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## Appeal Decision

Hearing Held on 25 & 26 November 2020

Site visit made on 2 December 2020

**by David Reed BSc DipTP DMS MRTPI**

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

**Decision date: 25<sup>th</sup> January 2021**

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**Appeal Ref: APP/D3505/W/19/3241261**

**Land South of Slough Road, Brantham, Suffolk**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Rainier Developments Ltd & Messrs J & C Suckling against the decision of Babergh District Council.
  - The application Ref DC/19/01973, dated 18 April 2019, was refused by notice dated 9 October 2019.
  - The development proposed is residential development of up to 65 new dwellings (including a minimum of 35% affordable homes), with areas of landscaping and public open space, including vehicular access and associated infrastructure works.
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### Decision

1. The appeal is allowed and permission is granted for residential development of up to 65 new dwellings (including a minimum of 35% affordable homes), with areas of landscaping and public open space, including vehicular access and associated infrastructure works at Land South of Slough Road, Brantham, Suffolk, in accordance with the terms of the application, Ref DC/19/01973, dated 18 April 2019, subject to the attached schedule of conditions.

### Preliminary Matter

2. The application is in outline with all matters reserved except access. Whilst the application included a Concept Masterplan, this is only illustrative of how a scheme on the site might look. The Council made it clear during the hearing that it did not wish any permission to reference the concept masterplan as a basis for future reserved matters and the appellants withdrew the suggestion in it that the site could accommodate 2.5 storey development. The appeal has been considered taking these points into account.

### Main Issues

3. In addition to the development plan and planning policy background, the main issues in this case are:
  - the local need for market and affordable housing in this location; and
  - the effect of the proposal on the landscape, in particular the sense of separation between Brantham and East End

## Reasons

4. The proposal is for the residential development of about 2.87 ha of agricultural land on the north-western side of the village of Brantham. The site fronts onto the southern side of Slough Road between the village and East End, a hamlet within East Bergholt parish, and is bounded to the north east round to the south by the rear gardens of properties fronting onto Slough Road and Ipswich Road. With no physical boundary on the remaining side, the site forms part of a large, flat and relatively featureless field which extends well to the west.
5. The scheme would take the form of a large cul-de-sac with access from Slough Road near to the last of the frontage properties, mainly bungalows, which line the southern side of the road when leaving Brantham. There would also be a non-vehicular link to the south, towards the main part of the village, via a narrow passage between two properties on Ipswich Road, and a direct link to the extensive footpath network in the countryside to the west via Footpath No 1, which heads off across the field.

### *The development plan*

6. The development plan comprises the Babergh Local Plan 2011-2031 Core Strategy & Policies (the CS) adopted in February 2014 and certain saved policies from the Babergh Local Plan Alteration No 2 (the BLP) adopted in 2006. The latter defined a built up area boundary (BUAB) for Brantham and East End which tightly enclose the two settlements. The appeal site lies next to the BUAB of Brantham, which includes the adjacent properties on Slough Road and Ipswich Road, but is also not far from the BUAB of East End.
7. The original intention was for the CS to be followed by a Site Allocations DPD, however this was not produced and this means that suitable housing sites need to be identified through the planning application process. The Council are now preparing the emerging Babergh and Mid Suffolk Joint Local Plan (the JLP) to cover the extended period to 2037.
8. Saved Policies CN01, HS31 and TP15 of the BLP remain relevant, dealing with general design matters, the provision of open space and parking respectively. From the CS, Policies CS13, CS18 and CS19 are also relevant, dealing with renewable energy, the mix/type of dwellings and affordable housing. However, it is agreed the most important policies for the determination of the appeal are those listed in the Council's reasons for refusal, namely Policies CS2, CS11 and CS15, to which the appellant seeks to add Policies CS1 and CS3.
9. Policy CS1 applies the presumption in favour of sustainable development and is important to the appeal as the basis of decision making. The wording predates Paragraph 11 of the latest National Planning Policy Framework (NPPF) but is not significantly inconsistent and can be regarded as up to date.
10. Policy CS3 sets out the strategy for growth in the district and sets a housing requirement of 5,975 new dwellings between 2011 and 2031, some 300 dpa. However, this figure is more than five years old and in these circumstances the NPPF requires local housing need to be calculated using the standard method, currently 416 dpa. In this critical respect the policy is out of date, but the overall strategy remains valid, namely housing growth will be accommodated within the existing settlement pattern and extensions to three urban areas. The policy is clearly important to the appeal.

