

Philip Isbell – Chief Planning Officer
Sustainable Communities

Babergh District Council
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REFUSAL OF OUTLINE PLANNING PERMISSION

TOWN AND COUNTRY PLANNING ACT 1990
THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015

Correspondence Address:

Mr Jack Wilkinson
Bury Lodge
Bury Road
Stowmarket
Suffolk
IP14 1JA

Applicant:

Lavenham Ltd
Bury Lodge
Bury Road
Stowmarket
Suffolk
IP14 1JA

Date Application Received: 13-Feb-24

Application Reference: DC/24/00700

Date Registered: 22-Feb-24

Proposal & Location of Development:

Application for Outline Planning Permission (Access points to be considered, all other matters reserved) Town and Country Planning Act 1990 (as amended)- Erection of 6No. dwellings (with access)(re-submission of DC/23/01344).

Land West Of , Bury Road, Lavenham, CO10 9QG

Section A – Plans & Documents:

This decision refers to drawing no./entitled 100 PO1 received 13/02/2024 as the defined red line plan with the site shown edged red. Any other drawing showing land edged red whether as part of another document or as a separate plan/drawing has not been accepted or treated as the defined application site for the purposes of this decision.

The plans and documents recorded below are those upon which this decision has been reached:

Block Plan - Existing 101 PO 1 - Received 13/02/2024
Block Plan - Proposed 102 PO1 Indicative - Received 13/02/2024
103 PO1 - Received 13/02/2024
Defined Red Line Plan 100 PO1 - Received 13/02/2024
104 PO1 Settlement Grain Plan - Received 13/02/2024
Proposed Landscaping Plan JBA 22/409 - Received 13/02/2024
Application Form - Received 13/02/2024
Flood Risk Assessment - Received 13/02/2024
Land Contamination Assessment - Received 13/02/2024
Planning Statement - Received 13/02/2024
Landscape and Visual Impact Assessment - Received 13/02/2024

Section B:

Babergh District Council as Local Planning Authority, hereby give notice that **OUTLINE PLANNING PERMISSION HAS BEEN REFUSED** for the development proposed in the application in accordance with the particulars and plans listed in section A for the following reasons:

1. CONTRARY TO POLICY

The site is located outside of the settlement boundary and is not considered to comply with the criteria of policy SP03 of the Babergh and Mid Suffolk Joint Local Plan, alongside policy H1 of the Lavenham Neighbourhood Plan.

2. CHARACTER AND APPEARANCE

The proposal would harm the character and appearance of the area by reason of its intrusion into the open countryside, reducing the sense of openness on approach to the village, diminishing the contribution that the appeal site makes to the village's rural setting. As such, the proposal fails to integrate within the existing landscape character, reinforce local distinctiveness, or be harmonious with its location or the surrounding area - failing to accord with policies LP17 and LP24 of the Babergh and Mid Suffolk Joint Local Plan, alongside policy H1 of the Lavenham Neighbourhood Plan.

3. REASON(S) FOR REFUSAL - BIODIVERSITY NET GAIN

Policies SP09 and LP16 of the Babergh and Mid Suffolk Joint Local Plan and paragraphs 180 and 186 of the NPPF seek to protect, enhance and manage the natural environment, placing a specific emphasis on biodiversity. Policy LP16 specifically requires all development proposals 'to identify and pursue opportunities for securing measurable net gains, equivalent of a minimum 10% increase in biodiversity'. Whilst this site is currently exempt from Mandatory BNG secured by the secondary legislation of the Environment Act 2021 as it is a minor development, the requirement to demonstrate a 10% mandatory biodiversity net gain is still required as per the aforementioned policies.

The application has failed to provide sufficient ecological information available for determination of this application - the lack thereof fails to enable the LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006 as well as failing to accord with policies SP09 and LP16.

SUMMARY OF POLICIES WHICH ARE RELEVANT TO THE DECISION:

NPPF - National Planning Policy Framework

SP01 - Housing Needs

SP03 - The sustainable location of new development

SP09 - Enhancement and Management of the Environment

SP10 - Climate Change

LP16 - Biodiversity & Geodiversity

LP17 - Landscape

LP23 - Sustainable Construction and Design

LP24 - Design and Residential Amenity

LP27 - Flood risk and vulnerability
LP29 - Safe, Sustainable and Active Transport
LP15 - Environmental Protection and Conservation
LP19 - The Historic Environment

Lavenham Neighbourhood Plan

NOTES:

1. The proposal has been assessed with regard to adopted development plan policies, the National Planning Policy Framework and all other material considerations. The NPPF encourages a positive and proactive approach to decision taking, delivery of sustainable development, achievement of high quality development and working proactively to secure developments that improve the economic, social and environmental conditions of the area. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

Babergh and Mid Suffolk District Councils have adopted Community Infrastructure Levy (CIL) charging which affects planning permissions granted on or after 11th April 2016 and permitted development commenced on or after 11th April 2016. If your development is for the erection of a new building, annex or extension or the change of use of a building over 100sqm in internal area or the creation of a new dwelling or holiday let of any size your development may be liable to pay CIL and you must submit relevant documents to our Infrastructure Team telling us more about your development, who will pay CIL and when the development will start. You will receive advice on the amount you have to pay and what you have to do and you can find more information about CIL on our websites here:

[CIL in Babergh](#) and [CIL in Mid Suffolk](#) or by contacting the Infrastructure Team on: infrastructure@baberghmidsuffolk.gov.uk

This relates to document reference: DC/24/00700

Signed: Philip Isbell

Dated: 22nd May 2024

**Chief Planning Officer
Sustainable Communities**

Appeals to the Secretary of State

1. If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission or consent, or to grant permission or consent subject to condition, they may appeal to the Secretary of State for Communities and Local Government. The applicant's right of appeal is in accordance with the appropriate statutory provisions which follow:

Planning Applications: Section 78 Town and Country Planning Act 1990

Listed Building Applications: Section 20 Planning (Listed Buildings and Conservation Areas) Act 1990

Advertisement Applications: Section 78 Town and Country Planning Act 1990
Regulation 15

Town and Country Planning (Control of Advertisements) Regulations 2007

Notice of appeal in the case of applications for advertisement consent must be served within eight weeks of receipt of this notice. Notice of Householder and Minor Commercial Appeals must be served within 12 weeks, in all other cases, notice of appeal must be served within six months of this notice. If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice. If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within six months of the date of this notice, whichever period expires earlier.

