

Statement of Case

Mid Suffolk District Council

Appeal reference: APP/W3520/W/19/3227159

Mid Suffolk District Council reference: 1648/17

Appeal under Section 78 of the Town and Country Planning Act 1990 in respect of:

‘Outline planning permission with all matters reserved for up to 24 dwellings and associated roads, infrastructure and open space’

Site address: Land at Post Mill Lane, Fressingfield, IP21 5BL

Appeal by: Fergus Bootman of La Ronde Wright Ltd.

on behalf of: Peter Davidson [C.E.D. Farms Ltd.]

June 2019

V3

TOWN and COUNTRY PLANNING ACT 1990

THE TOWN AND COUNTRY PLANNING (APPEALS) (WRITTEN REPRESENTATIONS PROCEDURE)
(ENGLAND) REGULATIONS 2009

PROCEDURAL GUIDE - PLANNING APPEALS - ENGLAND 19 MARCH 2019

STATEMENT OF CASE OF MID SUFFOLK DISTRICT COUNCIL

1.0 Background

- 1.1 This Statement of Case has been prepared by Vincent Pearce, BA[Hons] MRTPI, Principal Planning Officer for Mid Suffolk District Council in respect of the Council's decision to refuse the planning application the subject of this appeal.
- 1.2 This Statement of Case should also be read in conjunction with the relevant officer's report¹ and presentation² that were considered by the Planning Committee at its meeting of 21st November 2018.
- 1.3 This Statement has been prepared under, and in accordance with, the Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009.

2.0 The Decision

- 2.1 The decision that is the subject of this appeal is that dated 22 November 2018, under Council reference: 1648/17.
- 2.2 Whilst a copy of the decision notice has already been sent to the Planning Inspectorate with the Council's questionnaire, for the purposes of reference in this Statement, the reasons for refusal (RfR) are quoted directly below:

continued..... *[reasons for refusal follow]*

¹ Refer to Appendix 1 'Planning Committee Report' [21 November 2018]

² Refer to Appendix 2 'PowerPoint Presentation to Committee [21 November 2019]

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.

- 2.3 Any further reference to RfR within this Statement should be taken as reference to the above, unless otherwise stated.
- 2.4 The Inspector's attention is also drawn to the presence of two other significant major applications for residential development³ in Fressingfield that were also considered by the Council's Planning Committee at the same meeting as the application now at appeal. They too were refused⁴.

³ Reference **1449/17**, Land Off Stradbroke Road, Steer Farm, Fressingfield: Outline Planning Application for up to **85 dwellings** with ALL matters reserved. Refused 22 November 2018.

Reference **1432/17**, Land West of John Shepherd Road, Fressingfield: 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. Refused 22 November 2018.

⁴ refer to Appendix 3 for the decision notices in respect of the applications above

- 2.5 The individual merits of the proposal now at appeal were fully considered and the application was considered unacceptable in its own right for the four reasons cited in the decision notice.
- 2.6 Consideration by the Development Control Committee of the individual merits of the three Fressingfield applications included a review of the likely cumulative impact of all of them. Whilst it was considered likely that the cumulative impact would magnify the likely harmful impacts identified in each case the cumulative impact [of the three developments] was not a matter included in the reasons for refusal.
- 2.7 The Inspector is advised that neither of the refusals in respect of 1449/17 and 1432/17 were the subject of a subsequent appeal.
- 2.8 The period within which applications 1449/17 and 1432/17 can be appealed have now expired. The Council therefore suggests that the cumulative impact of these proposals need not be considered by the Inspector.
- 2.9 In terms of the decision notice issued in respect of the appeal proposal the NPPF to which the RfR refer is the NPPF [2018]. This Statement of Case, will where appropriate, draw attention to changes in wording or relevant content included in the NPPF [2019].

3.0 Areas of Agreement

- 3.1 Description of the site.
- 3.2 The status of policies drawn upon when considering the application now at appeal are considered in detail within this Statement. The Council asserts that the Adopted Local Plan 1998, the Adopted Core Strategy 2008 and Focused Review Core Strategy 2012 continue to comprise the Council's Adopted Development Plan for the purposes of NPPF paragraph 2. It is however conceded that certain policies have been held to be 'out-of-date'. These are considered in Tables 1 and 2 within section 6 of this Statement.

- 3.3 The question therefore is how much weight can the out-of-date policies be afforded as the Council's current policy position. The Council contends that they continue to be a material planning consideration. The Council will however refer to relevant sections of the NPPF [2019] where appropriate to support its case.
- 3.4 It ought to be possible to agree that Fressingfield does have a Draft Consultation Neighbourhood Plan and that a plan such an early stage of preparation has minimal weight as a material planning consideration
- 3.5 It ought to be possible to agree that the Council's Emerging Local Plan : The Joint Local Plan [JLP] 2019 [Babergh & Mid Suffolk District Councils] has not reached a sufficiently advanced stage to attract any weight as a material consideration. It is however an expression of direction of travel in terms of spatial strategy.
- 3.6 The appeal site is not allocated for development in the latest Consultation Draft JLP.
- 3.7 The Council accepts the contentions put forward in paragraphs 3.5, 3.6, 3.7 and 3.8 of the Appellants Statement of Case.
- 3.8 Site history.

4.0 The Main Issues

- 4.1 The Council believes the main issues raised by this case are:
- i. Whether the Council can demonstrate a five-year supply of deliverable housing sites (*Housing Land Supply*) [the appeal site not being allocated for development] and whether additional development should be allowed outside of the Settlement boundary within the countryside; and,

- ii. The 'weight' that can be attached to relevant Local Plan Policies in view of its age [1998] and the extent to which relevant paragraphs of the NPPF [2019] now may be said to take precedence; and,
- iii. The impact of the development upon Ladymeade, a designated heritage asset [Grade II Listed Building]; and,
- iv. The extent to which the development will result in an unacceptable impact on highway safety, particularly for vulnerable pedestrians; and,
- v. The extent to which the proposed development will exacerbate acknowledged flooding problems elsewhere in the village with particular concern around raw sewage spilling out onto roads during periods of high concentrated rainfall; and,
- vi. The extent to which cumulative impact is a relevant material consideration; and,
- vii. In light of i. through v. above, whether the proposal would amount to 'sustainable development' having regard for the development plan and the National Planning Policy Framework (*Planning Balance and Conclusion*).

5.0 Planning Policy Framework

5.1 The policy context is explored in detail in section 6, Tables 1 and 2 of this Statement

5.2 The Council is of the opinion that the following sections and paragraphs of the NPPF [2019] are particularly relevant to this appeal:

- Paragraph 2: Determination in accordance with the Development Plan
- Section 2: Delivering sustainable development: particularly

- Paragraph 8: Sustainability objectives
- Paragraph 11: the Tilted Balance
- Paragraph 12: The Statutory starting point for decision making [the Development Plan]
- Paragraph 67: Understanding housing land availability
- Paragraphs 73,74 & 75: Maintaining supply and delivery
- Paragraph 91: Safe places
- Paragraph 109: preventing development on highway grounds
- Paragraph 110: design priorities accessibility
- Paragraph 163: flood risk elsewhere
- Paragraph 180: development appropriate to location and health
- Paragraphs 192, 193, 194 and 196: preserving heritage assets

5.3 Fressingfield has an Emerging Draft Neighbourhood Plan that is currently at Reg 14 Stage. This means that although good progress is being made the draft document currently carries little to no weight as a material planning consideration.

5.4 Whilst the emerging neighbourhood plan identifies sites for residential development [reflecting recent but currently unimplemented planning permissions] the appeal site is not allocated.