11. Policy CS2 defines the settlement pattern by listing the towns/urban areas together with core and hinterland villages depending on their range of services and facilities. Brantham is classified as one of the latter. Development will be directed to the various settlements in relation to their role in this hierarchy and this approach is still valid even though the housing requirement to be delivered through the hierarchy is now increased. However, the final part of the policy that development in the countryside will only be permitted in exceptional circumstances conflicts with the NPPF where there is no such requirement and in this limited respect the policy is out of date.
12. The appellants argue that Brantham should now be considered as a core rather than hinterland village, however this is not clear cut and should be treated as a material consideration rather than a matter that affects the validity of the CS.
13. Policy CS11 explains that proposals for development in and around core and hinterland villages will be assessed against a series of criteria, with Paragraph 2.8.5.7 making clear that it intentionally provides flexibility for development outside BUABs when the criteria are met, whether such sites are allocated in the Site Allocations DPD or not. With its subjective criteria to be interpreted on a site by site basis the policy is an inherently flexible approach to delivering suitable sites so it remains valid despite the need for more housing. Whilst the BUABs themselves date from 2006 they are only described as a useful starting point for consideration of the relationship of the proposal to the settlement rather than being determinative and thus remain helpful to that extent.
14. Policy CS15 sets out a series of nineteen subjective criteria that all proposals should meet to ensure development is sustainable. Again these do not prevent suitable sites coming forward and in the absence of any clear conflict with the NPPF the policy can be considered up to date.
15. For these reasons there are five most important policies for determining the appeal – Policies CS1, CS2, CS3, CS11 and CS15 – and taken as a whole they remain up to date despite the housing requirement being superseded by a higher figure. Since it is agreed the Council can demonstrate 6.74 years deliverable housing land supply against the up to date 416 dpa requirement the ‘tilted balance’ in NPPF Paragraph 11d does not apply in this case.
16. This conclusion is consistent with that reached by the Secretary of State and Inspector in the Long Melford decision, a similar proposal for housing adjacent to the BUAB of that village determined in April 2020<sup>1</sup>.
17. The emerging JLP seeks to accommodate the increased housing requirement of 416 dpa for the period to 2037, proposes a revised settlement hierarchy with Brantham as a core village and puts forward a series of housing allocations to meet identified needs, including a site for 125 houses between Church Lane and Ipswich Road in Brantham. It is not proposed to allocate the appeal site. However, the JLP is only at Regulation 19 consultation stage and with numerous objections received can only be given limited weight at this time.
18. The East Bergholt Neighbourhood Plan was made in September 2016 but this is not applicable to the appeal site.

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<sup>1</sup> APP/D3505/W/18/3214377 Inspectors Report paragraph 444, Decision Letter paragraph 22.

### *Main considerations*

19. The parties agree that Brantham is a sustainable location for additional housing having sufficient services and facilities either in the village or accessible by sustainable modes of transport. It is also agreed that the proposal would be well related to the village in that it lies adjacent to the BUAB with existing housing on the north eastern side round to the south, and would be close to village facilities such as the local shops, school and recreation ground.
20. The Council's case against the proposal is that it conflicts with Policy CS2 in that it exceeds the scope for development in a hinterland village and fails the exceptional circumstances/proven need test for development outside the BUAB. In relation to Policy CS11, the Council's statement of case argues that the proposal conflicts with two criteria<sup>2</sup> because the local need for the development has not been shown and four more criteria<sup>3</sup> because it would have a harmful impact on the landscape due to the effect on the separation of Brantham and East End. It is also said there would be conflict with two criteria<sup>4</sup> in Policy CS15 due to the landscape concern. The Council do not argue there would be significant conflict with any other criteria, so these are the two main issues on which the appeal turns.