Appeals must be made on a form which is obtainable from The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN or online at <https://www.gov.uk/government/publications/modelnotification-notice-to-be-sent-to-an-applicant-when-permission-is-refused>

The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he/she will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him/her that permission for the proposed development could not have been granted by the Local Planning Authority, or could not have been so granted otherwise than subject to the conditions imposed by it, having regard to the statutory requirements*, to the provisions of the Development Order, and to any directions given under the Order. The Secretary of State does not in practice refuse to entertain appeals solely because the decision of the Local Planning Authority was based on a direction given by him/her.

2. If permission or consent to develop land or carry out works is refused or granted subject to conditions, whether by the Local Planning Authority or by the Secretary of State and the owner of the land claims that the land has become incapable of reasonable beneficial use by the carrying out of any development or works which has been or would be permitted they may serve on the Council of the district in which the land is situated, a purchase notice requiring the Council to purchase his interest in the land in accordance with the provisions of Section 137 of the Town and Country Planning Act 1990 or Section 32 Planning (Listed Buildings and Conservation Areas) Act 1990.

*The statutory requirements are those set out in Section 79(6) of the Town and Country Planning Act 1990, namely Sections 70 and 72(1) of the Act.

Application for Outline Planning Permission with some or all Matters Reserved

OFFICER'S REPORT AND RECOMMENDATION

CASE OFFICER: Owen Fayers
CASE REFERENCE: DC/24/00700

The Openness of Local Government Bodies Regulations 2014

The national regulations on openness and transparency in local government require certain decisions to be recorded where they are taken by officers acting under powers delegated to them by a council. The written record should include the following: The decision taken and the date the decision was taken; the reason/s for the decision; any alternative options considered and rejected; and any other background documents. When read as a whole, this report and recommendation, alongside the accompanying decision notice, constitute the written record for the purposes of the regulations.

PROPOSAL: Application for Outline Planning Permission (Access points to be considered, all other matters reserved) Town and Country Planning Act 1990 (as amended)- Erection of 6No. dwellings (with access)(re-submission of DC/23/01344).

LOCATION: Land West Of , Bury Road, Lavenham, CO10 9QG ,
PARISH: Lavenham.
WARD: Lavenham.

APPLICANT: Lavenham Ltd

SITE NOTICE DATE: 04/03/2024
PRESS DATE: 05/03/2024

PLANS, DOCUMENTS AND SUPPORTING INFORMATION

The application, plans and documents submitted by the applicant can be viewed online at:
<https://www.babergh.gov.uk/w/application-search-and-comment>

SUMMARY OF CONSULTATIONS

Lavenham Parish Council Comments Received - 14/03/2024

1. General Comment

This application is fundamentally no different to DC/23/01344 which has been refused and is now the subject of an Appeal.

2. The current relevant plans and their status are:

- *Lavenham Neighbourhood Plan 2016 (LNP1) and specifically policies H1 and D1 AND the Landscape Character Assessment 2015 (LCA)*
- *Lavenham Neighbourhood Plan Revision specifically policies LAV 13 and LAV 35 AND the Landscape Character and Sensitivity Assessment 2023(LCSA) AND Lavenham Design Guide (LDG) – Emerging*
- *Joint Local Plan 2023 and specifically policies SP03 and LP01*
- *NPPF 2023 paragraph 84*

The application is considered in detail below, tested against each of the plans that are Made or those Emerging that have weight.

3. The Application

The 2024 outline planning application proposes the erection of 6 dwellings at land to the west of Bury Road, Lavenham. The site has a total area of 0.45 ha and is located to the north of the village outside the built-up area boundary (BUAB) as shown in the Lavenham Neighbourhood Plan 2016. This document will be referred to as LNP1. A new settlement boundary to replace the BUAB is found in the emerging revision of LNP1. This revision is identified as LNP2 which is now under Examination. The site is outside both the BUAB and the proposed settlement boundary by discernible margins.

The Planning statement advocates that Joint Local Plan Policy SP03 supports development outside the settlement boundary provided it is in accordance with a made Neighbourhood Plan.

The statement then points to LNP1, policy H1 and states 'proposals are being put forward outside the existing built-up area boundary of Lavenham, they will be permitted where they have regard to the findings and recommendations set out in the Lavenham Landscape Character Assessment. The policy goes on to set out the safeguarding criteria against which a proposal will be assessed'.

The applicant has quoted paragraph 3 of LNP1 policy H1 out of context ignoring paragraph 1 which states "Residential development proposals will be permitted subject to them either being located within or adjacent to the built-up area boundary of Lavenham and where the scheme can be clearly demonstrated to be well related to the existing pattern of development in Lavenham."

The proposal does not conform to paragraph 3 of LNP1.

4. Site location and relationship to settlement

The application includes an indicative site plan shows 6 plots with 4 detached homes and a pair of semi-detached homes fronting Bury Road. The proposal states that it includes the retention of the mature hedgerow to the Bury Road boundary, two access points including the use of an existing agricultural access. The land to the centre of the site will be raised to accommodate significant but isolated surface water flooding. The application also includes an indicative plan which identifies a 2.4m by 90m visibility splay. The application is accompanied by a Planning Statement, Landscape Visual Impact Assessment, an Ecology Report and a Contamination Report.

The site is Grade 3 agricultural land, in Flood Zone 1 although part of the site lies within an area of very high risk of pluvial flooding. A Public Right of Way (footpath 13) lies along the southern boundary of the site. The site is not within any designated view, and outside the village Conservation Area.

The site lies outside the Built-Up Area Boundary as defined on map 6.1 in the Lavenham Neighbourhood Plan 2016 and the settlement boundary detailed in LNP2 (Map 7).

5. Lavenham Neighbourhood Plan 2016 (LNP1)

There is no dispute that the site lies outside the applicable built-up area boundary shown in Map 6.