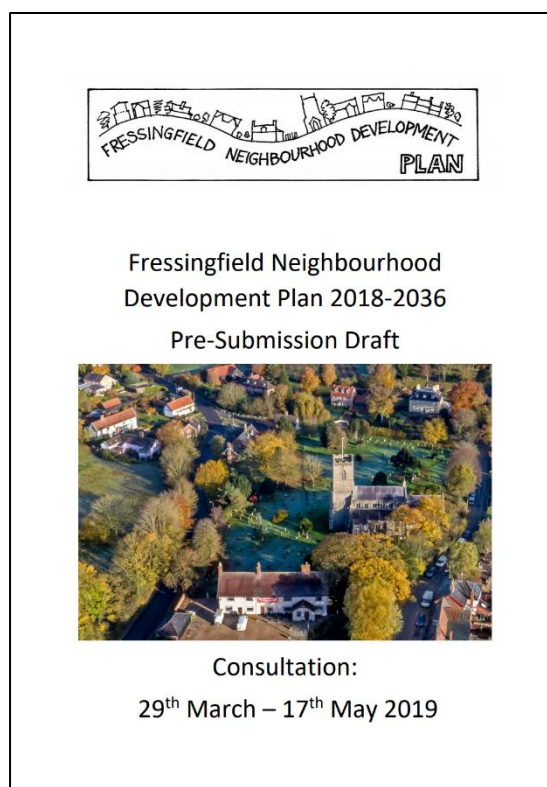


figure 1: **Reg 14 Draft Consultation Fressingfield Neighbourhood Plan.**

6.0 Planning Assessment: Main Issues

6.1 Within this section of the report the Council will be referring to the recent High Court Case - *Wavendon Properties v SSHCLG & Milton Keynes Council* [2019] EWHC 1524 (Admin⁵). The main issue in this case concerned the meaning of the phrase “the policies which are most important for determining the application are out-of-date” in paragraph 11(d) of the NPPF. This is a critical provision in the NPPF as it acts as a trigger for engaging the tilted balance. This provision differs from that in the former 2012 NPPF, which referred to the situation where “relevant policies are out-of-date”. The clarification provided by this judgement is considered highly relevant to this appeal for reasons that will be expanded.

i) **Housing Land Supply and development outside of settlement boundary**

6.2 The Council is able to demonstrate [March 2019]⁶ that it does have a 5 YHLS using the methodology required by the NPPF [2019].

6.3 The Council’s 5YHLS stood at 5.06 years in March 2019.

6.4 This figure has been accepted⁷ as an accurate minimum as recently as 11 June 2019 in respect of the following appeal APP/W3520/W/18/3209219.

Public Inquiry:

Land North of Church Road, Bacton, Suffolk [DC/17/05423]

Outline planning application (all matters reserved except access) for development of up to 81 dwellings.

6.5 The Council therefore rejects the Mr Bootman’s attempts to discredit the validity of the Council’s claim to a 5YHLS figure at paragraphs 8.3 – 8.6 of his Statement of Case [SoC]

⁵ Refer to appendix 4 for a copy of the High Court Decision

⁶ Housing Land Supply Position Statement 2018/2019 Mid Suffolk District Council March 2019. Refer to appendix 5

⁷ Statement of Common Ground: paragraph 6.9 page 12 - refer to appendix 6

- 6.6 Clearly establishing whether or not the Council can demonstrate that it has a 5YHLS is important in terms of whether or not the ‘tilted balance’ [para 11: NPPF 2019] is required to be brought into play where a 5YHLS cannot be demonstrated.
- 6.7 The Inspector’s attention is however drawn to paragraph 8.7 of Mr Bootman’s SoC when he states:
- “Given the modest nature of this scheme and having regard to the policy context as detailed above, this appeal **does not seek to challenge the assertion** *[the Council is able to demonstrate that it has a five year housing land supply]* in the informal document *[MSDC Housing Land Supply Position Statement 2018/2019]*.....”
- 6.8 The Council therefore respectfully suggests that the Inspector proceeds on the basis that the Council can and has, through its Housing Land Supply Position Statement Document and submitted Statement of Common Ground in respect of the recent Bacton appeal, demonstrated within the context of paragraph 67 (a) of the NPPF [2019] that it has a supply of specific, deliverable sites for years one to five of the plan period and that no evidence to the contrary has been submitted by the appellant.
- 6.9 On this basis the Council argues there is no overriding imperative to allow this appeal on the ground that the Council is required to bridge a deficit in its 5-Year Housing Land Supply. Consequently, such consideration is not felt to attract material weight for the reason described.
- 6.10 The site is demonstrably outside of the settlement boundary for Fressingfield as defined by inset 36 of the Proposals Map. That said the existing ‘noughties’ Post Mill Lane development also sits outside of the defined settlement boundary.

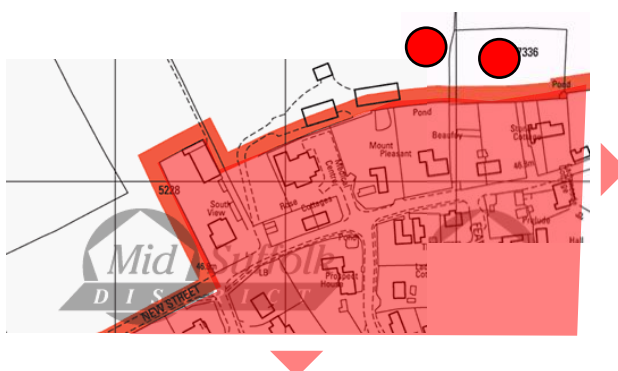


figure 2: **Settlement boundary in vicinity of appeal site**

6.11 The appeal site is therefore in what is defined in the Adopted Local Plan as countryside.

6.12 Policy CS2 *[out-of-date]* indicates that only development related to countryside uses should be allowed in the countryside [excludes speculative housing for people not involved in agriculture].

6.13 The Council accepts that the parcel of the appeal site that sits around the existing section of highway that is Post Mill Lane no longer reads as part of the countryside and looks for all intent and purpose as informal amenity space for residents in Post Mill Lane. [yellow shading on aerial image below]



figure 2: **Appeal site in respect of countryside characteristics**

6.14 The small field that is enclosed by trees and hedgerow to the rear of Ladymeade Cottage [area shaded red in aerial image above] is however in what remains countryside.

6.15 The introduction of built form within this area will harm the character of the countryside hereabouts – in particular it will harm the longstanding relationship between the listed Ladymeade Cottage and the landscape beyond.

6.16 Fressingfield is defined as a Primary Village within Policy CS1 *[out-of-date]*. This means that small scale housing growth to meet local needs, particularly affordable housing will be appropriate. In the absence of supporting information to the contrary the proposal at appeal appears not to be promoted on the basis of satisfying a specific identified local need.

6.17 Conclusion

6.18 In view of the fact that the Council can demonstrate that it has a 5-Year Housing Land Supply and as the proposal will cause a variety of harm [as will be explored in this statement] that cannot be outweighed by public benefits the Council is of the opinion that there is no overwhelming need to allow development in this location [which happens to be in this case adjacent to modern development outside of the settlement boundary in what is countryside.

ii) **Weight to be attached to various Local Plan policies**

6.19 The Council accepts that as the Adopted Local Plan dates back to 1998 there is an obvious question as to its continued relevance and validity. Whilst the Core Strategy 2008 was Reviewed in 2012 to better reflect the then new NPPF [2012] that too is now more than five years old.

6.20 The Council does however wishes to make it clear that age alone does not render its Adopted Local Plan 'out-of-date'.

6.21 It does however remain the Council's Adopted Development Plan and as such is a material planning consideration. The question for decision takers is therefore what weight can it be afforded? The answer will vary depending upon which policies are relied on and whether they remain conform to appropriate sections of the NPPF [2019].

6.22 The Council argues that a number of policies that sit at the heart of this appeal are in conformity with the NPPF 2019 and are therefore not 'out-of-date' in the

context of paragraph 11 of the NPPF [2019] and the application of the 'Tilted Balance' and are therefore capable of attracting significant weight.

6.23 Identified below are what the Council considers to be the relevant policies, the conformity with the NPPF [2019] and appropriate weight they can therefore be afforded. These do not necessarily accord with the appellants interpretation.

Table 1: Weight to be afforded to relevant Local Plan policies

LOCAL PLAN 1998 Policy Ref: Policy Ref:	NPPF compliant?	weight
SB3 Retaining visually important open spaces	N [precludes sustainable development in areas outside of those with a statutory designation where devt is not presumed to be acceptable]]	limited
GP1 Design & layout of development	Y	full
HB1 Protection of Historic buildings	Y	full
HB8 Safeguarding the Character of Conservation Areas	Y	full
HB14: Ensuring Archaeological Remains Are Not Destroyed	Y	full
H4: Proportion of Affordable Housing in New Housing Developments [35%]	Y	full
H7: Restricting Housing Development Unrelated to the Needs of the Countryside	N [precludes sustainable development]	limited
H13: Design and Layout of Housing Development	Y	full
H14: A Range of House Types to Meet Different Accommodation Needs	Y	full
H15: Development to Reflect Local Characteristics	Y	full
H16: Protecting Existing Residential Amenity	Y	full
H17: Keeping residential Development Away From Pollution	Y	full
CL11: Retaining High Quality Agricultural Land	N	full
T9: Parking Standards	Y	full
T10: Highway Considerations in Development	Y	full
T11: Facilities for Pedestrians and Cyclists	Y	full
T13: Bus Service	Y	full
RT4: Amenity Open Space and Play Areas within Residential Development	Y	full
SC1: Adequate Servicing of Infrastructure	Y	full

Table 2: Weight to be afforded to relevant Core Strategy/Review CS policies

CORE STRATEGY DEVELOPMENT PLAN DOCUMENT 2008 Policy Ref:	NPPF compliant?	weight
CS1: Settlement Hierarchy	N [precludes sustainable development in countryside and countryside villages]	limited
CS2: Development in the Countryside	N [precludes sustainable development in countryside and countryside villages]	Limited when applied to countryside locations such as the case at appeal
CS5: Mid Suffolk's Environment	N [requires higher standards than included in the NPPF]	limited
CS6: Services and Infrastructure	Y	full
CS7: Brownfield Target	Y	full
CS8: Provision and Distribution of Housing	N [precludes allocation or presumption in support of sustainable development in locations outside of the table]	Limited when applied to countryside locations such as the case at appeal
CORE STRATEGY FOCUSED REVIEW 2012 Policy Ref:	NPPF compliant?	weight
FC1: Presumption in Favour of Sustainable Development	Y	full
FC1.1 Mid Suffolk Approach to Delivering Sustainable Development	Y	full
FC2: Provision and Distribution of Housing	N	limited

iii) The impact of the development upon Ladymeade Cottage, a designated heritage asset. [Grade II listed building]

Policy FC 1

Presumption in favour of sustainable development

When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.

Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:

Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or

Specific policies in that Framework indicate that development should be restricted.

Policy FC 1.1

Mid Suffolk approach to delivering Sustainable Development

In line with policy FC 1, development proposals will be required to demonstrate the principles of sustainable development and will be assessed against the presumption in favour of sustainable development as interpreted and applied locally to the Mid Suffolk context through the policies and proposals of the Mid Suffolk new style Local Plan.

Proposals for development must conserve and enhance the local character of the different parts of the district. They should demonstrate how the proposal addresses the context and key issues of the district and contributes to meeting the objectives and the policies of the Mid Suffolk Core Strategy and other relevant documents.

The District Council encourages pre-application discussions and/or the use of development briefs and masterplans to address these matters prior to submitting planning applications and in relation to bringing forward proposed allocations. This approach is particularly relevant to the integration of the necessary physical, social and environmental infrastructure within development plans and proposals.

The Council will facilitate the delivery of integrated sustainable development through a variety of means, including the appropriate use of planning conditions and obligations, planning performance agreements, local and neighbourhood plans and orders, the introduction of CIL and supplementary planning documents.

6.24 Whilst the Council's Heritage Team is preparing a Statement of Case in respect of this aspect of the Council's refusal of planning permission this Statement will provide supplementary commentary.

6.25 Ladymeade Cottage is a grade II listed building described as:

"House, latterly 2 cottages. Late C16. Timber framed and plastered, the facade lined to imitate ashlar. Pantiled roof with glazed black tiles at the front. 2 storeys and attic. 2-cell form; there is evidence for a parlour cell, now lost. 2 windows, C18-C19 casements. C19 4-panel door (the upper panels glazed) within a mid C20 enclosed porch. Gable stack to left and a later external stack against the right gable. Exposed framing inside with several blocked original windows. Paired square-headed service doorways (one blocked). A stair at the service end is partly composed of solid triangular blocks. Intact roof structure with clasped purlins and cranked wind-bracing."

6.26 In assessing the likely impact of the proposal at appeal on the setting of this listed building the Heritage Team formally stated⁸:

"The proposal is for housing development to the north of New Street, in effect continuing the backland development at Post Mill Lane. At its eastern end the site overlaps the rear of Ladymeade Cottage, listed as Ladymeade. This building stands outside the main centre of Fressingfield, although as the Conservation Area appraisal notes the centre is not clearly defined as such, as is not included in the Conservation Area. At one time it was an isolate rural dwelling and is likely to have been a farmhouse, but by 1904 it had clearly been divided in two or three separate dwellings. Despite being attached to the village through the 1900s by the mainly linear spread of the village, it enjoys a spacious setting adjoining open farmland, although any direct relationship with the land is now rather distant.

The application is in outline form, which makes it difficult to understand the potential impact on nearby heritage assets. The following comments refer to the illustrative scheme submitted.

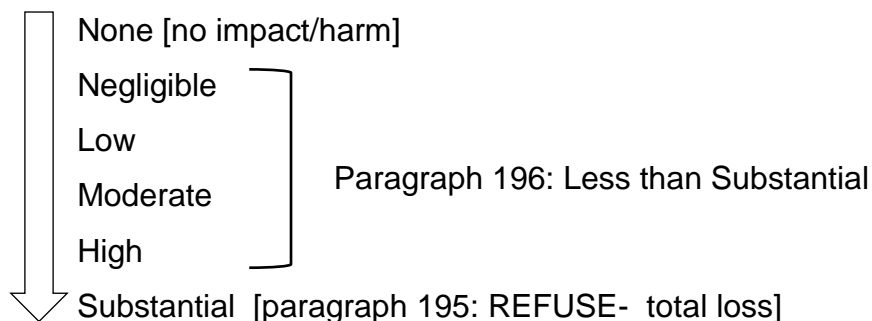
⁸ Formal consultation from Paul Harrison [Heritage & Design Officer BMSCD] response 30 May 2017

Although the contribution of the farmland to the setting of the listed building is modest, and the importance of setting to the building's overall heritage significance is also modest, the impact of substituting modern suburban housing for undeveloped farmland is considerable, particularly as it would sever the building's last physical connection with the rural surroundings, and the harm should be rated between low and medium.

It is noted that the scheme includes an area of public open space. We would recommend considering layouts which might avoid or reduce harm to the setting of the listed building by locating some or all of the open space to its rear.”

6.27 In rating the level of harm as they do it is clear that this qualifies as “Less Than Substantial” within the parameters set by paragraph 196 of the NPPF [2019]. In turn this means that the harm to the heritage asset should be weighed against the public benefits of the proposal.

6.28 In ascribing harm the Council’s Heritage Team use a sliding scale that seeks to qualify the degree of ‘less than substantial’ as an aid to planning officers attempting to apply the balance required by paragraph 196 of the NPPF [2019] [It is noted however that paragraph 196 itself makes no distinction within the classification of less than substantial harm]



6.29 Therefore in suggesting the impact/harm is low to moderate the Heritage Officer is indicating that it is not at the lower end of the spectrum of Less Than

Substantial Harm and therefore a higher level of public benefit is likely to be required before the harm to the asset can be said to have been outweighed.

6.30 It appears to the Council that this unacceptable harm is generated by the fact that the proposed development extends beyond the existing dead end to Post Mill Lane through an existing hedgerow into an area of open land to the rear of Ladymeade Cottage.

6.31 It is therefore proposed plots 5, 6, 7, 8, 9 and 10 that are considered by the Council to particularly encroach upon and destroy the traditional typical 'edge of village' setting of Ladymeade Cottage as shown below.



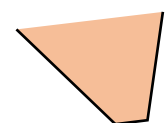
figure 3: **Unacceptable encroachment into and crowding of the setting of Ladymeade Cottage**



Ladymeade House
Grade II listed building
[part obscured by architect's drawing title label]



extent of unacceptable encroachment of new development into the setting of Ladymeade House



severed connection with rural landscape in the edge of village setting



figure 4: Unacceptable encroachment into and crowding of the setting of Ladymeade Cottage caused by proposed development now at appeal



figure 5: OS Map Six Inch England and Wales: surveyed 1947 published 1951. An open aspect and panorama to the north from Ladymeade Cottage. Infill and building of houses in Post Mill Lane have confined the open aspect to and setting of Ladymeade Cottage save for the site immediately to its north. [the appeal site]