### *Local need for market and affordable housing*

21. Whilst the October 2020 Housing Land Supply Statement demonstrates that the district has 6.74 years supply, above the five year minimum required by NPPF Paragraph 73, the Council has a generally poor record of delivery with the 300 dpa target not being met until 2017/18 and only once reaching the new 416 dpa target in 2018/19. There is a clear need to boost the delivery of housing as soon as possible wherever suitable opportunities arise.
22. This relates to the district wide position. At the same time Policies CS2 and CS11 are clear that the scale of development in core and hinterland villages should relate to the *local* need for housing, albeit the precise area concerned in each case is not clearly defined. Policy CS2 states that core villages 'will act as a focus for development within their functional cluster' whilst hinterland villages 'will accommodate some development to help meet the needs within them', a distinction the Council regards as important, whilst Policy CS11 states core villages should meet 'locally identified need' and hinterland villages should also meet 'proven local need', which is effectively the same. The Council's SPD to provide detailed guidance on Policy CS11 does not clarify any distinction between local need in the case of core and hinterland villages<sup>5</sup>.
23. Based on a mapping exercise, the larger core villages were identified for the CS together with their functional cluster of smaller hinterland villages which look to the core village for many day to day needs. However, the clusters are not clear cut, with some overlapping and others influenced by nearby towns/urban areas. Similarly, the core/hinterland distinction is not clear cut in the case of Brantham. Whilst classified as a hinterland village in the East Bergholt cluster, it is a unique settlement in the Babergh context. Developing from the late 19th century to provide housing for a major industrial complex at Cattawade, it is relatively large but lacks a wide range of facilities, although there are pre and

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<sup>2</sup> Core village criterion iv and hinterland village criterion iii

<sup>3</sup> Core village criteria i & ii and hinterland village criteria i and ii

<sup>4</sup> Criteria i and ii

<sup>5</sup> Supplementary Planning Document: Rural Development & Core Strategy Policy CS11 August 2014 paragraph 14

primary schools, a handful of shops, public house, places of worship and a recreation ground. Whilst the village looks to the core village of East Bergholt for secondary schooling, for many higher order services it looks towards the town of Manningtree/Lawford/Mistley, just across the Stour in Essex.

24. The village is also unique in having the strategic redevelopment potential of the major industrial site which has become largely disused. The regeneration of the site has been planned for many years but is challenging, and Policy CS10 in 2014 allowed for a mixed use scheme including housing on adjacent greenfield land to support the necessary investment in the site. Progress has been slow but steady with outline consent in 2016 and some reserved matters in 2019, and following highway and infrastructure works the housing element of the scheme comprising 288 dwellings has recently commenced on site.
25. The appellants argue this start on site warrants Brantham's reclassification as a core village but there is no sign as yet of much employment development or plans for using the site earmarked for retail and community uses. The scheme should however significantly enhance the services, facilities and employment available in the village over time and supports the case for further housing.
26. In the East Bergholt case<sup>6</sup>, the High Court confirmed that local housing need in Policy CS11 means housing need in the village and its cluster, and perhaps in areas immediately adjoining it. This does not distinguish between core and hinterland villages and 'perhaps' implies some flexibility. CS paragraph 2.1.3.2 states core villages were *not* defined because of their potential opportunities for growth, seriously undermining the Council's case, paragraphs 2.8.5.2 & 5 emphasise the flexibility of village clusters working in practice as a group and paragraphs 2.8.5.3 & 4 make the obvious point that each village is different in character, size and constraints and an appropriate level of development will therefore vary from village to village. Given these points the classification of Brantham as a core or hinterland village is not determinative in this case and the review of the matter should be left to the emerging JLP.
27. The local housing needs of Brantham are therefore effectively unique to the village and the appellants have sought to identify these in a hearing statement and addendum. There is nothing within Policy CS11 or the SPD that dictates how local need should be evidenced, leaving the matter open to interpretation. The Council comment on the appellants' work and draw different conclusions from it, but do not put forward an alternative analysis. The work concentrates on the needs of the cluster but considers the particular needs of Brantham within it and given the background above this is a justified approach.
28. The local need for more housing is driven to a large extent by the past history of the village. Following its initial growth estates were added in the 1950s-70s but since then growth has been limited with only a few windfall sites adding to the housing stock. Within the cluster the amount of housing has grown by only 124 dwellings or 3.1% in the last decade compared to 5.7% within Babergh as a whole. With the suppression of new housing the population of Brantham actually declined by 4% between 2001 and 2017 with growth in the cluster just 4% over the same period, less than half that of Babergh (9%). This has inevitably fed through to a marked change in the age structure of the cluster with a 40% increase in those over 65, a 30% reduction in those aged 25 to 39 and 10% less children, the figures for Brantham presumably being even more

