site visit undertaken).
BDC8	Note on Housing need data for Long Melford from Julie Abbey-Taylor, Professional Lead Strategic Housing Strategic Planning Team Babergh & Mid Suffolk District Councils
BDC9	Updated Schedule of conditions
BDC10	Closing submissions on behalf of Babergh District Council

#### DOCUMENTS submitted by Save Our Skylarks Fields Group

SOS1	Opening statement on behalf of Save Our Skylarks Fields Group
SOS2	Closing statement on behalf of Save Our Skylarks Fields Group
SOS3	Proposed list of sites for Inspector to visit

#### DOCUMENTS submitted by Interested (Third) Parties

TP1	Speaking note submitted by Mr Kemp
TP2	Speaking note submitted by Mr Kistruck
TP3	Speaking Note (entitled 'Proof of Evidence) and appendices submitted by Ian Russell.

## **Annex B**

### **Schedule of Suggested Conditions**

- 1) Details of the access (with the exception of details of accessibility to/from the site as hereby approved), appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission.
- 3) The development hereby permitted shall be begun not later than 1 year from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 8104-L-04 and Site Access Drawing P19007-001A.
- 5) Prior to or concurrent with the first reserved matters application submitted, details of the mix of type and size of the market dwellings to be provided shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) All mitigation measures for Skylarks shall be carried out strictly in accordance with the approved details contained in the Technical Note: Skylark Mitigation Strategy (FPCR, April 2019), with the approved Skylark plots retained for a minimum period of 10 years from the date that development commences and no development shall commence until those plots have been provided.
- 7) Concurrent with the submission of the first reserved matters application, a Biodiversity Enhancement Strategy for Protected and Priority Species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:
  - i. Purpose and conservation objectives for the proposed enhancement measures;
  - ii. detailed designs to achieve stated objectives;
  - iii. locations of proposed enhancement measures by appropriate maps and plans;
  - iv. timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
  - v. persons responsible for implementing the enhancement measures;
  - vi. details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

- 8) Prior to the commencement of development, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging;

and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

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

9) Before the development is commenced, a Construction Management Plan (CMP) shall have been submitted to and approved in writing by the local planning authority. The CMP shall include and address the following matters:

- parking and turning for vehicles of site personnel, operatives and visitors;
- loading and unloading of plant and materials;
- piling techniques;
- storage of plant and materials;
- programme of works (including measures for traffic management and operating hours);
- provision of boundary hoarding and lighting;
- details of the proposed means of dust suppression;
- details of measures to prevent mud from vehicles leaving the site during construction;
- haul routes for construction traffic on the highway network;
- monitoring and review mechanisms;
- details of delivery times to the site during the construction phase;
- location and nature of compounds and storage areas (including maximum storage heights) and factors to prevent wind-whipping;
- waste storage and removal;
- temporary buildings and boundary treatments;
- noise and vibration management (to include arrangements for monitoring, and specifically for any concrete breaking and any piling);
- litter management during the construction phases of the development;
- during any ground works/construction there shall be no burning of materials on the site;
- any external lighting associated with the development during any ground works/construction for the purposes of security and site safety shall prevent upward and outward light radiation.

Thereafter, the approved CMP shall be fully implemented and adhered to during all phases of the development approved.

10) A Construction Environmental Management Plan for Biodiversity (CEMPB) shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. The CEMPB shall include details of the following:

- i. risk assessment of potentially damaging construction activities;
- ii. practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction;
- iii. the location and timing of sensitive works to avoid harm to biodiversity features;
- iv. responsible persons and lines of communication;

- v. use of protective fences, exclusion barriers and warning signs;
- vi. the containment, control and removal of Schedule 9 invasive species;
- vii. precautionary mitigation measures for small mammals (Priority Species).

The approved CEMPB shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 11) 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:

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.

- 12) If, during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

- 13) If any dwellings are to be completed and occupied prior to the development as a whole being finished, a scheme to protect those occupants from noise and vibration shall be submitted to and approved in writing by the local planning authority and implemented prior to their first occupation. The development shall be carried out in strict accordance with the approved details.