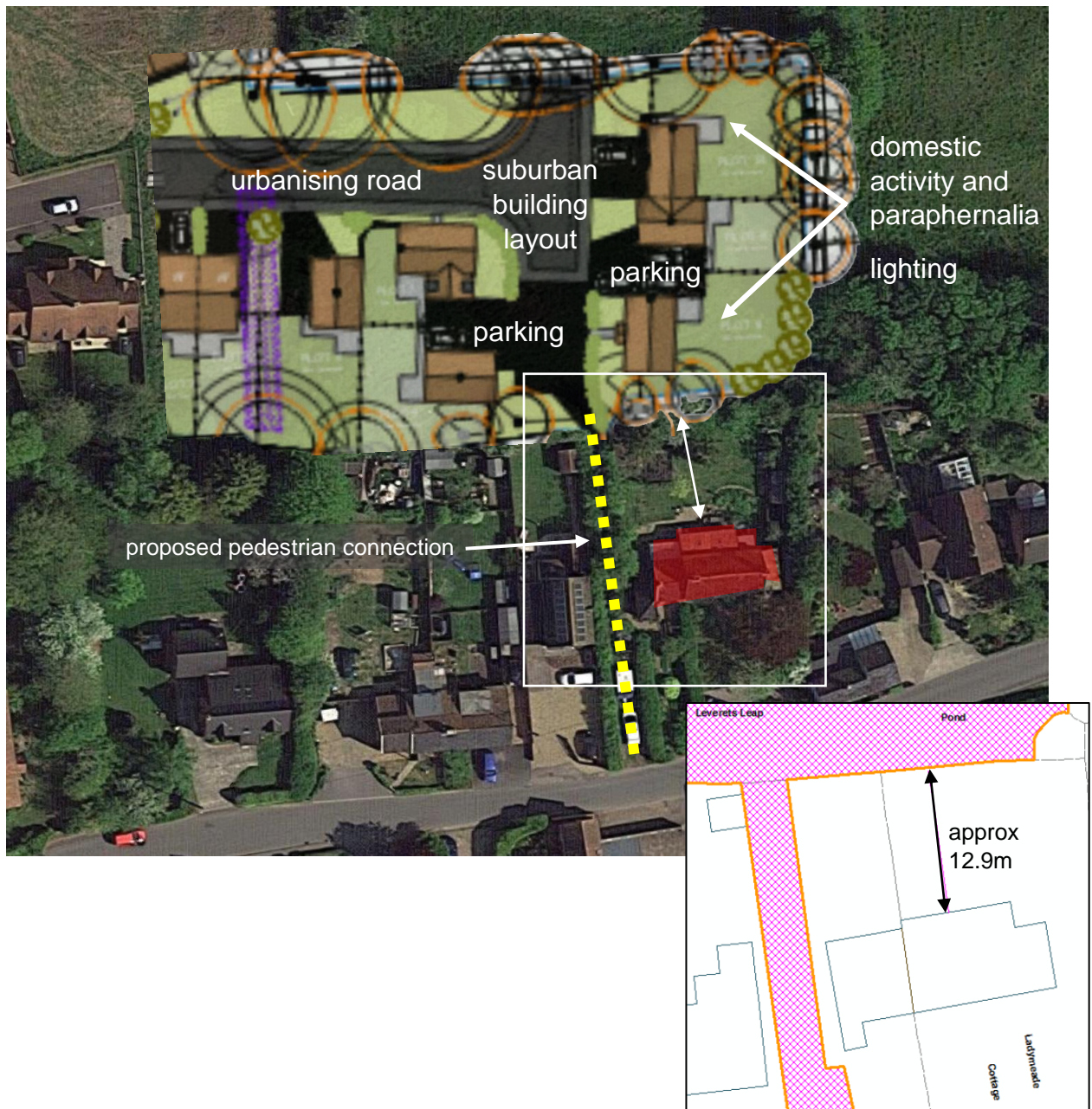


figure 6: **Eastern end of proposed development superimposed over aerial photograph to show relationship between plots at the eastern end and Ladymeade Cottage.**

6.32 It is clear that when the development at Post Mill Lane was approved there was an expectation, at least in the landowners/developers mind, that some additional development might be possible. This assertion is based on the fact that the road that serves the development only has homes on one side at the eastern end. That road does not however stray into the small enclosed field

behind Ladymeade Cottage. Indeed that has been allowed to regenerate naturally whereas the rest of the open area in Post Mill Lane site is managed.

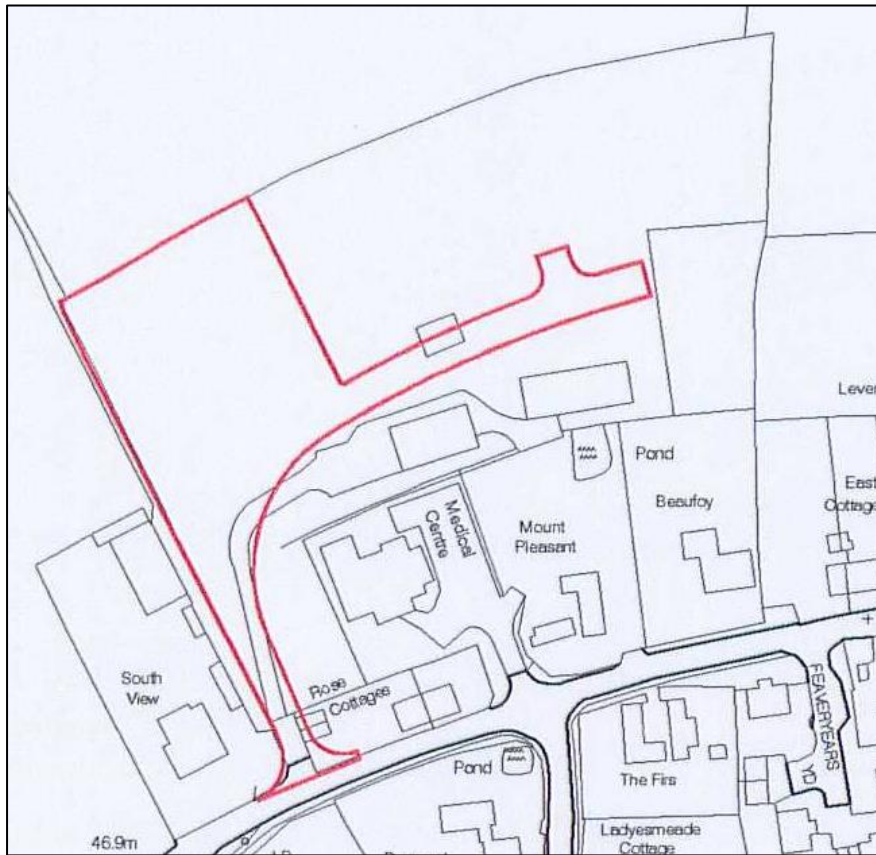


figure 7: **Post Mill Lane development: 11 dwellings. 0586/07**



figure 8: **Post Mill Lane Development: Residential 0512/05**

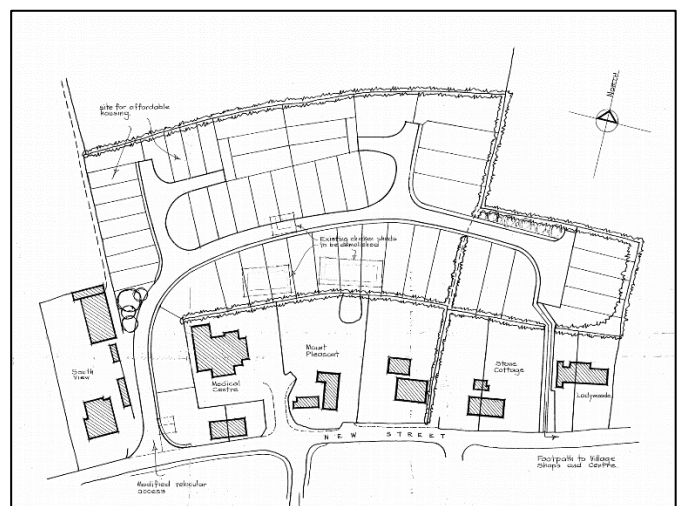


figure 9: **Post Mill Lane Development: Residential 0128/02
WITHDRAWN**

- 6.33 The Council is therefore strongly opposed to the encroachment of new development into the enclosed field behind Ladymeade Cottage because it will by its very presence remove the last vestige of association the cottage has with its traditional rural edge of village backdrop. This is important if the centuries old relationship is to be safeguarded as an example of village life and traditional village morphology. Moreover plot 8 is particularly unsympathetically positioned with its gable end a matter of a few metres from the boundary with Ladymeade Cottage. Such positioning physically crowds the listed building and creates an awkward and undesirable juxtaposition with suburban style and layout boxing in the part 16th century building in a way that is entirely alien within this traditional village edge setting. [as do the other units within the small field when impact is considered collectively.
- 6.34 Conclusion:
The Council's Heritage Team has produced a Statement of Case in respect of RfR 3 [heritage].
- 6.35 The Council's Planning Committee, when determining the application now at appeal, gave the formal advice of the Heritage Team significant weight when considering the planning balance.
- 6.36 They accepted the advice that the proposal will result in 'less than substantial harm' to the setting of Ladymeade House.
- 6.37 Paragraph 196 of the NPPF [2019] is therefore triggered.
- 6.38 The Council remains of the opinion that the public benefits that may arise from the grant of permission for the development do not outweigh the overriding harm that will occur to the setting of Ladymeade House.
- 6.39 RfR 3 reflects the advice given and the Development Management Service fully supports the case made by the Heritage Team.

iv. The impact of the development upon highway safety

- 6.40 The Inspector's attention is drawn to the nature of New Street between the junction with Post Mill Lane and Jubilee Corner to the east. The latter being a complex road hub, off which a series of junctions and routes radiate out from the heart of the village.
- 6.41 New Street is almost entirely without pavements.
- 6.42 It is in most places narrow.
- 6.43 It has numerous driveways served off it
- 6.44 Footpaths join it with little or no visibility due to adjacent hedges or buildings.
- 6.45 New Street has the village shop along its length and car borne customers park on a small forecourt which narrows the road width further and often delivery vehicles double park outside the shop causing further narrowing and congestion.
- 6.46 New Street is used by villagers to access the shop from all parts of the village and school children getting to School Lane and Fressingfield Primary School.
- 6.47 Whilst there is a low incidence of officially reported accidents residents have many stories of near misses, bumps and scrapes that are never reported simply because serious damage or injury has not as yet fortunately arisen.
- 6.48 That said the addition of 24 further units to Post Mill Lane with the only access in and out being off New Street does in the opinion of the Council as local planning authority increase the risk to pedestrian safety.
- 6.49 24 more dwellings could represent another 55 or so people living in Post Mill Lane. At some point all will be expected to walk along New Street to access village facilities of some kind or other.