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<sup>6</sup> East Bergholt Parish Council v Babergh District Council and others [2016] EWHC 3400 (Admin)



pronounced. With deaths increasingly exceeding births there has been some in-migration, but not enough in the 25 to 44 age group as residents in this cohort mature, leading to a reduction in the working age population and the number of families with children.

29. As further evidence of a relative shortage, the average price of housing in the last decade has increased by 57% in Brantham compared to 48% in Babergh as a whole. Affordability has steadily reduced across the district, with average prices just 5 times earnings in 2000 rising to 9 times in 2013 and 11.4 times in 2018, and this ratio is deteriorating compared to that for the East of England and England overall. The situation in the cluster, where average prices are higher than the district, is likely to be even worse.
30. To address these adverse trends the cluster, and Brantham in particular, needs to significantly increase housing supply compared to past performance in order to improve its retention of existing residents and to attract new households. This would also improve affordability and reduce the pressure on social/private rented housing which is not well represented in either the village or cluster.
31. As stated above, the standard method for assessing the local housing needs of Babergh as a whole currently produces a figure of 416 dpa. If this is divided in proportion to existing population, this would produce a figure of 38 dpa for the cluster and 11.5 dpa for Brantham. However, this simplistic approach assumes every settlement can and should grow at the same rate and takes no account of the individual characteristics of each settlement or cluster. It is not therefore an estimate of local housing need for the purposes of Policy CS11.
32. In the absence of national or local guidance regarding the assessment of local housing needs at sub-district level, the appellants have produced two estimates. One mirrors the standard method but uses the demographic profile of the local population and continued migration based on past trends. This produces a figure of 33 dpa for the cluster. However, this would perpetuate a low level of population growth overall with the proportion in older age groups continuing to increase. The model shows those aged over 65 would increase from 26% in 2017 to 39% in 2036, with those between 25 and 64 declining as a proportion. By largely projecting forward past trends, this would not address the structural issues caused by the historic lack of new housing supply.
33. In order to address these otherwise ongoing trends, the second approach seeks to model a greater share of local people being retained in the area rather than moving away to find housing, thus securing a younger age profile for the population over time. The model assumes those aged 15 to 24 continue to leave the area but the outflow of other age groups is reduced by 10%, a reasonable level of ambition. To deliver a more balanced population structure in this way the model requires housing growth for the cluster of 54 dpa which over the remaining plan period 2019-2031 would amount to a need for 648 dwellings. The population would grow by about 0.66% pa which has occurred in three years since 2001, albeit not sustained, showing the scenario is realistically achievable.
34. The 2019 housing land supply statement lists further housing commitments within the cluster amounting to 594 dwellings, less than the 648 dwellings required to deliver this modelled scenario. Of these the majority, 315 are in Brantham, most of the remainder, 233 in East Bergholt and just 46 in the remaining six hinterland villages. This in itself demonstrates the unique role of

Brantham in the cluster and amongst the hinterland villages. Importantly, with few other sites available, 288 of the Brantham dwellings would be on the major regeneration site which the footnote to Policy CS3 explains is a windfall site that would ensure the *district's* planned housing provision is delivered. The site is consequently of strategic importance and not solely intended to meet the local housing needs of the village or cluster.