LNP1 Policy H1

Policy H1 of the Lavenham Neighbourhood supports housing adjacent to the built-up area boundary (BUAB) subject to it scoring positively against a list of criteria. This application:

- Is not genuinely adjacent to the BUAB being in a field some 300 metres from the Built-up Area Boundary, across the road from and surrounded by further fields,*
- is for proposed development whose northern extent would be within 50 metres of two pairs of cottages, creating a ribbon form alien to its surroundings*

The proposal is therefore contrary to the LNP1 Policy H1.

LNP Policy D1

The application is contrary to the spirit of policy D1 which seeks to protect and enhance Lavenham's distinctive character and ensure the protection as far as possible of trees and hedgerows.

Landscape Value and Visual Sensitivity

The Lavenham Landscape Character Assessment (LNP1) reviews the landscape and visual sensitivity of seven landscape parcels adjacent to Lavenham village. The work shows there is only one land parcel which has low landscape sensitivity to residential development and this is located to the south of the village. The results show that Land parcel 5 which lies immediately to the south of the application site is defined as moderate to high sensitivity. Other sites are sequentially preferable in terms of their visual sensitivity.

6. Emerging LNP2

LNP2 Policy LAV 13

This policy does not support development outside the settlement boundary unless as an exception which are. This application is not:

- *a Rural Exception Site as defined in LAV 17.*
- *for agriculture, horticulture, outdoor recreation, essential education infrastructure and other uses that need to be located in the countryside*
- *for replacement dwellings or conversions*
- *for rural employment*
- *a residential development which meets the tests set out in paragraph 84 of the NPPF December 2023*

LNP2 Policy LAV17

As the application does not consider this policy in the Planning Statement no further consideration is required here.

Landscape Value and Visual Sensitivity

The Landscape Character and Sensitivity Assessment 2023(LNP2) confirms that the site area lies within Character Area 5 – Bright Drifts and has a landscape sensitivity value of moderate and visual sensitivity of moderate. Other sites within Lavenham are sequentially preferable in terms of the relationship to the built-up part of the village and the landscape value and visual sensitivity.

7. Joint Local Plan

Policy SP03 notes:

“The principle of development is established within settlement boundaries in accordance with the relevant policies of this Plan. Outside of the settlement boundaries, development will normally only be permitted where:

- a) the site is allocated for development, or*
- b) it is in accordance with a made Neighbourhood Plan, or*
- c) it is in accordance with one of the policies of this Plan listed in Table 5; or*
- d) it is in accordance with paragraph 80 of the NPPF (2021).”*

The site proposed is not:

- *allocated for development*
- *is not in accordance with LNP1*

- is not in accordance with paragraph 80 now superseded by paragraph 84 NPPF December 2023

It also does not meet any of the local policies in the JLP noted in Table 5 specifically, LP01.

Policy LP01 offers a view on a cluster of dwellings being a nucleus of at least 10 well related dwellings. To the south of the site there are 4 dwellings on the west side of Bury Road and 5 dwellings on the east side of Bury Road. The existing farmhouse set to the north, separated by the existing group of houses by an agricultural field, is not part of the group of dwellings. An agricultural field lies to the east of the site on the opposite side of Bury Road.

The site cannot be described as being within a cluster or nucleus of existing dwellings. Development here would not fit the pattern of development, would constitute an obtrusive break into open countryside and not be in scale and character with the existing local area. This is confirmed in the Babergh and Mid Suffolk Joint Local Plan SHELAA published in September 2021 which identifies that site lying within 'Rolling Valley Farmlands and in proximity to a Special landscape Area'. The SHELAA concluded that the site is largely surrounded by open agricultural land, and site would not be in keeping with its surroundings.

As such the proposal does not comply with Policy LP01 which includes an allowance for windfall infill development in a nucleus of 10 dwellings or more. Similarly, the development of 6 dwellings does not constitute infill development as defined in policy LP01, as the development proposes 6 dwellings whereas the policy would support no more than two units.

The development would be contrary to Babergh and Mid Suffolk Joint Local Plan policy LP01 as it:

- Represents ribbon development on the edge of a small group dwellings which themselves are distinct and separate from the main built up area of Lavenham
- The scale, character and density of development represents an urbanised form in a rural setting characterised by open arable fields and hedgerow boundaries clearly viewed from public footpath which extend along the south and eastern boundaries of the site.
- The site is not a logical extension to the built-up area of the village. The built-up area of the village, identified on map 6.1 in the Lavenham Neighbourhood Plan and the settlement boundary detailed in LNP2 (Map 7) are separated from the site by a significant and extended green and woodland area and the railway line. The small group of houses to the south of the site represent an isolated group of houses in the countryside.

The site does not fulfil any of the criteria noted in a-d to above and therefore does not conform to policy the JLP Policy SP03.

8. Relevant Matters

Babergh District Council's CS11 Supplementary Planning Document (SPD) has been revoked. However, the list of matters detailed in the SPD include the criteria required in policies H1, H2 and D1 of the Lavenham Neighbourhood Plan and Joint Local Plan LP01 and are therefore still considered to be a sensible way in which to consider how the proposal meets the criteria required by the planning policies. The list of matters are:

- Sequential approach to site selection
- Scale of proposal in relation to existing settlement
- Cumulative impact taken with existing commitments or other proposals
- Local needs
- Availability of services and facilities, their ability to expand and the contribution which development would make to their long-term viability
- Social and economic benefits of development

- *Constraints and impacts*

8.1 Sequential Approach

The sequential approach has not been applied by the applicants. The Lavenham Neighbourhood Plan supports development within the built-up area and sites that are genuinely adjacent to the BUAB. Policy LAV13 does not support development outside the settlement boundary unless as an exception detailed in LAV13. The proposal does not comply with the exemptions in Policy LAV 13.

8.2 Scale of Proposal in Relation to Existing Settlement

The Joint Local Plan Policy LP01 is clear in terms of the scale of development, that could be appropriate, is where there is a well related group of more than 10 houses, is infill of one or two dwellings only may be permitted where other criteria are met . This site, being 6 units does not represent infill development. The development of a line of ribbon development comprising 6 dwellings would represent a significant (150% increase in the number of homes on the west side of Bury Road) and harmful extension of a small group of homes in the countryside. This application does not conform with the existing scale, form and density of existing development in this group.

