

## MID SUFFOLK DISTRICT COUNCIL

Minutes of the meeting of the **DEVELOPMENT CONTROL COMMITTEE A** held in the King Edmund Chamber - Endeavour House, 8 Russell Road, Ipswich on Wednesday, 21 November 2018 – 09:30

### **PRESENT:**

Councillor:

Lesley Mayes (Vice-Chair)

Councillors:

Roy Barker

David Burn

Lavinia Hadingham

Sarah Mansel

David Whybrow

Gerard Brewster

John Field

Diana Kearsley

John Matthissen

### **In attendance:**

Officers:

Acting Chief Planning Officer (PI)

Principal Planning Officer (VP)

Planning Lawyer (IDP)

Senior Development Management Engineer, Suffolk County Council

Highways Department (SH)

Governance Support Officer (RC)

### **49 APOLOGIES FOR ABSENCE/SUBSTITUTIONS**

Apologies of absence were received from Councillors Matthew Hicks and Anne Killett.

Councillor Roy Barker substituted for Councillor Matthew Hicks.

Councillor John Matthissen substituted for Councillor Anne Killett.

### **50 TO RECEIVE ANY DECLARATIONS OF PECUNIARY OR NON-PECUNIARY INTEREST BY MEMBERS**

Councillor John Matthissen declared a non-pecuniary interest for application 1449/17 as he knew the architect.

### **51 DECLARATIONS OF LOBBYING**

Councillors Mayes, Brewster, Burn, Hadingham, Kearsley, Whybrow, Mansel and Field declared that they had been lobbied on all the applications.

**52 DECLARATIONS OF PERSONAL SITE VISITS**

Councillor Sarah Mansel declared a personal site visit to application 1449/17, 1432/17 ,and 1648/17.

**53 NA/18/11 CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON 26 SEPTEMBER 2018**

It was resolved that the Minutes of the meeting from 26 September 2018 were confirmed and signed as a true record.

**54 NA/18/13 CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON 24 OCTOBER 2018**

It was resolved that the Minutes of the meeting from 24 October 2018 were confirmed and signed as a true record subject to the amendments below:

- That in Minute N.o 47.7 the word “Post” be corrected to “Permitted”.
- That in Minute N.o 47.36 the statement as follows is inserted at the end of the Minute: “Councillor Roy Barker Seconded the Motion.”

**55 TO RECEIVE NOTIFICATION OF PETITIONS IN ACCORDANCE WITH THE COUNCIL'S PETITION SCHEME**

The Governance Support Officer reported that one petition had been received which was linked to the applications before Members. The petition was validated with 450 valid signatures who supported the following statement:

“Reject the planning applications for John Shepherd Road (1432/17), Post Mill Lane (1648/17) and Stradbroke Road (which was later affixed the reference of 1449/17)”

**56 NA/18/14 SCHEDULE OF PLANNING APPLICATIONS**

In accordance with the Council’s procedure for public speaking on planning applications a representation was made as detailed below:

**Schedule of Applications**

<b>Application Number</b>	<b>Representations From</b>
1449/17	Andrew Vessey (Fressingfield Parish Council) John Kelsall (Objector) Neil Ward (Agent)
1432/17	Rachael Troughton (Fressingfield Parish Council) John Castro (Objector) Neil Ward (Agent)

1648/17	Garry Deeks (Fressingfield Parish Council) Elizabeth Manero (Objector) Fergus Bootman (Agent)
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In the absence of the Chair (Councillor Matthew Hicks) Councillor Lesley Mayes Chaired the meeting.

**57 1449/17 LAND OFF STRADBROKE ROAD, STEER FARM, FRESSINGFIELD**

57.1 Item 1

Application Proposal	1449/17 Outline Application- Residential development (up to 85 dwellings including affordable housing) together with the construction of estate roads and footpaths, drainage, landscaping and the provision of public open space, including children's play space.
Site Location	<b>FRESSINGFIELD-</b> Land Off Stradbroke Road, Steer Farm, Fressingfield
Applicant	Mr Brown

57.2 Before the presentation to Members a question was raised regarding an email that had been sent by the Agent to Members on 20/11/2018 regarding applications 1449/17 and 1432/17.