35. The Council prefer the standard method distributed pro-rata across the district giving a need for 468 dwellings across the cluster which would be met by existing commitments. However, this would perpetuate the ongoing issues set out above. The suggestion that Brantham should only accommodate a limited amount of development within the cluster ignores its unique characteristics and the suppressed level of development in recent years. On the contrary, with the prospect of the redevelopment site delivering significant employment in the next few years the village should be the focus of further housing to maximise a sustainable pattern of development overall. The argument that population growth of 0.66% has only been achieved three times since 2001 and is thus not a reasonable assessment of need is a circular one as housing supply has been constrained over that time. Given the available evidence the appellants' estimate of a future need for 54 dpa in the cluster is justified and this supports the case for the amount of housing on the appeal site.
36. The need for more affordable housing in Brantham and the cluster as a whole is also clear, and CS paragraph 2.8.5.2 (i) unambiguously states that this issue should be considered on a cluster-wide basis *or even wider*, with provision in one village able to serve a wider role. The appellants' statement shows that provision is already poor as Brantham and the cluster have a significantly lower proportion of social rented accommodation than either Babergh as a whole or the East of England generally. In addition, relative provision in Brantham will actually reduce as the regeneration site will not deliver any affordable housing for viability reasons, thus increasing the need for other sites in the village.
37. As at October 2019 there were 907 households on the Council's waiting list for affordable housing, 43 with a local connection to the cluster and 18 with a connection to Brantham. Although in November 2020 there were said to be just 12 on the list for Brantham, only half in serious or medium need, such lists inevitably fluctuate and it is the need at cluster level that is most relevant. Such waiting lists are a reliable indicator of need as there are detailed eligibility criteria to join the list. The Inspector in the Long Melford decision took Babergh's waiting list evidence at face value, a more relevant precedent than the West Oxfordshire decision put forward by the Council<sup>7</sup>.
38. Whilst recently permitted schemes may deliver 16 affordable homes<sup>8</sup>, with the proposal delivering about 22 more the current level of need from the cluster would still not be fully met, and more households join the list all the time. The Council have not delivered any affordable homes in the cluster in the last five years and figures for the district as a whole show a variable rather than increasing trend, certainly not a recent step change in delivery as claimed by the Council. Despite a request no details of projected future delivery could be produced for the hearing. Given the available evidence the local need for the proposed affordable housing has therefore been fully made out.

<sup>7</sup> Long Melford decision Inspectors Report paragraph 421; West Oxfordshire case APP/D3125/W/18/3202562

<sup>8</sup> at Brantham Place and 11-12 Ipswich Road

39. For these reasons the local need for the level of market and affordable housing proposed on the appeal site has been justified. The scheme therefore complies with the two relevant criteria in Policy CS11. For the same reasons there is a proven justifiable need for the development outside the BUAB of the village which satisfies that element of the Policy CS2 test.