The Lavenham Neighbourhood Plan notes the capacity issues at the Primary School and the Local Education Authority will need to be satisfied that appropriate provision can be made for school age children arising from the occupation of this development, if approved.

The revision of the Neighbourhood Plan now in Examination, addresses in Theme 3 Protecting our Heritage and Landscape including respecting and strengthening the distinctiveness and sense of arrival at our gateways. This application is for a development on the approach to Lavenham. Buildings may be screened but an entrance/exit of the scale required by Highways would be highly visible.

8.3 Cumulative Impact

Recent development in this part of the Parish have included the erection of two houses within the curtilage of an existing dwelling. The consent was granted when the District Council did not have the benefit of a 5 year housing land supply. The development is described as oversized detached properties in the Lavenham Design Guide. The cumulative effect of this development together with a further 6 dwellings in a linear form in this location will create an urban and alien development which harms the landscape value of this part of Lavenham. Cumulatively, this development together with the more recent development will erode the rural and open character of this part of the village.

8.4 Local Needs

LNP2 notes at paragraph 7.1.4 that 113 of the 118 indicative new homes required between 2018 and 2037 have already been completed or are nearing completion. No allocations have been made arising from the Joint Local Plan Part 1. The Parish Council is aware of demand for market homes in the village but this proposal is not in or adjacent to the village. The Parish Council is also keenly aware of the need for affordable homes for our existing population and smaller dwellings within the BUAB to enable downsizing of our older population.

8.5 Availability of Services and Facilities

Lavenham is a large village which supports a good level of services and facilities and in planning terms, the site is within an 'acceptable' or 'preferred maximum' distance from the village centre.

8.6 Sustainability

It is important to note that the district currently has provided for its needs and has a 7.13 year housing land supply. On paper and in policy terms, the site has good access to services and facilities by foot and there are limited accessible bus services which provide sustainable transport options. The site has the benefit of a metalled footpath to the centre of the village which is a distance of 10 to 15 mins walk (acceptable) and therefore bullet point 3 of Policy H1 of the Local Plan is satisfied. However, the reality is somewhat different. To access the village on foot, would require walking alongside the A1141. The

village already suffers from severe parking stress both on and off-street. If approved this proposal would add to traffic movement in the already constrained village. LNP2 notes in Themes 1 a key aim is to reduce carbon footprint and in Theme 4 that 'the car dominates and walking is more a leisure activity than a means of getting from A to B.'

8.7 Environment

The application demonstrates significant effort in seeking to persuade, that the proposal would not have an adverse effect on the landscape.

The application is supported by a Landscape Visual Impact Assessment (LVIA). The LVIA assessment concludes that the impact on Brights Drift LCA will be minor adverse decreasing to negligible over 15 years. Table 2 of the LVIA sets out a summary of the receptors and sensitivity providing an assessment of the sensitivity and the magnitude of change during construction, completion year 1 and completion year 15. The LVIA describes the site as a small section of a large arable field, bounded by dense hedgerows and mature trees to the north, east and southern boundaries. Development proposals protect, retain and enhance the existing hedgerow and mature trees and provide new green infrastructure to the western boundary to the arable field and wider countryside beyond, retaining, enhancing existing and establishing new links between ecosystems. A strategic buffer planting to the western boundary will reflect typical edge of settlement. The dwellings infill between existing sections of residential development and are not out of character with the scale and pattern of the local village settlement. The scale of effect for individual elements ranges from negligible to major adverse. On site vegetation is considered to be the only element where there is a beneficial element.

The LVIA report also provides an assessment of 28 visual receptors. Where the site is visible from public footpaths, the applicant considers there is a moderate or minor adverse impact (Viewpoints 1, 2, 3, 4, 5, 6, 7, 11, 23, 24, 25, 26). The report notes the first floor and rooflines of the development will be visible above the ridge in the mid ground of the view, set in alignment with existing residential dwellings on Bury Road particularly on views from the south, along public footpaths including Railway Walk. It concludes that initially soft landscape mitigation will provide minimal softening and screening effects and so built form will have greater influence.

The Parish Council's view of the photographs which accompany the applicant's LVIA, clearly show the intrusive nature of the new development at a nearby site which has created an alien feature in an otherwise rural and open countryside when viewed from public footpaths to the south. This is considered to have a major adverse impact and one which cannot be mitigated by landscaping as demonstrated by the existing development. Secondly, it is not clear if following this evidence of intrusion, the applicant has considered the need to raise the site levels for plots 3-5 to address significant surface water flooding towards the centre of the site. The height of the overall development, particularly for 3 of the 6 plots will need to be increased to address this constraint and will have an additional and significant impact upon the open landscape character.

The Lavenham Landscape Character Assessment LNP1 document has recently been updated to support the NP2 Review – Lavenham Landscape Character and Sensitivity Assessment 2023. From this, the Parish Council notes:

The application site lies within Rural Character Area LR5 – Brights Drift. The overall sensitivity indicators for this area for landscape value are moderate whilst visual sensitivity is also moderate. The analysis highlights the gently undulating plateau edge allowing long views and sense of openness, the number of footpaths offering views and hedgerows and wooded edges. The change management proposals for this character area seek to conserve the quiet rural character of the landscape. It notes that the area has little relationship with existing settlement edge and is separated from the village both physically and visually by the wooded corridor of the railway line walk.

The site is also adjacent to Landscape Character Area 6 – which includes attributes which are similar to the application site. The key characteristics of this area are ‘Arable land use in moderately large fields which retain their underlying ancient irregular patterns; Field boundaries often substantial hawthorn and elm hedges studded with trees - often oak; no woodlands but network of trees and hedges link up to give a lightly wooded feel; distinctive long views from the upper valley sides across the valley; attractive scenic landscape composition where rolling valley sides interact with views from historic village and a network of well used footpaths ascend the valley’. The change management plan states the land parcel is judged to have HIGH landscape value and HIGH visual sensitivity. Its sloping, visually prominent slopes would be unable to assimilate development without harm to its character. The river corridor constitutes a long established edge to the village on its east side, any break beyond this would be visually obtrusive.