6.50 New Street is itself potentially hazardous to pedestrians due to

- Vehicle speeds of up to 30mph on a narrow road
- No footways
- With numerous obstacles in the road for drivers to pass round
- Blind spots on bends
- Poor forward visibility
- Vehicles trying to pass - rather than giving way leaving no room for pedestrian in the road.

6.51 The appeal site visit will demonstrate the difficulties pedestrians face in New Street.

6.52 It will be quickly noted that New Street is also used frequently by HGVs from nearby farms and industrial centres. As farming activity remains important in the area it is very common to see large agricultural vehicles and machinery trundling along New Street via Jubilee Corner. Modern tractors can be huge and lack the sensitive steering control of a family car.

6.53 New Street may always have been like this [no pavements] and country children may be used to it and the dangers that exist but that does not make it any less of a threat to pedestrian safety. Indeed, it may be argued that people become blasé about the risks but not all drivers will know the area.

6.54 This is particularly true at Jubilee Corner. The proposal at appeal did not include the modest improvements offered as part of the other two Fressingfield Developments referred to earlier. [and the efficacy of those works was not considered significant enough to remove Suffolk County Council highway objections in any event].

- 6.55 Any additional pedestrian movement [as from the appeal development] across Jubilee Corner with its lack of footways except a very narrow sliver on its south west is considered undesirable. It will however be noted that the narrow sliver of footway on the south-west corner is so narrow people with children or prams walk in the road in order to keep babies and toddlers on the path tarmac.
- 6.56 The diagram below shows how many conflicting traffic movements are possible and why people crossing without any control or order adds to the fear of an accident.



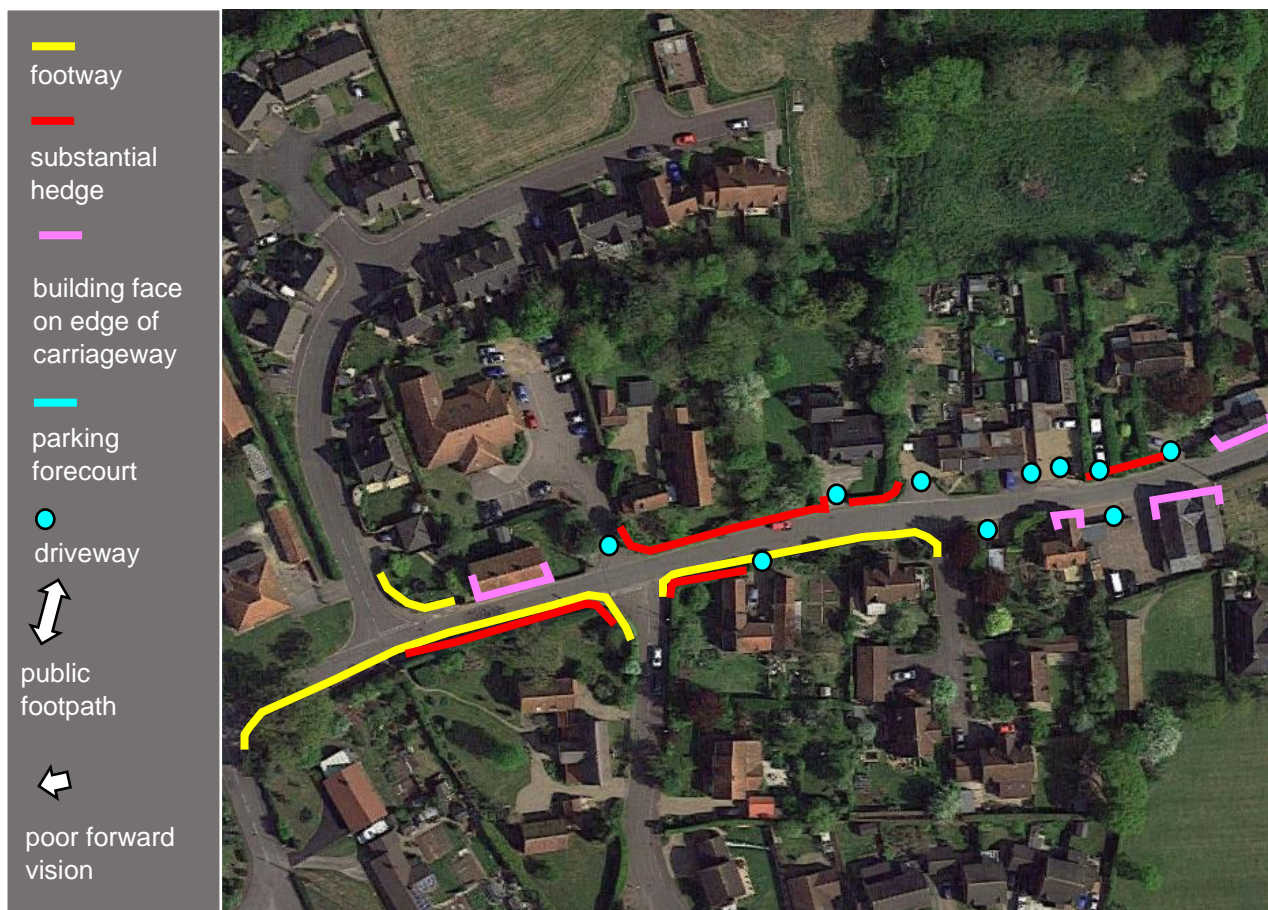
figure 10 : possible vehicle movements : Jubilee Corner

- 6.57 Even the most casual observer will see just how this possibility of myriad vehicle movements interacts poorly with pedestrian movement. Often the island at the Stradbroke Road/Jubilee Corner junction is used as a roundabout for vehicles to turn-round and head back towards the point they came once a route error is noticed.
- 6.58 As a result of its very confined nature it is not possible to widen New Street to accommodate a new pavement because domestic curtilages meet the edge of the narrow highway. The geometry of the road is such that if a footway is provided within the carriageway then available width for vehicles will need to be reduced single width in many places. This, in itself, would pose issues around driver priority. Added to this the footway may have to swap from side to side depending upon the road geometry and available forward vision. The cost of this work [even if feasible] is well beyond what this 24-unit scheme could support. [in terms of scheme viability]. Suffolk County Council has no plan to provide a footway in New Street.