*The effect of the proposal on the landscape*

40. The proposal would involve the outward expansion of Brantham to incorporate some agricultural land currently on its periphery. The land itself is essentially flat and featureless, and forms part of a large field that extends to the west. The Council do not object to the loss of the site to housing in itself, but because the proposal would encroach into and erode the undeveloped gap between Brantham and East End. In its view this would be a serious landscape effect contrary to policy and the landscape objectives for the area.
41. The application was accompanied by a Landscape and Visual Appraisal from Tyler Grange and at appeal stage this was supplemented by further evidence from Leyton Place for the appellants and MBELC for the Council. This included the identification of a series of critical viewpoints in the local area and four photomontages produced by the appellants to illustrate how the proposal might look in Year 1 and Year 15<sup>9</sup>. This evidence, together with discussion at the hearing, provided a full airing of the issues.
42. Both Brantham and East End are circumscribed by two nationally recognised landscapes. The now extended Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB) wraps around the eastern side of Brantham, which forms the setting for the Stour Estuary, but also extends to the north of both Brantham and East End, one field away from Slough Road, to incorporate the shallow valley of the Stutton Brook. To the west the Dedham Vale AONB approaches to within 250 m or so of both settlements, with the north-south bridleway (Sandy Lane) and its intermittent hedgerow forming the boundary one large field away from the appeal site. Despite this relative proximity, it is agreed the proposal would not harm the landscape setting of either AONB.
43. The Suffolk and Babergh Landscape Character Assessments<sup>10</sup> (LCAs) agree the site forms part of the Plateau Farmlands landscape type. This comprises a locally distinct flat or very gently rolling landform between river valleys where loamy soils favour arable farming. The general location of the appeal site is representative of this landscape, is in good condition, and readily accessible with a good network of public rights of way. As such it is agreed its overall value can be assessed as medium, not of national importance but attractive in its East Anglian context and much valued locally.
44. The Plateau Farmlands also feature a dispersed settlement pattern, and importantly the Babergh LCA seeks to retain and enhance this, 'ensuring the sense of separation between settlements is maintained'. This objective, in a Council policy document, informs the application of Policies CS11 and CS15 and thus sets the landscape test against which the proposal should be measured.
45. Brantham and East End are two distinct settlements with their own individual identity. Brantham has developed into a large village in the 20th century as

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<sup>9</sup> Viewpoint references in brackets. The appellants' are numbered, the Council's have letters. The photomontages supersede the 'Accurate Visual Representations' dated January 2020 which were criticised as inaccurate.

<sup>10</sup> The latter contained in Joint Babergh and Mid Suffolk Landscape Guidance August 2015



described above, whilst East End has also grown in modern times, with the Broom Knoll estate and other housing joining two or three Victorian style terraces to form a small nucleated hamlet well away from its parent village. Neither has an overall historic character, with no conservation areas and only a handful of scattered listed buildings. Both settlements include a mix of single and two storey dwellings near the appeal site, but apart from two – Hollywell and Morsreya - they are all single storey fronting onto Slough Road on either side of the gap between the two settlements.

46. The proposal would introduce further built development into the area between Brantham and East End, but it is only part of the appeal scheme that would actually bring them closer, the area alongside 'Coronation', the last property on Slough Road leaving Brantham. This is a bungalow set in a long narrow plot. The proposal involves housing on a strip of the adjacent field with the access into the site from Slough Road beyond. This access road would then serve the south eastern part of the site which is surrounded on three sides by the rear gardens of properties fronting Slough Road and Ipswich Road.
47. The new housing alongside Coronation would start to erode the undeveloped gap between the two settlements at its narrowest point along Slough Road. The two closest buildings, Coronation in Brantham and No 51 Slough Road in East End, both single storey bungalows, are about 110 m apart. How the proposal would affect the perception of this visual gap, both by those using the road between the two settlements and from more distant viewpoints, is one of the factors which would affect a continuing sense of separation. The most critical views to aid this assessment are from the bend on Slough Road (9), near No 51 (12/A) and from Footpath No 1 (5/E).
48. No 51 has an unusual triangular shaped garden bounded by close boarded fencing which projects into the gap by about 30 m, but beyond this there are expansive views across open fields on both sides until Coronation is reached about 80 m away. The rural character of the road is enhanced by five small trees and then four large Oaks on the northern verge, in more distant views (eg 5/E, 10) these reinforce and draw attention to the gap between the settlements and would remain. On the south side, a group of holly would be lost for the site access but these are not significant specimens and could be replaced nearby. The western boundary of the appeal site would be only about 55 m from No 51, half the gap to Coronation, or just 22 m from the end of the garden fence. However, the site frontage could remain free of buildings. In addition to the road access at ground level the frontage could remain open with tree planting to soften the entrance to the scheme.
49. The Concept Masterplan shows no buildings forward of the front elevation of Coronation, leaving a more generous undeveloped frontage than following the building line along Slough Road. In addition, the first dwellings on the site could be limited to single storey, maintaining a more open ambience along the road and reflecting the low profile dwellings on Slough Road when approaching the gap from both directions. In this way the separation distance between the nearest buildings would be considerably more than the 55 m claimed by the Council and their impact would be reduced. As the visualisations from views 9 and 12 show, reducing the bulk of the frontage buildings would increase the perception of an undeveloped gap and in view 5 the four important Oak trees would be more visible, not being subsumed within the built up area in the same

way. Although the Council argue that this would not help much, it would be a step towards making the scheme acceptable.