The hedge separating the site from Bury Road is considered 'important' under the ecological criteria of the Hedgerow Regulations 1997 and should be retained as confirmed in the applicant's LVIA. This was confirmed in the response by Place Services, Essex County Council to the previous planning application. Policy D1 of the NP1 states that all development proposals will be expected to retain and enhance vegetated boundaries as much as possible, particularly those of intact hedgerows and trees.

Much of the applicants LVIA assessment is based upon the premise that the existing hedgerow on the Bury Road frontage will be retained in situ. It also advocates that the additional strategic planting to the western boundary will assimilate the development into its landscape setting. However, the LVIA also accepts that such mitigation does not preclude the impact of two storey dwellings and their roofs or indeed the increased ground levels needed to the centre of the site.

It is the Parish Council's view that development here would not fit the pre-existing pattern and would constitute an obtrusive break into open countryside and not be in scale and character with existing local area. We disagree with the scale of impact of the development from key viewpoints including those from public footpaths to the south of the development. Additionally, there is a degree of ambiguity which suggests that some of the hedgerow boundary to Bury Road may need to be removed to accommodate the highways conditions. As such, the assumptions on which the applicant's LVIA assessment is made could undervalue and under-estimate the significant impact of 6 two storey dwellings would have in this rural gateway to the village.

8.8 Location and Highways Matters

The planning application includes an indicative plan which sets out the broad location of the access points together with visibility splays. The Local Highways Authority has responded to the planning application and includes conditions:

- To ensure that the layout of the existing access is improved to an appropriate specification at an appropriate time in the interests of the safety of persons using the access and users of the highway two significant conditions are to be imposed:*
- No other part of the development hereby permitted shall be occupied until the existing vehicular access has been improved, laid out and completed in all respects in accordance with drawing no. DM03; and with an entrance width of 3 metres for a distance of 5 metres measured from the nearside edge of the carriageway and made available for use.*
- Before the access is first used visibility splays shall be provided as shown on Drawing No. 0103 P01 with an X dimension of 2.4 metres and a Y dimension of 90 metres 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 to visibility shall be erected, constructed, planted or permitted to grow over 0.6 metres high within the areas of the visibility splays.*

It is not clear from the indicative plan the extent of the loss of existing hedgerow that will be needed to facilitate the two access points proposed and the 2.4m x 90m visibility splays. The applicant should submit a detailed drawing showing the alignment and extent of the existing hedgerow and trees together with the two, 3m wide access points and visibility splays to meet the Local Highways Authority conditions.

If a significant part of the hedgerow structure will need to be removed, particularly where it abuts the back of the footpath, it will leave the site exposed and open, without the mitigating landscape buffer on which the applicant's LVIA relies. It is not clear whether Place Services' comments on the previous application have considered the impact of the Local Highways Authorities conditions on the 'important' hedgerow. The proposal would therefore be contrary to Joint Local Plan Policy CR08.

8.9 Constraints and Impacts

The applicant has included the same Ecology Report as the report included with the 2023 application. It confirms that the survey was undertaken at a sub-optimal time of year for botanical surveys, and unsurprisingly there was no indication of protected or locally rare habitat within the zone of impact. The report notes:

- 'garden pond (P1) and lake (P2) both achieved HSI values suggesting that they had 'good' potential to support breeding great crested newts. The HSI index is only a guide to the likely presence or absence of great crested newts and should be interpreted in conjunction with background information on habitats/connectivity in the area and knowledge of great crested newts' ecology. The result above does reflect the site survey assessment of the ponds: Great crested newts have been recorded in P1, though it is too small in extent to be able to sustain a viable population of any significant size, however, it could form an important island population within the wider metapopulation context. Great crested newts tend to avoid large lakes, though P2 is shallow and could support a population of great crested newts. P3 is highly unlikely to support newts, given the steep sides which reduce amphibian access to the pond, and the high density of predatory fish. The ponds with good potential or known populations of great crested newts are immediately surrounded by good/excellent terrestrial habitat; scrub/hedges and trees, rough grassland with fallen deadwood and other hibernacula providing good refuge, hibernation and foraging opportunities for amphibians. This reduces the likelihood of great crested newts travelling towards the site during their terrestrial phase'.*
- The area proposed for construction is a well-managed arable land with managed grass field margins of low ecological value. Retained hedges/trees should be protected for the duration of the construction phase. A replacement native, species-rich hedge should be planted on the western boundary, and infill planting on the northern and southern boundaries*

The Ecology Report confirms that the pond assessment was carried out outside the newt breeding season, and when water levels were very low and atypical of the breeding season, following a period of late summer drought. Newts and newt-eggs would not be present in ponds, and newts would be leaving, or have left, ponds. The Ecology report concludes that Ponds 1 and 2 could support a population of Great Crested Newts and the report recognises the importance of scrub/ hedges and trees in the vicinity.

In terms of an ecology report, it is concerning that the report was conducted as a sub-optimal period. It is important to note that the extant government circular on planning and biodiversity (Circular 06/2005) makes it explicit that "the presence or absence of protected species, and the extent to which they could be affected by a proposed development, should be established before planning permission is granted, since otherwise all material considerations might not have been considered in making the decision".

9. Summary and Recommendation

This application does not confirm to principal policies:

H1 and D1 of the Lavenham Neighbourhood Plan 2016

SP03 and LP01 of the Joint Local Plan

In addition, the Examination Report into the First Revision to the Neighbourhood Plan is about to be published, the updated LNP2 policies should carry significant weight in the decision making process, particularly following the publication of the Examination Report.

This contrasts significantly with the applicant's planning statement which states that the 'LNP2 remains of limited weight'.

Policy LAV 13: A spatial strategy for Lavenham is clear. Outside the settlement boundary, development will be restricted to the use identified in criteria a to e. The proposal for 6 units does not comply with any of the criteria and the applicant has not sought to address these. The discussion above also demonstrates why the proposal is contrary to Policy LAV 35 as the development is not sympathetic to the characteristics found in the landscape character area.