The email proposed revisions to application 1449/17 including:

- A reduction in the number of dwellings from 85 to 10.

The email proposed revisions to application 1432/17 including:

- A reduction in the number of dwellings from 99 to 27.

57.3 The Acting Chief Planning Officer advised Members that the proposals contained within the email had not been submitted as formal amendments to the proposals and that statutory consultees had not been consulted on this. He advised Members to decide upon the application that was before them.

57.4 The Case Officer presented the application to the Committee outlining the proposal, the layout, and Officer recommendation. The Case Officer provided an overview of the cumulative impact on applications 1449/17, 1432/17 and 1648/17 on issues including: the pedestrian and road safety concerns which had been raised by Suffolk County Council's Highways Department, the impact that further development would cause flooding in the village from the foul water drainage system, and the impact on the Listed Heritage Assets in the area.

- 57.5 The Case Officer Suffolk County Council Highways Officer responded to Members' questions on issues including: The Agricultural land classification, the number of traffic accidents that had taken place in the past 5 years, that there were no proposed parking restrictions on Stradbroke Road, and other sites that had been approved in the area.
- 57.6 Members considered the representation from Andrew Vessey, representing Fressingfield Parish Council.
- 57.7 Members considered the representation from the Objector, John Kelsall.
- 57.8 Members considered the representation from the Agent, Neil Ward.
- 57.9 The Agent responded to Members' questions on issues including: the email that had been sent to the Committee which included some proposed revisions, the density of the site, and the cumulative impact of the developments.
- 57.10 The Acting Chief Planning Officer advised Members that they could choose to defer the application if they were minded to and that the relationship between the applications and the revised National Planning Policy Framework Highway Safety had become a more significant consideration.
- 57.11 Members considered the representation from the Ward Member, Councillor Lavinia Hadingham.
- 57.12 Before the beginning of the debate the Case Officer responded to a question from Members regarding the two other application sites in Fressingfield that had already received approval.
- 57.13 Members debated the application on issues including: where an access on the site could be positioned, and the lack of public transport to, from and passing through Fressingfield.
- 57.14 The Case Officer responded to further questions from Members' regarding Anglian waters response which raised no objection and elaborated that drainage was considered that the drainage reason in the recommendation was considered reasonable in the context of Anglian Waters comments.
- 57.15 Councillor Sarah Mansel Proposed that the application be refused as detailed in the Officer Recommendation.
- 57.16 Members continued to debate the application on issues including: the 5 Year Housing Land Supply and the sustainability of the Foul Water Sewerage network.
- 57.17 Councillor David Whybrow seconded the motion for refusal as detailed in the Officer Recommendation.
- 57.18 Members continued to debate the application on issues including: concerns over highway safety as detailed in the response from Suffolk County Council.

57.19 The Acting Chief Planning Officer advised Members that there was a small correction within the Officer Recommendation to amend in reason 1 :“Local Plan” to “Core Strategy” to which the proposer and Seconder agreed to.

57.20 By a unanimous vote

57.21 **RESOLVED**

**That outline planning permission be refused for the following reasons:**

- 1. The proposed development lies outside of the settlement boundary for Fressingfield which is defined in the Council’s Core Strategy as being a ‘Primary Village’ within the Settlement Hierarchy. Primary Villages sit below Towns and Service Centres in that hierarchy and are expected to accommodate ‘small-scale’ development to meet local needs. The construction of up to 85 dwellings is considered by the Council to be a significant and inappropriate level of development that in any event falls outside of the settlement boundary of the village, contrary to Core Strategy Policy CS2. This level of growth is considered unacceptable and inappropriate for the reasons demonstrated and on that basis considerable weight is afforded the conflict posed with the development plan where the benefits posed would not significantly and demonstrably outweigh the harm and conflict identified.**
- 2. There are currently hazards within Fressingfield to non-motorised users travelling on New Street or through Jubilee Corner. The layout of the village means that this is the desirable route to reach many services. The proposed development will result in increased vehicle and pedestrian movements through this core area, thus increasing the collective risk to safety that would be posed.**