- 14) Prior to the commencement of development, a landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority. The content of the LEMP shall include the following:

- i. description and evaluation of features to be managed;
- ii. ecological trends and constraints on site that might influence management;
- iii. aims and objectives of management;
- iv. appropriate management options for achieving aims and objectives;
- v. prescriptions for management actions;
- vi. preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- vii. details of the body or organization responsible for implementation of the plan;
- viii. ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

15) The development shall be implemented and constructed in full accordance with the approved Arboricultural Assessment (FCPR, Jan 2018 Rev B).

16) Concurrent with the first reserved matters application submitted, a surface water drainage scheme shall be submitted to, and approved in writing by, the local planning authority. The scheme shall be in accordance with the approved FRA (Flood Risk Assessment & Outline Surface Water Drainage Strategy ref: 881308-R2(02)-FRA) and include:

- i. Dimensioned plans and drawings of the surface water drainage scheme;
- ii. Further infiltration testing on the site in accordance with BRE 365 and the use of infiltration as the means of drainage if the infiltration rates and groundwater levels show it to be possible;
- iii. If the use of infiltration is not possible then modelling shall be submitted to demonstrate that the surface water runoff will be restricted to  $Q_{bar}$  or 2l/s/ha for all events up to the critical 1 in 100 year rainfall events including climate change as specified in the FRA;
- iv. Modelling of the surface water drainage scheme to show that the attenuation/infiltration features will contain the 1 in 100 year rainfall event including climate change;
- v. Modelling of the surface water conveyance network in the 1 in 30 year rainfall event to show no above ground flooding, and modelling of the volumes of any above ground flooding from the pipe network in a 1 in 100 year climate change rainfall event, along with topographic plans showing where the water will flow and be stored to ensure no flooding of buildings or offsite flows;
- vi. Topographical plans depicting all exceedance flowpaths and demonstration that the flows would not flood buildings or flow offsite, and if they are to be directed to the surface water drainage system then the potential additional rates and volumes of surface water must be included within the modelling of the surface water system;
- vii. details of the implementation, maintenance and management of the surface water drainage.

Development shall be carried out in accordance with the approved details.

17) Prior to first occupation of any dwellings on the site, a footway improvement scheme to link the approved site access on Station Road to the footway link at Southgate Gardens shall be completed and made available for use by the public, constructed to details that shall have been previously agreed in writing by the local planning authority, in consultation with the local highway authority. Thereafter the footway shall be retained for use in the constructed and approved form.



- 18) Before the access is first used, visibility splays shall be provided as shown on Drawing No. P19007-001A with an X dimension of 2.4m and a Y dimension of 90m 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.
- 19) Prior to the occupation of the first dwelling, a scheme to deliver an upgrade to existing bus stops adjacent to the Long Melford Inn (including raised bus stop kerbs, bus shelters and real time bus information screens) shall be submitted to the Local Planning Authority for approval. The scheme shall include details of its implementation.
- 20) 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 and/or ultrafast broadband infrastructures for each dwelling shall be installed prior to first occupation of that dwelling.
- 21) At least a 10% reduction in the predicted carbon emissions of the development shall be secured from decentralised and renewable or low-carbon energy sources or equivalent fabric first standards that would secure a 10% reduction in carbon emissions over Approved Document Part L 2013 (as amended) of the Building Regulations 2010. Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the local planning authority concurrent with the first reserved matters application(s). The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter.
- 22) No development shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation which has 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:

- i. The programme and methodology of site investigation and recording;
- ii. The programme for post investigation assessment;
- iii. Provision to be made for analysis of the site investigation and recording;
- iv. Provision to be made for publication and dissemination of the analysis and records of the site investigation;
- v. Provision to be made for archive deposition of the analysis and records of the site investigation;
- vi. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation;
- vii. 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.

- 23) No dwelling shall be occupied until the site investigation and post investigation assessment has been completed, submitted to and approved in writing by the local planning authority, in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 22 above and the provision made for analysis, publication and dissemination of results and archive deposition.
- 24) Details for a scheme to divert or under-ground the existing high voltage overhead electricity lines, including details of its implementation, shall be submitted and approved as part of the Reserved Matters application. This shall be between points A to B, C to D and D to E as identified on plan Ref OHC-001 Rev -.

END



# Ministry of Housing, Communities & Local Government

[www.gov.uk/mhclg](http://www.gov.uk/mhclg)

## RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

### SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

### SECTION 2: ENFORCEMENT APPEALS

#### Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

### SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

### SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.