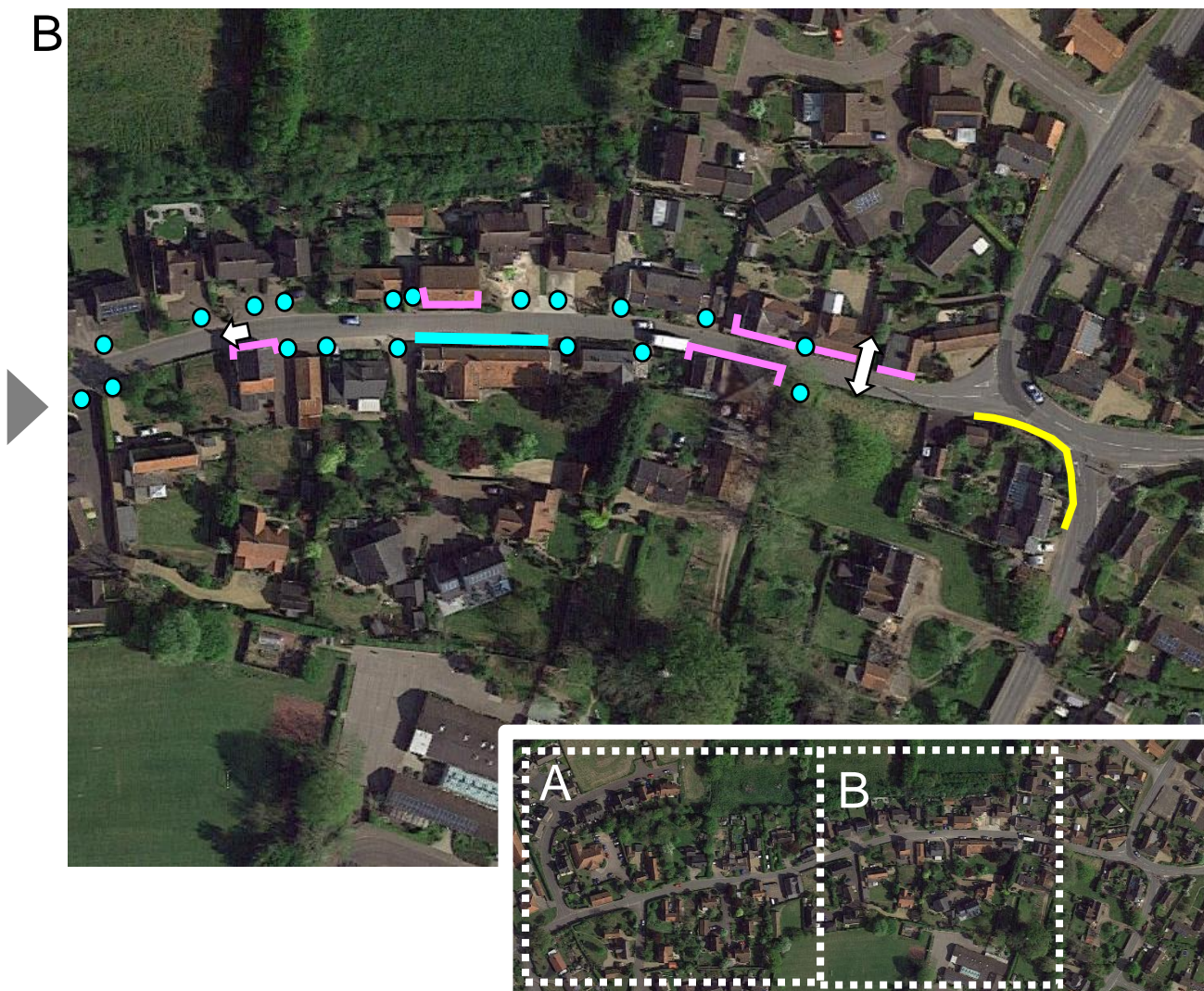
figure 9 : **New Street access characteristics** follows.....

figure 10 : New Street access characteristics

A



B



6.59 At the time of considering the application Suffolk County Council as local highway authority provided the following consultation response [‘revised’ in the light of the amended NPPF].

“Following the July 2018 revisions to the National Planning Policy Framework (NPPF) Suffolk Country Council has reviewed its position regarding planning applications 1648/17, 1449/17 and 1432/17. The significant change in the NPPF is para 109 that states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. This revises the previous guidance that stated that development should only be refused where the residual cumulative impacts are severe.

In our previous response we stated that the impact of the proposed development was at the high level of significance in terms of road safety, but that no single road safety issue was considered severe as no significant numbers of crashes had been recorded in the area and hence we could not recommend refusal of these applications based on the 2012 version of the NPPF.

Recent planning appeal decisions¹ have clarified the Planning Inspectorates views on road safety and we have considered these in our response. In summary the Planning Inspectors have viewed each site as unique and that the absence of a history of crashes should be balanced against observed road safety issues when deciding if there is an unacceptable impact on highway safety.

Due to concerns raised by residents during the planning process additional site visits were undertaken involving both driven and walked inspections. I personally visited the area on the morning of the 12th October 2018.

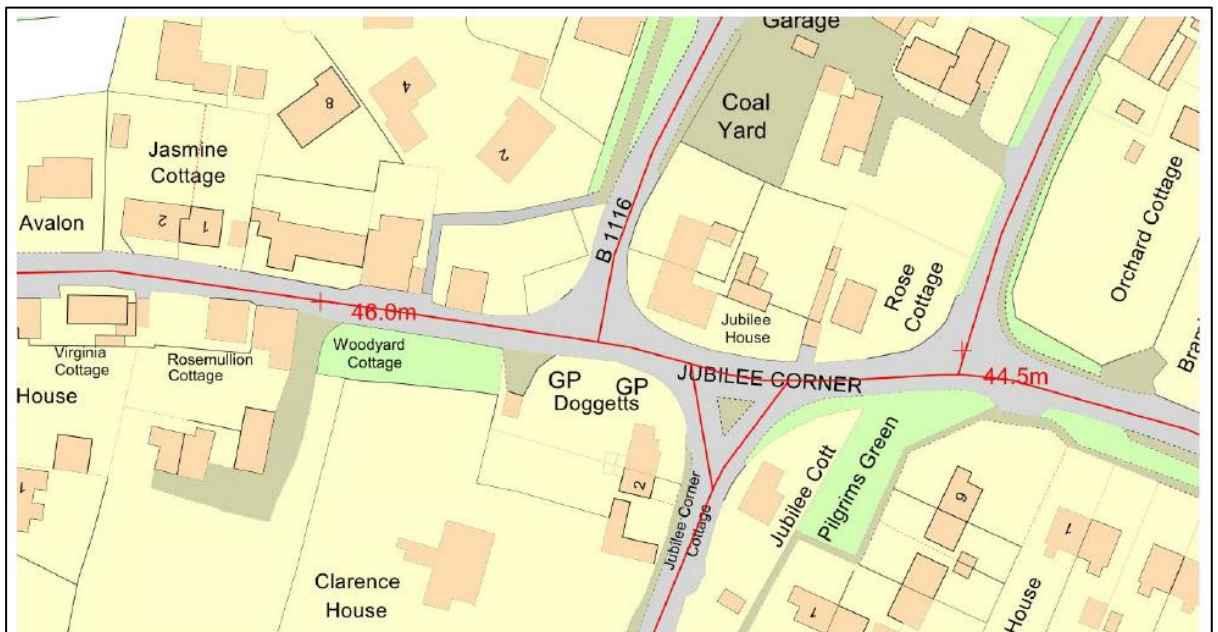
I make the following observations;

General

The layout of the village means that most motorised and non-motorised traffic has to pass through the 'core' of the village represented by the junction of Stradbroke Road / New Street / Laxfield Road / B1116 known as Jubilee Corner as:

- . The primary school is located to the south off Stradbroke Road
- . The village shop is located to the west on New Street
- . The two public houses, Church and Baptist Chapel are located to the north
- . The Sports and Social Club to the east off Laxfield Road

Residential developments are generally equally spread around the core which results in trips to much of the village infrastructure will be through the 'core'.



Stradbroke Road (S) / New Street (E) / Laxfield Road (E) / B 1116 (N) Junction (Jubilee Corner)

There is a narrow footway on west side of Stradbroke Road leading to New Street. This footway is currently not wide enough for more than one person. It was observed that when used by groups of pedestrians some walked in the road. A driven survey identified an elderly pedestrian walking on the road on the inside of the bend on the B 1116. The highway boundary is the fence to the rear of the path and any widening would be into the carriageway.

The island at the junction of Stradbroke Road and the B 1116 does not provide a safe crossing point for pedestrians due to the limited visibility. Currently no dropped crossings are provided at this junction. No footway is present on the east side of Stradbroke Road although a verge is available for use by fit pedestrians.

Although vehicle speeds through this area appear low this does not prevent occasional conflict between vehicles. Large vehicles turning south into Stradbroke Road are required to use both lanes so that any northbound vehicle is required to stop. This was observed at the time of the site visit. Several vehicles were also observed turning around in the entrance of New Street, a manoeuvre which requires use of the full width of carriageway in an area without footway. Both manoeuvres increase risks for pedestrians.

Stradbroke Road / Laxfield Road

Access from Laxfield Road to Stradbroke Road is via a narrow concrete footpath across Pilgrims Green which is not public highway. While possible the width of the path does not allow an adult to walk side by side with a child. Two right angle bends plus the narrowness makes access for those with pushchairs, wheelchairs or mobility scooters difficult. The alternative is to use the verge to access Stradbroke Road and cross at the island described above.

New Street

Pedestrians exiting from the footway north of Woodyard Cottage have poor visibility to either side and step straight onto the carriageway. Pedestrian barriers are present to restrain pedestrian but constrain the footway for those with pushchairs, wheelchairs or mobility scooters.