**The nature of the existing highway network severely restricts practical opportunities for acceptable mitigation. The measures that have been proposed are the best solution available within existing constraints and fall short of making the highway safe for pedestrians and would increase the likelihood of conflicts between them and vehicular traffic.**

**An approval of the development would increase pedestrian and/or vehicular movement through the core of the village without the provision of safe, practical alternatives.**

**Further traffic passing along New Street and/or through Jubilee Corner will result in an unacceptable impact on highway safety, particularly for vulnerable pedestrians. This risk is considered to be unacceptable and in its own right would significantly and demonstrably outweigh any benefits that would arise from the proposed development. The harm to pedestrian safety identified is contrary to Local Plan Policy T10 and contrary to Paragraph 109 of the NPPF.**

3. Whilst the relevant drainage authorities have raised no objection to the proposed development it is acknowledged by them that Fressingfield experiences localised flooding problems in the vicinity of Low Road [the low point in the drainage system]. This flooding takes the form of overspill from the foul water system via 'manhole' inspection covers during periods of high rainfall. This flooding results in raw sewage and storm water standing in the road and on the verges. The adjacent Beck is also known to overtop. It is acknowledged by Anglian Water that whilst the foul water system in Fressingfield is defined as 'closed' [foul water only] it does in fact contain an unknown number of surface water connections. The system when operating in effect as a 'partially combined' system [foul and surface water] cannot cope during periods of high rainfall and the pressure build-up in that system causes manhole covers to 'pop' [lift-up] thereby permitting raw sewage to escape into the street. The proposed development will exacerbate the known flooding and pollution problem in the Low Road area of the village not as a result of adding surface water to the foul water system [provided surface water is not connected to the foul system] but as a result of the fact that the foul system will contain more foul water from the significant new development when it floods during periods of heavy rainfall. Raw sewage can and does also enter the Beck. The resultant pollution is an unacceptable environmental and public health risk that appears unable to be reasonably mitigated by the drainage authority. It is not possible to seal the manholes in question because to do so would potentially cause a pressure build-up that would result in sewage backing-up in the system to a point where it might escape into homes via residents' toilet bowls. The proposed development is therefore unlikely to be adequately serviced and would overburden existing infrastructure. The proposed development is also contrary to Paragraph 163 of the NPPF in that the proposed development will increase flood risk elsewhere [namely the Low Road area]. In addition it is also contrary to Paragraph 180 of the NPPF in that it will not ensure the new development is appropriate for its location as it does not take into account the likely effects, including cumulative effects, of pollution upon health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. This risk is considered in its own right to significantly and demonstrably outweigh the benefits that might arise from the proposed development.

The harm to significance that has been identified is 'less than substantial' within the meaning provided by the NPPF but is nevertheless of notable importance and it is not considered that the development would deliver any public benefits, individually or collectively, that would outweigh the harm that has been identified, nor is any such harm necessary in supporting such benefits. The proposed development is contrary to the aforementioned policies and should be refused for this reason alone, noting the importance attached to the harm that has been identified.

**58 1432/17 LAND WEST OF JOHN SHEPHERD ROAD, FRESSINGFIELD**

58.1 A short comfort break was taken between 11:09-11:15.

58.2 Item 2

Application Proposal	1432/17 Outline application- Residential development (up to 99 dwellings including affordable housing) together with the construction of estate roads and footpaths, drainage, landscaping and the provision of public open space, including children's play space.
Site Location	<b>FRESSINGFIELD-</b> Land West of John Shepherd Road, Fressingfield
Applicant	Mr Brown

58.3 The Case Officer gave a new presentation of the application to Members outlining the proposal, the layout of the site and relevant issues (including heritage), and referenced the previous presentation for application 1449/16 regarding the cumulative issues, and concluded with the Officer Recommendation of Refusal.

58.4 The Case Officer responded to Members' questions on issues including: public rights of way.

58.5 Members considered the representation from the Parish Council Representative, Rachel Troughton.

58.6 The Case Officer responded to a question from Members' regarding the road network capacity of traffic that could be accommodated on John Shepherd Road.