50. The second point of concern is that the undeveloped gap to Brantham as seen from East End would be noticeably reduced. This is exemplified by the view from the bend on Slough Road (9) which is important because it is the first full impression of Brantham for those travelling east. At present, Coronation is about 220 m away whereas the appeal site would be about 170 m, and the far corner of the appeal site is about 410 m away whilst the new housing in that direction would only be about 200 m away. The distance to the far corner is actually misleading as housing on either side is closer, about 220-300 m away. This far part of the appeal site is surrounded by existing housing on three sides and should be regarded as 'rounding off' the settlement. However, as pointed out by the Council, the current view of Brantham is relatively verdant being the well vegetated back gardens of mainly single storey properties with a backdrop of trees in Pattles Fen. By contrast, as the visualisation from view 9 shows, the proposal would be significantly more dominant, with more dense, two storey development, and would be considerably closer to the viewer, albeit retaining a substantial depth of arable land in the foreground.
51. There is however a precedent for new housing development on the western side of Brantham immediately south of the appeal site, namely Poppy Field. This housing scheme, permitted by the Council with the approval of the Parish Council in 2016, comprises a row of mainly two storey dwellings fronting Ipswich Road. With gardens to the rear these back onto the same arable fields which would form the foreground to the appeal proposal. Although sited closer to East End and at a slight angle, the proposal would be seen as almost a continuation of Poppy Field. Whilst the latter is marked by a long 1.8 m high boundary fence with little or no space for landscaping, the appeal site provides scope for a softer settlement boundary. The appellants' evidence<sup>11</sup> promises 'a distinctly wooded edge' and 'extensive new landscaping along the western boundary'. This can be secured by condition. The Council argues that the density necessary to provide 65 dwellings on the site could preclude this, but the description of the proposal is for *up to* 65 dwellings and this explicit flexibility may be needed to ensure a satisfactory scheme. In addition, some dwellings along the boundary could be 1.5 storeys to mitigate their height.
52. In addition to the views from Slough Road, the separation of the settlements is understood from the extensive rights of way network. Two well used footpaths provide access to the countryside from this part of Brantham, No 1 from the corner of the appeal site and an informal path from Poppy Field. Both these link to Sandy Lane and further footpaths beyond. From all of these footpaths (eg viewpoints 5/E, 6, H, G) housing on the appeal site would be seen almost joining up with Poppy Field at about the same distance, and the impact of the development would be mitigated as discussed above. Views towards the gap on Slough Road would show the two settlements closer than before, but the undeveloped and landscaped frontage would provide some mitigation.
53. The Council also raise the reduction in the gap between the north east corner of East End at Broom Knoll and Brantham, currently 215 m to the bungalow Coronation. The distance to the appeal site would be 180 m. However, with an undeveloped frontage as discussed above this would not be the distance to

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<sup>11</sup> Leyton Place Addendum October 2020 paragraphs 4.2 and 5.13

the nearest building. In any event, the closing of this gap would only be apparent from short lengths of footpath well to the south and the views would be filtered through the trees along Slough Road.