No footways are present on New Street resulting in pedestrians walking in the road. During the site visit a number of pedestrians, some elderly, were observed walking to the local shop. When vehicles approach there was a tendency for pedestrians to step into private driveways when possible. Where

parked cars were present pedestrians often must walk into the road around them. When two cars meet one must stop if a pedestrian is in the road and no driveway is present.

Having examined the site, it is difficult to see how significant lengths of footway could be provided without reducing road widths and relocating on street parking. The presence of buildings abutting the road places further limitations as existing thresholds will need to be maintained.

Travel Modes

While not considered a scientific survey, it was noted that in the morning site visit only 3 children accompanied by two adults walked to school from north of Jubilee Corner, but a significant number of school children were in cars travelling through the junction. It is possible that concerns about safety discourage pedestrians particularly in the core of the village.

Conclusion

There are hazards 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 developments will result in increased vehicle and pedestrian movements through this core area.

While it is appreciated that all three developers have contributed in finding ways to improve road safety the constraints imposed by the existing highway network severely restrict the practical options. The measures proposed are the best solution available within the existing constraints they fall short of making the highway safe for pedestrians.

While it is noted the few crashes have been recorded in this part of Fressingfield recent planning appeals have determined that weight should be given to observed conflicts between pedestrians and vehicles. It is the Highway Authority's opinion that this is the case on New Street and Jubilee Corner if further development were approved which increased pedestrian and

/ or vehicle movement through the core of the village without the provision of safe, practical alternatives.

It is the Highway Authorities opinion that further traffic passing along New Street and / or through Jubilee Corner would result in an unacceptable impact on highway safety particularly for vulnerable pedestrians.

For this reason, the Highways Authority recommends that permission is refused for these”

iv) Acknowledged flooding problems elsewhere in the village with particular concern around raw sewage spilling out onto roads during periods of high concentrated rainfall

6.60 This is perhaps the most perplexing and frustrating issue facing residents living in homes along the low point of the village where there are acknowledged flooding problems associated with raw sewage spilling out onto roads during periods of high concentrated rainfall. This problem has its origins across the village and is likely to be exacerbated by new development. It is the residents in the Low Road area that suffer the undesirable and unhealthy consequences.



figure 11 : Chatfield Road / Low Road area prone to flooding [diluted raw sewage]

- 6.61 It is acknowledged by Anglian Water⁹ [the foul water authority] that the supposedly closed 'foul-only' sewage network that has served the village for generations is in fact subject to unknown numbers of surface water connections.
- 6.62 Therefore when raising no objection to the proposal now at appeal Anglian Water cited that by their calculation there is sufficient capacity in the 'closed' foul system to satisfactorily accommodate the output from this development.
- 6.63 In theory this may be correct as the calculations carried out by Anglian Water take no account of the surface water infiltration in their 'foul system'
- 6.64 Clearly capacity within the pipes serving the foul network must at times be compromised in terms of residual capacity when significant quantities of surface water are entering the foul system by whatever method of historic connection.
- 6.65 What is however known is that during flash storms the foul sewage network rapidly fills with storm surface water which mixes with the foul sewage already in the pipes. Pressure builds to a point whereby inspection covers [manholes] along Chatfield Road /Low Road 'pop' [lift] and a mixture of flood water [surface] and raw sewage, toilet paper, sanitary products, wipes and other assorted waste flow out into and over the road, into the 'Beck' [stream] that runs beside the road and adjacent gardens.
- 6.66 In meetings Anglian Water has said that as the system was originally intended and built to be a closed system [foul only] the fact that over decades surface water connections have been made to their system is not an issue for them to resolve.
- 6.67 Indeed manholes popping is preferable from their perspective because the prospect of sealing manholes shut to prevent the problem raises the spectre of the pressure blowing back up the system into domestic properties via toilet

⁹ Note of meeting

bowls. This would result in raw sewage spewing into homes. In that event Anglian Water would have to undertake urgent remedial works and that they wish to avoid from a public safety and financial [their own] perspective.

6.68 They do not have funding to remove the surface water connections from the foul network in Fressingfield or any other location.

6.69 So what we have is a development that has raised no objection from the relevant foul water drainage authority on the basis that the 'closed' foul system has theoretical capacity. In reality everyone knows the system is not closed. It is effectively a 'combined' system. It does accept surface water and as a result there are flooding incidents that result in raw sewage on the streets. Whilst 24 new dwellings may not in themselves add much sewage to the system [as a proportion of the village total] and whilst ordinarily this will not be an issue as there will be capacity – there will be occasions [increasingly so with climate change evidence suggesting a greater frequency of severe storms in the UK] when infiltration of large quantities of surface water will purge the sewage out of the system and onto the streets, the Beck and adjacent gardens. [including the additional waste from this development]

6.70 Conclusion

In the 21st century it cannot be right to say that existing residents must accept occasional floods of diluted raw sewage on the streets in order to facilitate new housing development. Mid Suffolk has a 5-Year Housing Land Supply. It does not need to accept medieval drainage problems merely to facilitate a few more speculative houses.

6.71 The problem first needs to be resolved if the local planning authority is to have any reasonable chance of saying any more residential development in Fressingfield is sustainable – from a drainage perspective if nothing else. [but then there is also the problem of pedestrians and no footways amongst others]

- 6.72 Whilst the appellant refers to other recent planning permissions in Fressingfield as a precedent it is a matter of fact that every application is judged on its own merits as every case is different. Indeed it is a basic tenet of the English planning system that there is no such thing as a precedent. Consistency of decision making is however important.
- 6.73 What wasn't understood at the time was the cause of the drainage problems in Fressingfield.
- 6.74 The Revised NPPF [2018] and the implications for highway safety [revised paragraph 109] was not available.
- 6.75 The 5-Year Housing Land Supply position varied.
- 6.76 The context of sites was different.

v) cumulative impact

- 6.77 Here the cumulative impact referred to is that which may have resulted from the proposal the subject of this appeal going forward along with the other two developments in Fressingfield referred to earlier. Both 1449/17 and 1432/17 [the other Fressingfield applications] were refused. The period for lodging an appeal has now passed with apparently no appeals lodged. In that sense the cumulative impact no longer requires assessment but a cumulative impact reason [with 1449/17 & 1432/17] was not included in the decision notice in any event.

vi) Is the development sustainable?

- 6.78 The Council is of the opinion that the proposed development is not sustainable and therefore fails to conform with its Core Strategy/ Focused Review policies that lend support to sustainable developments.
- 6.79 When assessed against paragraph 8 of the NPPF [2019] the development can be said to:

Economic objective

- A) Provide a short-term stimulus to jobs in the sense that it will create construction and related jobs for the lifetime of the build. These will however be ephemeral.
- B) An additional 24 dwellings will inevitably give a boost to the local economy whether that be by payment of Council Tax [and Parish precept] or spend in the local shop, pub/restaurant.
- C) That said it is likely that occupiers will have to work beyond the village and the extent to which commuting will be necessary is not known.
- D) The development will also contribute some C.I.L. payments and as Fressingfield does not have a Neighbourhood Plan Fressingfield will only eligible to claim the lower percentage unless and until it has an Adopted Version.

Social objective

With 24 more dwellings and an increased population it is reasonable to expect that primary school age children living in the new dwellings will expect to go to the primary school in the village. This will help, however modest the contribution, to maintain the school roll and the vitality of the school.

More people may join village clubs and activities and this would also help to bolster social cohesion.

Affordable housing delivery at 35% of the total number of units will potentially provide 8 affordable homes. This would be welcome but represents a small increase in the overall supply. However for the household that secured the tenancy this is likely to represent a significant improvement in the quality of life.

Environmental objective

Here there are few if any tangible benefits and predominantly harm.

- E) The development will cause unnecessary and unacceptable 'less than substantial harm' to the setting of the Grade II listed Ladymeade Cottage. [as explored earlier in this statement].
- F) The development will exacerbate acknowledged flooding problems in the village which result in diluted raw sewage and associated waste products occasionally spilling into the street and the Beck as well as front gardens. This cannot be considered healthy or acceptable. This situation is likely to worsen as climate change increases the frequency of storms and heavy prolonged periods of intense rainfall.
- G) The proposed development will result in additional pedestrians using New Street which lacks pavements along most of its length. This statement has explored why New Street cannot be widened or pavements easily provided. Suffolk County Council as local highway authority has strongly objected to the proposed development on the grounds of unacceptable risk to pedestrian safety.
- H) In addition the development will increase vehicular and pedestrian activity at Jubilee Corner contrary to the interests of highway safety as explained earlier.