*The application should therefore be **refused**.*

Environmental Health - Land Contamination Comments Received - 01/03/2024

No objection.

Environmental Health - Noise/Odour/Light/Smoke Comments Received - 07/03/2024

No objection subject to conditions.

Strategic Housing Comments Received - 11/03/2024

Please refer to the response provided by Strategic Housing on 4th April 2023 & 2nd May 2023 as below. No further comments to add at this stage.

This application does not provide details on the tenure type of dwellings. Given our knowledge of the housing market, a suitable mix of homes would be welcomed. The developer should also refer to the Lavenham Neighbourhood Plan where the preferred mix is for 2-3 bedroomed dwellings.

No further comments on this application for the following reasons.

We notice that this application refers to development within the red line. If further development is to be extended into the blue line area, then we may require a contribution of affordable housing and if the site size is over 0.5 hectares.

The current site size has been quoted in this application as less than 0.50 hectares of land and less than 10 dwellings, therefore at present there would be no affordable housing contribution. However, should this change then we would recommend a further application to be submitted and we can provide further comments in relation to the affordable housing.

SCC - Highways Comments Received - 04/03/2024

No objection subject to conditions.

SCC - Fire & Rescue Comments Received - 05/03/2024

Provide standing advice.

SCC - Archaeological Service Comments Received - 28/02/2024

No objection.

Ecology - Place Services Comments Received - 14/03/2024

Holding objection due to insufficient ecological information on Biodiversity Net Gain (BNG).

Suffolk Preservation Society Comments Received - 26/03/2024

I write on behalf of the Suffolk Preservation Society (SPS) to object to the proposal for 6 dwellings on a greenfield site at Lavenham which we consider will result in an incongruous ribbon development extending into the countryside to the north of the village. We note that this application is a resubmission of the refused application DC/23/01344 to which SPS objected (our letter dated 17 April), and that the original application is currently at appeal.

The previous application was refused on two counts. Firstly, the location of the site outside the built-up boundary of Lavenham and, given the current 7.13 year housing land supply, there was not a proven justified need for the proposal. Secondly, the wholly inappropriate impact on landscape character of creating a ribbon form of development, alien to its surroundings and to Lavenham. We concur with these conclusions and urge that the lpa continue to resist the development of this site.

Although the site extends from the current built edge of the village to land associated with Park Farm Cottages, the cottages are clearly perceived as separated from the village by farmland and more associated with Lavenham Park Farm to the west. When approaching the village from the north, the cottages are encountered in isolation before the land rises and the gateway to the village is experienced only as the road reaches the brow of the hill and turns a corner. The land behind the site and on the opposite side of the highway is open farmland. The proposed development will therefore constitute a ribbon development which will significantly extend the built edge of the village and incorporate Park Farm Cottages which are currently in the village's agricultural setting. Moreover, whilst this is an outline application lacking details on the scale of the dwellings, this is a prominent, elevated site and the introduction of an urban form of development will harm the character of the landscape and views towards the village.

The compact form of Lavenham will be seriously compromised by the development which will not relate well to the existing pattern of development. The proposal is contrary to SP03, LP01 and LP17 of the Joint Local Plan and policy H1 of the adopted Lavenham Neighbourhood Plan and we therefore urge that the application is refused.

SUMMARY OF REPRESENTATIONS

3no. representations of objection were received, summarised as follows:

- Affects Local Ecology/Wildlife
- Building Work
- Conflict with District plan
- Conflict with Neighbourhood Plan
- Design
- Development too high
- Drainage
- Health & Safety
- Inadequate Access
- Inadequate parking provision
- Inappropriate in a Conservation Area
- Increase in Pollution
- Increased Traffic/Highways Issues
- Landscape Impact
- Light Pollution
- Loss of light
- Loss of Open Space
- Loss of Outlook
- Loss of Privacy
- More open space needed on development

- Noise
- Out of Character with the Area
- Over development of site
- Overlooking
- Scale
- Strain on existing community facilities

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

PLANNING POLICIES

Babergh and Mid Suffolk Joint Local Plan (JLP) – Part 1:

- SP01 - Housing Needs
- SP03 - The sustainable location of new development
- SP09 - Enhancement and Management of the Environment
- SP10 - Climate Change
- LP15 - Environmental Protection and Conservation
- LP16 - Biodiversity & Geodiversity
- LP17 – Landscape
- LP19 - The Historic Environment
- LP23 - Sustainable Construction and Design
- LP24 - Design and Residential Amenity
- LP27 - Flood risk and vulnerability
- LP29 - Safe, Sustainable and Active Transport

NPPF - National Planning Policy Framework

Lavenham Neighbourhood Plan (LNP)

- H1 - Scale and location of new development
- H2 - Housing Mix- meeting local needs
- D1 - Design and Character
- C3 - Footpath and Bridleway Network
- ENV1 - Defined Views and Special Landscape Areas

PLANNING HISTORY

REF: DC/23/01344	Application for Outline Planning Permission (Access points to be considered. All other matters reserved) Town and Country Planning Act 1990 (as amended) - Erection of 6 no. dwellings.	DECISION: REF 24.08.2023
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The site was subject to an application under reference DC/23/01344 (as above) for an identical proposal. The application was refused on the grounds of whether the site would be a suitable location for the proposed development, having regard to local policy as well as the effect of the proposal on the character and appearance of the area. The subsequent appeal (ref. APP/D3505/W/23/3330345) was dismissed.

ASSESSMENT

Site and Surroundings

The site is located to the west of Bury Road (A1141) in the parish of Lavenham. The site is comprised of 0.45Ha of agricultural land, with dwellings directly to the north and south, and agricultural land to the east and west. The site is fronted by hedgerow and a bound pedestrian footpath, with an existing access to the south-eastern corner.

The site is located outside of the settlement boundary, which is located approximately 250m to the south of the site. There is a Public Right of Way running along the southern boundary of the site, as well as a pedestrian footway to the eastern boundary, leading into Lavenham Village centre.

The site is not within nor adjacent to the Lavenham Conservation Area, nor does it fall within a Designated Landscape Area. There are no listed buildings within the vicinity of the site. The site is located within Flood Zone 1 and is at a very low risk of surface water flooding.