58.7 Members considered the representation from the Objector, John Castro.

58.8 Members considered the representation from the Agent, Neil Ward who outlined that the proposal could be amended from 99 dwellings to 27 dwellings as detailed in the email which had been circulated to Members.

58.9 Members considered the representation from the Ward Member, Councillor Lavinia Hadingham.

58.10 The Acting Chief Planning Officer advised Members that Officers would be unable to provide advice on the lesser number of dwellings and that this would require a technical re-consultation.

58.11 Members debated the application on the issues including: the proposal that had been outlined by the Agent for the lower number of dwellings and the Officer advice regarding re-consultation.

58.12 Councillor Roy Barker Proposed that the Application be Refused as detailed in the Officer Recommendation.

58.13 Councillor Sarah Mansel Seconded the Motion.

58.14 The Acting Chief Planning Officer advised Members that there was a small correction within the Officer Recommendation to amend reason 1 : “Local Plan” to “Core Strategy” to which the proposer and Secunder agreed to.

58.15 By a unanimous vote.

58.16 **RESOLVED**

**That outline planning permission be refused for the following reasons:**

- 1. The proposed development lies outside of the settlement boundary for Fressingfield which is defined in the Council’s Core Strategy as being a ‘Primary Village’ within the Settlement Hierarchy. Primary Villages sit below Towns and Service Centres in that hierarchy and are expected to accommodate ‘small-scale’ development to meet local needs. The construction of up to 85 dwellings is considered by the Council to be a significant and inappropriate level of development that in any event falls outside of the settlement boundary of the village, contrary to Core Strategy Policy CS2. This level of growth is considered unacceptable and inappropriate for the reasons demonstrated and on that basis considerable weight is afforded the conflict posed with the development plan where the benefits posed would not significantly and demonstrably outweigh the harm and conflict identified.**
- 2. There are currently hazards within Fressingfield to non-motorised users travelling on New Street or through Jubilee Corner. The layout of the village means that this is the desirable route to reach many services. The proposed development will result in increased vehicle and pedestrian movements through this core area, thus increasing the collective risk to safety that would be posed.**

**The nature of the existing highway network severely restricts practical opportunities for acceptable mitigation. The measures that have been proposed are the best solution available within existing constraints and fall short of making the highway safe for pedestrians and would increase the likelihood of conflicts between them and vehicular traffic.**

**An approval of the development would increase pedestrian and/or vehicular movement through the core of the village without the provision of safe, practical alternatives.**

**Further traffic passing along New Street and/or through Jubilee Corner will result in an unacceptable impact on highway safety, particularly for vulnerable pedestrians. This risk is considered to be unacceptable and in its own right would significantly and demonstrably outweigh any benefits that**

would arise from the proposed development. The harm to pedestrian safety identified is contrary to Local Plan Policy T10 and contrary to Paragraph 109 of the NPPF.

3. Whilst the relevant drainage authorities have raised no objection to the proposed development it is acknowledged by them that Fressingfield experiences localised flooding problems in the vicinity of Low Road [the low point in the drainage system]. This flooding takes the form of overspill from the foul water system via 'manhole' inspection covers during periods of high rainfall. This flooding results in raw sewage and storm water standing in the road and on the verges. The adjacent Beck is also known to overtop. It is acknowledged by Anglian Water that whilst the foul water system in Fressingfield is defined as 'closed' [foul water only] it does in fact contain an unknown number of surface water connections. The system when operating in effect as a 'partially combined' system [foul and surface water] cannot cope during periods of high rainfall and the pressure build-up in that system causes manhole covers to 'pop' [lift-up] thereby permitting raw sewage to escape into the street. The proposed development will exacerbate the known flooding and pollution problem in the Low Road area of the village not as a result of adding surface water to the foul water system [provided surface water is not connected to the foul system] but as a result of the fact that the foul system will contain more foul water from the significant new development when it floods during periods of heavy rainfall. Raw sewage can and does also enter the Beck. The resultant pollution is an unacceptable environmental and public health risk that appears unable to be reasonably mitigated by the drainage authority. It is not possible to seal the manholes in question because to do so would potentially cause a pressure build-up that would result in sewage backing-up in the system to a point where it might escape into homes via residents' toilet bowls. The proposed development is therefore unlikely to be adequately serviced and would overburden existing infrastructure. The proposed development is also contrary to Paragraph 163 of the NPPF in that the proposed development will increase flood risk elsewhere [namely the Low Road area]. In addition it is also contrary to Paragraph 180 of the NPPF in that it will not ensure the new development is appropriate for its location as it does not take into account the likely effects, including cumulative effects, of pollution upon health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. This risk is considered in its own right to significantly and demonstrably outweigh the benefits that might arise from the proposed development.