7.0 Planning Balance and Conclusion

7.1 The Council having considered the central issues raised by this appeal is of the opinion that there are four critical elements

7.2 Harm to a heritage asset

7.3 Highway Safety [pedestrians]

7.4 Drainage

7.5 Development outside of the Settlement Boundary in the countryside

7.6 The Council's Adopted Development Plan contains policies that do comply with the NPPF [2019] in respect of

- Harm to heritage assets
- Highway Safety
- Drainage

and it is only in the area of development outside of the settlement boundary in the countryside that may be said to be out-of-date.

7.7 The Council continues to argue that whilst the relevant Core Strategy policies CS1 & CS2 may be out of date there is no logical or reasonable justification for permitting this unsustainable development particularly in view of the overriding harm it will generate.

7.8 Looking at the balance of policies that are relevant the Council is of the opinion that the majority of policies that sit at the heart of this appeal are not out-of-date and therefore the tilted balance prescribed by paragraph 11 of the NPPF [2019]

is not brought into play¹⁰. Although the balance required by paragraph 196 is because of the identified less than substantial harm to Ladymeade Cottage.

7.9 In the Judgement, Mr Justice Dove agreed that Mr Honey's [for the first defendant] interpretation of the application of paragraph 11 [d] is correct.

"I am satisfied that Mr Honey's interpretation of the Framework in this connection is correct. It needs to be remembered, in accordance with the principles of interpretation set out above, that this is a policy designed to shape and direct the exercise of planning judgment. It is neither a rule nor a tick box instruction. The language does not warrant the conclusion that it requires every one of the most important policies to be up-of-date before the tilted balance is not to be engaged. In my view the plain words of the policy clearly require that having established which are the policies most important for determining the application, and having examined each of them in relation to the question of whether or not they are out of date applying the current Framework and the approach set out in the Bloor case, an overall judgment must be formed as to whether or not taken as a whole these policies are to be regarded as out-of-date for the purpose of the decision. This approach is also consistent with the Framework's emphasis (consonant with the statutory framework) that the decision-taking process should be plan-led, and the question of consistency with the development plan is to be determined against the policies of the development plan taken as a whole. A similar holistic approach to the consideration of whether the most important policies in relation to the decision are out-of-date is consistent with the purpose of the policy to put up-to-date plans and plan-led decision-taking at the heart of the development control process. The application of the tilted balance in cases where only one policy of several of those most important for the decision was out-of-date and, several others were up-to-date and did not support the grant of consent, would be inconsistent with that purpose." Paragraph 58 of the Judgement

¹⁰ As a result of then interpretation drawn from the High Court case cited earlier [footnote 5]

7.10 My Honey's position is described in the Judgement at paragraphs 55 and 56:

"...Mr Honey submitted that the correct interpretation is that the exercise required by paragraph 11(d) in relation to the assessment of the question as to whether or not the policies which were of most importance for determining the application were out-of-date is as follows. Akin with Mr Goatley, he contended that the first step was to identify which were the policies which were most important for determining the application..." Paragraph 55 of the Judgement

"He observed that the policy specifically does not say that the tilted balance would apply when "one of" or "any of" the important policies for determining the application has been found to be out-of-date. To answer the question posed by paragraph 11(d) it is necessary, having identified those policies which are most important for the determination of the application, to examine them individually and then consider whether taken in the round, bearing in mind some may be consistent and some in-consistent with the Framework, and some may have been overtaken by events and others not, whether the overall assessment is that the basket of policies is rightly to be considered out-of-date. That will, of course, be a planning judgment dependent upon the evaluation of the policies for consistency with the Framework (see paragraph 212 and 213) taken together with the relevant facts of the particular decision at the time it is being examined." Paragraph 55 of the Judgement

7.11 In the event that the Inspector is not persuaded by this argument and the application of the High Court Case then even applying the tilted balance the Council believes that the limited public benefits are not outweighed by the harm caused - to the setting of the adjacent Grade II listed Building [Ladymeade Cottage], the increased risk to pedestrian safety particularly in New Street and around Jubilee Corner and the likelihood that the proposed development will exacerbate problems associated with flash flooding and the overspilling of diluted raw sewage into streets, the Beck and front gardens elsewhere in the village.

7.12 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise.

7.13 The proposal if approved offers some economic benefits. Construction-related benefits will arise but these will be temporary and, in any event, they will apply to new housing in all locations across the District where development has been supported by the grant of planning permission.

7.14 Therefore, it is suggested that these be afforded low weight.

7.15 The proposal will meet a need for affordable housing. Having regard to the modest number of units proposed it is suggested that moderate weight be given to this benefit.

7.16 The introduction of new residents into the village will also provide a limited degree of support for the local primary school, local shop and other services but the number represents a modest percentage increase in overall population and therefore the benefits arising in this regard are considered to be low.

7.17 The proposal will meet a need for affordable housing. Having regard to the modest number of units proposed it is suggested that low weight be given to this benefit.

7.18 As the Council is able to demonstrate a 5YHLS the proposed open-market housing represents low benefit

7.19 In terms of harm the proposal if approved will:

- Result in an unacceptable and substantially adverse highways impact and conflicts with NPPF [2018] paragraph 109 and T10; and,
- an unacceptable and substantially adverse impact on the foul water system in the village and is likely to exacerbate existing well catalogued pollution problems associated with the overflow of raw sewage into the street at Low Road during periods of heavy rainfall; and,

- an unacceptable and moderately less than substantial impact on the setting of an adjacent heritage asset, namely Ladymeade – a Grade II listed building; and,
- result in unsustainable and inappropriate development contrary to paragraph 8 of the NPPF.
- The adverse impacts of granting permission will significantly and demonstrably outweigh the benefits of the proposal. As such, the proposal does not amount to sustainable development and, therefore, does not score positively against other material considerations including the tilted balance triggered by the coming into play of paragraph 11 (d) of the NPPF [2019]

7.20 On this basis the proposal is considered wholly unacceptable on adopted and valid local development plan policy grounds and on NPPF grounds.

7.21 The Council therefore respectfully asks the Inspector to dismiss the appeal and refuse planning permission

In the event that the Inspector upholds the appeal and grants planning permission subject to a S106 Agreement to secure:

- minimum of 35% Affordable housing

then the Council suggests [without prejudice] that conditions be applied to the grant of outline planning permission that include the following:

1. Time Limit: 18 months for submission of reserved matters and 18 months to commence
2. All layout drawings to be excluded from the permission
3. RM shall include full details of foul and surface water drainage and such detail to include measures to ensure the development cannot and will not exacerbate existing flooding problems in Chatfield Road /Low Road area of the village

where raw sewage spills into the street, the Beck and adjoining gardens during periods of high rainfall.

4. Notwithstanding the submitted illustrative layout drawings no development is hereby permitted in the small field behind Ladymeade Cottage
5. Development shall not proceed until full details have been submitted showing how the proposed new footpath connection to New Street can be provided with measures that will allow pedestrians and drivers of vehicles to have good visibility of each other as pedestrian emerge onto what is currently carriageway. Once approved such detail shall be provided by the developer before any dwelling/s hereby permitted is/are occupied.
6. Full material samples required and to be from the traditional vernacular palette
7. Removal all permitted development rights
8. Method of Construction Statement
9. Highways- details of estate roads
10. Highways- road serving dwellings completed to base course prior to occupation
11. Highways- provision and retention of manoeuvring and parking areas
12. Highways – Travel Plan amendments
13. Highways – Deliveries Management Plan
14. Highways – Residents Travel Pack
15. Surface water drainage scheme
16. Details of implementation, maintenance, and management of surface water drainage scheme
17. Details of sustainable urban drainage system components and piped networks
18. Construction Surface Water Management Plan
19. Foul water strategy
20. Surface water management strategy
21. Programme of archaeological work
22. No occupation until archaeological assessment complete
23. Unexpected contamination
24. Fire hydrant provision details
25. Sustainable efficiency measures

APPENDICES to this Statement:

1. Planning Committee Report from 21 November 2018.
2. Officer's presentation to Committee from 21 November 2018
3. Decision Notice in respect of applications ref; 1449/17 & 1432/17 [Fressingfield]
4. Housing Land Supply Position Statement 2018/2019 Mid Suffolk District Council March 2019
5. *Wavendon Properties v SSHCLG & Milton Keynes Council [2019] EWHC 1524 (Admin)* High Court Decision. Judgement
6. Statement of Common Ground from June 2019 Bacton Inquiry
7. Formal consultation from Paul Harrison [Heritage & Design Officer BMSDC] response 30 May 201
8. Notes of meeting between Vincent Pearce [BMSDC], Anglian Water Representatives, Lavinia Hadingham [ward councillor] and representatives from Fressingfield residents
9. Extract from Preferred Options Draft Joint Local Plan Document 2019 [allocations in Fressingfield]

All other relevant material drawn on by the Council as local planning authority within this Statement has already been provided to PINS with the relevant questionnaire response.