Proposal

The proposal seeks Outline Planning Permission (access points to be considered. All other matters reserved) for the erection of 6 no. dwellings.

Outline Planning Permission was previously refused for an identical proposal under application ref. DC/23/01344. The subsequent appeal (ref. APP/D3505/W/23/3330345) was dismissed.

Principle of Development

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, then that determination must be made in accordance with the plan unless material considerations indicate otherwise.

An integral material consideration in the determination of planning applications is the National Planning Policy Framework (NPPF) which contains the Government's planning policies for England and sets out how these are expected to be applied, including a general presumption in favour of sustainable development. The NPPF reiterates section 38(6) of the Planning and Compulsory Purchase Act 2004 in that the NPPF "does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise".

The assessment and balance are therefore centred on the proposed development's level of accordance with the development plan, weighed amongst the merits and harms of the proposed development relative to any material considerations.

Policy SP01 dictates that Babergh District will seek to deliver a minimum of 7,904 net additional dwellings (416 dwellings per annum) over the Plan period. The mix of tenure, size and type of new housing development should be informed by the relevant District needs assessment, or any local housing needs surveys where relevant.

Babergh District is able to demonstrate a 7.13-year housing land supply (December 2022). This is far in excess of the five-year housing land supply requirement. Whilst it is acknowledged that this is not a 'ceiling limit' on housing delivery, it is a position that nonetheless reduces the weight and benefits that is afforded to the delivery of open market dwellings in less desirable locations.

It is acknowledged that the existing settlement boundaries have been in place for some time and as a result are well-understood by local communities, landowners, and developers. The settlement boundaries will be reviewed, and if necessary revised, as part of the Part 2 Plan but for at least the short-medium term it is considered that the existing boundaries, applied through policy SP03, will be likely to enable the Districts' development needs to be met whilst also recognising the intrinsic character of the countryside.

Policy SP03 reflects these aims by directing new housing developments within the defined settlement boundaries, with the principle of development being established within settlement boundaries in accordance with the relevant policies of this Plan. The site however is outside of the settlement boundary.

Policy SP03 further details that, outside of the settlement boundaries, development will normally only be permitted where:

- a) the site is allocated for development, or
- b) it is in accordance with a made Neighbourhood Plan, or
- c) it is in accordance with one of the policies of this Plan listed in Table 5; or
- d) it is in accordance with paragraph 80 of the NPPF (2021).

The site is not allocated for development, is not in accordance with one of the policies listed in Table 5, nor does it engage with Paragraph 84 (formally 80) of the NPPF (2023), therefore demonstrating non-compliance with criterion a), c) and d).

We are, therefore, directed to consider whether the proposal is in accordance with a neighbourhood plan. In relation to criterion b), Lavenham does benefit from the adopted Lavenham Neighbourhood Plan (LNP).

Policy H1 of the LNP supports development outside of established settlement boundaries where it is adjacent to the built-up area boundary of Lavenham and where the scheme can be clearly demonstrated to be well related to the existing pattern of development. Amongst other things, it requires development to demonstrate that the scale and character of the proposal respects the landscape and makes a positive contribution to the local character, shape, and scale of the area.

It is acknowledged that Policy H1 of the LNP details that "*Proposals should be accompanied by a completed CS11 assessment checklist...*" It should be noted that Policy CS11 of the Babergh Core Strategy (2014) is now defunct and any dependence on that may also be seen as obsolete. Therefore, Policy H1 of the LNP, given it was premised on CS11, is not wholly up-to-date. These considerations could, therefore, be held to be irrelevant, the policy out-of-date due to the reference to Policy CS11, and the default position be reference to JLP Policy SP03.

It is considered that the site is physically and visually detached from the settlement boundary of Lavenham by both the large, wooded area to the south and the former railway bridge. These features clearly separate the existing sporadic dwellings and the appeal site from the village itself. In addition, the proposal would not relate well to the existing pattern of development. It would encroach into the surrounding countryside, ultimately harming the rural character on approach into the village.

It is, therefore, considered that the proposal is not compliant by virtue of the of its intrusion into the open countryside and rural landscape – failing to present a positive contribution to the local character or shape of the area. The conflict with the LNP consequently presents conflict with criterion b) of policy SP03 of the JLP and policy H1 of the LNP.

The Planning Inspectorate agreed with this judgement as per appeal ref. APP/D3505/W/23/3330345, considering that *“the appeal site would not be a suitable location for the proposed development, having regard to local policy. It would conflict with Policy SP03 of the JLP and Policy H1 of the LNP”*.

Character and Appearance

Policy LP17 of the JLP seeks to conserve and enhance landscape character, stating that development must:

- a. *“Integrate with the existing landscape character of the area and reinforce the local distinctiveness and identity of individual settlements;*
- b. *Be sensitive to the landscape and visual amenity impacts (including on dark skies and tranquil areas) on the natural environment and built character; and*
- c. *Consider the topographical cumulative impact on landscape sensitivity.*

Where significant landscape or visual impacts are likely to occur, a Landscape and Visual Appraisal (LVA) or a Landscape and Visual Impact Assessment (LVIA) must be prepared to identify ways of avoiding, reducing and mitigating any adverse effects and opportunities for enhancement.”

Policy LP24 of the JLP provides a string of criteria in relation to the design of development including aims which re-enforce those of policy LP17. Policy LP24 states:

“All new development must be of high-quality design, with a clear vision as to the positive contribution the development will make to its context. As appropriate to the scale and nature of the development, proposals must:

- *Respond to and safeguard the existing character/context;*
- *Respond to the wider townscape/landscapes and safeguarding the historic assets/ environment and natural and built features of merit;*
- *Be compatible/harmonious with its location and appropriate in terms of scale, mass, form, siting... .. in relation to the surrounding area;*
- *Protect and retain important natural features including trees or hedgerows during and post construction;*

All developments must also demonstrate that they have regard to the design principles set out through Suffolk Design, the Councils’ Design Supplementary Planning Documents, design documents which support Neighbourhood Plans and/or village design statements. Development which fails to maintain and, wherever possible improve, the quality and character of the area will not be supported.”