The harm to significance that has been identified is 'less than substantial' within the meaning provided by the NPPF but is nevertheless of notable importance and it is not considered that the development would deliver any public benefits, individually or collectively, that would outweigh the harm that has been identified, nor is any such harm necessary in supporting such benefits. The proposed development is contrary to the aforementioned policies and should be refused for this reason alone, noting the importance attached to the harm that has been identified.

4. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the statutory duty of a decision-taker, where proposed development would affect a listed building or its setting and requires that they: “shall have special regard to the desirability of preserving [a] building or its setting or any features of special architectural or historic interest which it possesses”.

The ‘special regard’ duty of the Act has been tested in the courts on numerous occasions and has been confirmed to require that considerable importance and weight should be afforded by a decision taker to the desirability of preserving a listed building along with its setting i.e. having special regard to the desirability of keeping designated assets from harm. Furthermore, the identification of harm gives rise to a strong presumption against planning permission being granted.

The revised NPPF of 2018 builds upon and transposes the statutory duty and associated legal principles into national planning policy. Policies HB1 and HB8 of the development plan seek to secure the preservation and/or enhancement of the historic environment, including listed buildings and conservation areas. As applicable to this case, the NPPF goes on to require that (at Paragraph 196) where ‘less than substantial’ harm to significance is identified, this harm should be weighed against the public benefits of the proposal. The revised NPPF does, however, go beyond the statutory duty in encouraging decision takers to take account of the desirability of sustaining and enhancing the significance of heritage assets, and the desirability of new development making a positive contribution to local character and distinctiveness (at Paras. 192(a) and (c)). In addition, whereas the similar ‘special regard’ duty applicable to conservation areas is clear that only relates to land falling within that designation, the NPPF (at Paragraph 194) makes clear that: “any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification”; this would include development within the setting of a conservation area.

This application proposes the development of 99 new dwellings on open land immediately to the west of the Fressingfield Conservation Area, Grade II\* barn (listed as Barn approximately 50 metres west south west of Church Farm Stable) and the Grade I listed Church Farm Stable. The proposed development to the west of Church Farm Stable and Barn would introduce modern housing beyond the established historic pattern of development, disturbing the rural character of the Conservation Area and separating the historic farmstead from the fields at this point. This would result in harm to the historic significance of the Conservation Area, Former Stables and Barn by diminishing the quality of their setting that contributes to their significance.

**59 1648/17 LAND AT POST MILL LANE, FRESSINGFIELD**

59.1 Item 3

Application Proposal	1648/17 Outline Application – Residential development (up to 24 dwellings including affordable housing at 35%), drainage, landscaping and the provision of open space)
Site Location Applicant	<b>FRESSINGFIELD-</b> Land at Post Mill Lane, Fressingfield Mr P. Davidson

59.2 The Case Officer gave a further new presentation of the application to the Committee outlining the layout of the proposal and referred to the cumulative impact of the site as referenced in the presentation for 1449/17 and relevant new planning issues. The Case Officer outlined the late papers that were before Members and the Officer Recommendation for Refusal.

59.3 The Case Officer responded to Members' questions on issues including: the contamination of the land; as it was previously used as a builders yard, the proximity and setting of the listed building, and the public footpaths in the area.

59.4 Members considered the representation from the Parish Council representative Garry Deeks.

59.5 Members considered the representation from the Objector, Elizabeth Manero.

59.6 The Objector responded to Members' questions on issues including: the current sewage and flooding problems within the village.