Policies of the LNP also reflect the aims of the JLP. As previously discussed, policy H1 of the LNP makes reference to ensuring that, inter alia, the scale and character of the proposal respects the landscape, landscape features, streetscape/town scape, and the proposal will make a positive contribution to the local character, shape and scale of the area.

The site comprises part of a prominent open agricultural field on rising land, bound by mature hedges on approach into Lavenham. Whilst there are residential properties to the north and south of the site, they are sporadic, separated by large verdant gardens, agricultural fields, areas of woodland and public footpaths. The sporadic nature of this portion of Bury Road offers a gradual transition between the denser village centre and the openness of the countryside beyond. It is acknowledged that, although the proposed development is not within nor adjacent to the settlement boundary, it would be within the defined ‘acceptable’ walking distance from the village centre buffer as set within the LNP. Nevertheless, it

visually relates most closely to the open countryside and contributes significantly to the open rural character on approach to the village.

It is considered that the subdivision of the agricultural field and its development with six dwellings and associated features would fill a substantial gap in development and urbanise the site, with significant localised effects. The proposal would consolidate the existing sporadic pattern of development and intrude into the open countryside, creating an abrupt and incongruous transition into the village. As such, the proposal would fail to integrate within the existing landscape character, reinforce local distinctiveness, nor be harmonious with its location or the surrounding area.

Whilst the introduction of additional soft landscaping would soften its effects over time, due to its prominent position on rising land, when viewed from Bury Road and the adjacent footpaths, the proposal would greatly reduce the sense of openness on approach to the village, diminishing the contribution that the appeal site makes to the villages rural setting.

As such, it is considered that the proposed development would conflict with the aims of policies LP17 and LP24 of the JLP, alongside policy H1 of the LNP.

The Planning Inspectorate agreed with this judgement as per appeal ref. APP/D3505/W/23/3330345, considering that *“the proposal would harm the character and appearance of the area. It would conflict with Policies LP17 and LP24 of the JLP and Policy H1 of the Lavenham Neighbourhood Plan (September 2016) (LNP) which amongst other things, seek to ensure that development integrates with the existing landscape character of an area, reinforces local distinctiveness and identity of individual settlements, and responds to and safeguards the existing character”*.

Highways

Policy LP29 and paragraphs 109, 114, 115 and 117 of the NPPF seek to ensure development promotes opportunities for improved connectivity and does not severely affect the highway network, including the safety of users, by securing safe access and egress, parking and visibility.

Following consultation with Suffolk County Council’s Highway Authority, no objection has been raised subject to conditions relating to access, parking and manoeuvring, visibility splays, surface water discharge as well as EV charging and cycle storage provision.

Flood Risk and Drainage

Policies SP10 and LP27 and paragraph 165 of the NPPF seek to secure sustainable drainage systems and steer development away from areas vulnerable to flooding and ensure development does not increase flood risk elsewhere now or in the future, taking account of all sources of flood risk.

The site is located within Flood Zone 1, where there is a limited potential for flooding and a limited history. The Flood Risk Assessment submitted in support of the application has identified that there is a low groundwater flood risk and low risk from reservoirs. The flood risk at the site is therefore considered limited subject to sufficient mitigation – which would be agreed at reserved matters.

Ecology

Under Regulation 9(3) of the Conservation of Habitats and Species Regulations 2017, the Wildlife and Countryside Act 1981 (as amended) and section 40 of the Natural Environment and Rural Communities Act 2006, the Council has a statutory duty to have regard to designated sites, protected and priority species and habitats in all decisions taken.

Policies SP09 and LP16 and paragraphs 180 and 186 of the NPPF seek to protect, enhance and manage the natural environment, placing a specific emphasis on biodiversity.

Policy LP16 specifically requires all development proposals 'to identify and pursue opportunities for securing measurable net gains, equivalent of a minimum 10% increase in biodiversity'.

Following consultation with Essex Place Services Ecological Consultant, as of November 2023, outline applications are now required to identify and pursue opportunities for securing measurable biodiversity net gains, equivalent to a 10% increase, in accordance with the adopted Joint Local Plan policies SP09 and LP16. In addition, the need for developments to deliver biodiversity net gains is outlined in paragraph 180d & 186d of the National Planning Policy Framework (December 2023). Therefore, whilst this site is currently exempt from Mandatory BNG secured by the secondary legislation of the Environment Act 2021 as it is a minor development, the requirement to demonstrate a 10% mandatory biodiversity net gain is still required for this scheme under local planning policy.

Whilst it is acknowledged that, following discussion with the Applicant, that they are committed to delivering BNG, we are not satisfied that there is sufficient ecological information available for determination of this application at this time. Additional information to demonstrate a 10% measurable biodiversity net gain is required prior to determination – the lack thereof fails to enable the LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006 as well as failing to accord with policies SP09 and LP16.

Lavenham Parish Council comments

The comments raised by Lavenham Parish Council are noted and have been addressed within the above report. Officers are largely in agreement with the objections raised.

PLANNING BALANCE AND CONCLUSION

As discussed above, it is considered that the proposed development would conflict with the aims of policies SP03(b), SP09, LP16, LP17 and LP24 of the Babergh and Mid Suffolk Joint Local Plan, alongside policy H1 of the Lavenham Neighbourhood Plan.

The above assessment aligns with that taken under application DC/23/01344 – which was subsequently dismissed at appeal by the Planning Inspectorate under appeal ref. APP/D3505/W/23/3330345.

Recommendation is therefore that Outline Planning Permission is refused.

RECOMMENDED DECISION: Refused

I have considered Human Rights Act 1998 issues raised in relation to this proposal including matters under Article 8 and the First Protocol. I consider that a proper decision in this case may interfere with human rights under Article 8 and/or the First Protocol. I have taken account of exceptions to Article 8 regarding National Security, Public Safety, Economic and wellbeing of the Country, preventing Crime and Disorder, protection of Health and Morals, protecting the Rights and Freedoms of others. I confirm that the decision taken is necessary, not discriminatory and proportionate in all the circumstances of the case.