59.7 Members considered the representation from the Agent, Fergus Bootman.

59.8 The Agent responded to Members' questions on issues including: the current use of the land and how it had lapsed into agricultural use, and that the site was always considered as a second Phase of development on the site.

59.9 Members considered the representation from the Ward Member, Councillor Lavinia Hadingham.

59.10 Members debated the application on issues including: the identified issue regarding sewage.

59.11 Councillor John Matthissen Proposed that the application be Refused as detailed in the Officer Recommendation.

59.12 Councillor Diana Kearsley Seconded the Motion.

59.13 The Acting Chief Planning Officer advised Members that there was a small correction within the Officer Recommendation to amend in reason 1 : "Local

Plan” to “Core Strategy” and that references to “85 dwellings” be corrected to “24 dwellings”. The Proposer and seconder agreed to this amendment.

59.14 Members continued to debate the application on issues including: that this proposal was for a second phase of development along Post Mill Lane, and that other sites within Fressingfield had yet to be developed.

59.15 By a unanimous vote

59.16 **RESOLVED**

**That outline planning permission be refused for the following reasons:**

**1. The proposed development lies outside of the settlement boundary for Fressingfield which is defined in the Council’s Core Strategy as being a ‘Primary Village’ within the Settlement Hierarchy. Primary Villages sit below Towns and Service Centres in that hierarchy and are expected to accommodate ‘small-scale’ development to meet local needs. The construction of up to 24 dwellings is considered by the Council to be a significant and inappropriate level of development that in any event falls outside of the settlement boundary of the village, contrary to Core Strategy Policy CS2. This level of growth is considered unacceptable and inappropriate for the reasons demonstrated and on that basis considerable weight is afforded the conflict posed with the development plan where the benefits posed would not significantly and demonstrably outweigh the harm and conflict identified.**

**2. There are currently hazards within Fressingfield to non-motorised users travelling on New Street or through Jubilee Corner. The layout of the village means that this is the desirable route to reach many services. The proposed development will result in increased vehicle and pedestrian movements through this core area, thus increasing the collective risk to safety that would be posed.**

**The nature of the existing highway network severely restricts practical opportunities for acceptable mitigation. The measures that have been proposed are the best solution available within existing constraints and fall short of making the highway safe for pedestrians and would increase the likelihood of conflicts between them and vehicular traffic.**

**An approval of the development would increase pedestrian and/or vehicular movement through the core of the village without the provision of safe, practical alternatives.**

**Further traffic passing along New Street and/or through Jubilee Corner will result in an unacceptable impact on highway safety, particularly for vulnerable pedestrians. This risk is considered to be unacceptable and in its own right would significantly and demonstrably outweigh any benefits that would arise from the proposed development. The harm to pedestrian safety identified is contrary to Local Plan Policy T10 and contrary to Paragraph 109 of the NPPF.**

3. Whilst the relevant drainage authorities have raised no objection to the proposed development it is acknowledged by them that Fressingfield experiences localised flooding problems in the vicinity of Low Road [the low point in the drainage system]. This flooding takes the form of overspill from the foul water system via 'manhole' inspection covers during periods of high rainfall. This flooding results in raw sewage and storm water standing in the road and on the verges. The adjacent Beck is also known to overtop. It is acknowledged by Anglian Water that whilst the foul water system in Fressingfield is defined as 'closed' [foul water only] it does in fact contain an unknown number of surface water connections. The system when operating in effect as a 'partially combined' system [foul and surface water] cannot cope during periods of high rainfall and the pressure build-up in that system causes manhole covers to 'pop' [lift-up] thereby permitting raw sewage to escape into the street. The proposed development will exacerbate the known flooding and pollution problem in the Low Road area of the village not as a result of adding surface water to the foul water system [provided surface water is not connected to the foul system] but as a result of the fact that the foul system will contain more foul water from the significant new development when it floods during periods of heavy rainfall. Raw sewage can and does also enter the Beck. The resultant pollution is an unacceptable environmental and public health risk that appears unable to be reasonably mitigated by the drainage authority. It is not possible to seal the manholes in question because to do so would potentially cause a pressure build-up that would result in sewage backing-up in the system to a point where it might escape into homes via residents' toilet bowls. The proposed development is therefore unlikely to be adequately serviced and would overburden existing infrastructure. The proposed development is also contrary to Paragraph 163 of the NPPF in that the proposed development will increase flood risk elsewhere [namely the Low Road area]. In addition it is also contrary to Paragraph 180 of the NPPF in that it will not ensure the new development is appropriate for its location as it does not take into account the likely effects, including cumulative effects, of pollution upon health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. This risk is considered in its own right to significantly and demonstrably outweigh the benefits that might arise from the proposed development.

4. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the statutory duty of a decision-taker, where proposed development would affect a listed building or its setting and requires that they: "shall have special regard to the desirability of preserving [a] building or its setting or any features of special architectural or historic interest which it possesses".

The 'special regard' duty of the Act has been tested in the courts on numerous occasions and has been confirmed to require that considerable importance and weight should be afforded by a decision taker to the desirability of preserving a listed building along with its setting i.e. having special regard to the desirability of keeping designated assets from harm. Furthermore, the

identification of harm gives rise to a strong presumption against planning permission being granted.

The revised NPPF of 2018 builds upon and transposes the statutory duty and associated legal principles into national planning policy. Policies HB1 and HB8 of the development plan seek to secure the preservation and/or enhancement of the historic environment, including listed buildings and conservation areas. As applicable to this case, the NPPF goes on to require that (at Paragraph 196) where 'less than substantial' harm to significance is identified, this harm should be weighed against the public benefits of the proposal. The revised NPPF does, however, go beyond the statutory duty in encouraging decision takers to take account of the desirability of sustaining and enhancing the significance of heritage assets, and the desirability of new development making a positive contribution to local character and distinctiveness (at Paras. 192(a) and (c)). In addition, whereas the similar 'special regard' duty applicable to conservation areas is clear that only relates to land falling within that designation, the NPPF (at Paragraph 194) makes clear that: "any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification"; this would include development within the setting of a conservation area.

This application proposes the development of 5 new dwellings [within an up to 24 unit proposal] on open land immediately to the rear of Ladymeade a Grade II listed building. This would result in harm to the setting of this historic building as a result of introducing intimate [proximity] unsympathetic modern built form into the vestigial area of open land behind the cottage which once provided it with a much wider backdrop and rural context.

The harm to significance that has been identified is 'less than substantial' within the meaning provided by the NPPF but is nevertheless of notable importance and it is not considered that the development would deliver any public benefits, individually or collectively, that would outweigh the harm that has been identified, nor is any such harm necessary in supporting such benefits. The proposed development is contrary to the aforementioned policies and should be refused for this reason alone, noting the importance attached to the harm that has been identified.

## **60 SITE INSPECTION**

60.1 It was noted that Councillor Sarah Mansel left the meeting at 12:41 after the completion of NA/18/14 and before the presentations on site inspections began.

60.2 Councillor Lavinia Hadingham re-joined the Committee after the completion of NA/18/14

60.3 The Acting Chief Planning Officer and the Principal Planning Officer presented 3 applications to the Committee requesting to undertake site visits. The applications were as follows:

1. DC/18/04059 – Cyder House, Aspall Green, Aspall, Stowmarket, Suffolk, IP14 6PD
2. DC/17/06293 – Land North of Gracechurch Street, Debenham
3. DC/18/01777 – Land Adj Tuffs Road and Maple Way, Eye.

60.4 Members discussed the benefits of going on a site visit and the possible dates for a site visit.

60.5 Councillor Gerard Brewster Proposed that Members undertake a site visit and was seconded by Councillor Lesley Mayes.

60.6 By a unanimous vote.

60.7 **RESOLVED**

**That Members of the Development Control A Committee undertake a site visit of Applications:**

**DC/18/04059**  
**DC/17/06293**  
**DC/18/01777**

The business of the meeting was concluded at 12.47 pm.

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Chair