54. Taking these considerations together, the proposal would result in a reduction in the undeveloped gap between Brantham and East End at its narrowest point along Slough Road, and rounding the corner of East End (view 9) Brantham would appear noticeably closer and with a harder, more developed edge than at present. However, the parties agree that the sense of separation cannot be measured in metres and it is the overall impression of those who live and move through the area that is important. Footpath users will continue to appreciate they are in a settled landscape with steadily shifting views of the two built up areas. Meanwhile those travelling along the whole length of Slough Lane from East End Lane to Ipswich Road will see Brantham in the distance across fields well before reaching the narrowest gap and will then see views across open fields to the north over a long undeveloped frontage until just before Ipswich Road. The sense of moving between two distinct settlements would therefore only be slightly reduced, notwithstanding the reduction in physical separation between the two built up areas.
55. For these reasons the sense of separation between Brantham and East End would be slightly reduced resulting in some marginal harm to the settlement pattern and landscape character of the Plateau Farmlands. This would amount to slight conflict with the four relevant criteria in CS Policy 11 and two relevant criteria in CS Policy CS15.

#### *Other matters*

56. The details of the site access, a priority 'give-way' junction off Slough Road, are included in the application. These are considered satisfactory by the highway authority subject to conditions including the provision of the necessary visibility splays. That to the east would lie within the public highway, that to the west would cross the frontage of the adjacent field but could remain unobtrusive in the form of a wide grass verge. The proposal also includes footway widening along the northern side of Slough Road towards Ipswich Road and widening of the footpath to the south, upgrading this to bridleway status to improve access to the facilities in the village. The north-south permissive footpath through the site would be incorporated into the scheme layout.
57. Whilst local residents and Parish Councils raise existing traffic problems on the A137 Ipswich Road and poor access to the A12, the traffic generated by the development compared to existing flows would be marginal, about 40 vehicle movements during the peak hour. The highway authority accepts this would not have a severe impact on the highway network in the area, the relevant test in the NPPF. The site is sustainably located being close to village facilities, local bus services and is not far from Manningtree station.
58. The site comprises 'best and most versatile' agricultural land of Grade 2 quality but this is relatively common across the district and does not warrant refusal in this case. Important trees around the site, for example the significant mature Sycamore at end of the rear garden behind Coronation, can be protected by suitable conditions at reserved matters stage.
59. Boundary hedgerows and their ecology can be integrated within the scheme. The site may comprise a skylark breeding territory but three skylark plots could

- be provided elsewhere on the appellants' land and secured by condition. No other protected or priority species have been identified on the site and the proposal includes ecological enhancements to secure a net gain in biodiversity.
60. Local residents raise a series of other concerns. Potential overlooking and loss of privacy would be addressed at reserved matters stage when the detailed site layout would be determined. There is no evidence the scheme would lead to an increase in crime or anti-social behaviour. Noise and disturbance during construction would be controlled by a construction management plan. There is no right to a view and property values are a private matter.
61. The site lies about 1.4 km north of the Stour and Orwell Estuaries Special Protection Area and Ramsar where visitor pressure arising from additional residents may, either alone or in combination with other plans and projects, have a significant adverse effect on the integrity of the habitats concerned. However, Natural England's letter dated 22 August 2019 to the Council agrees the conclusion of an appropriate assessment that the proposal is not likely to have an adverse effect since mitigation would be in line with the agreed Suffolk Recreational Disturbance Avoidance and Mitigation Strategy. This takes the form of a financial contribution per dwelling towards various measures and is secured by a S106 agreement in this case.
62. The proposal would deliver substantial economic benefits, comprising an investment of £8.7m and generating about 20 direct and 10 indirect jobs in the region during construction. Once occupied, the new residents would spend around £1.35m pa, much of it supporting local services and facilities, which would create around 10 additional jobs. These benefits weigh in favour of the scheme.
63. The appellants, Council and Suffolk County Council have submitted a S106 agreement dated 10 December 2020 to secure affordable housing within the site and to transfer it to a registered provider; to provide open space to an agreed size, location and specification and to transfer it to a management company; to provide a sustainable drainage system and its maintenance; and to provide financial contributions towards habitat sites mitigation, school transport and the improvement of nearby public rights of way. Policy CS19 requires 35% of the dwellings on the site to be affordable whilst Policy CS15 and BLP Policy HS31 require on site public open space; the other provisions are necessary to avoid flooding, to satisfy the Habitats Regulations, to provide school transport for children resident in the scheme and to provide connectivity to the village. The provisions of the S106 agreement are thus necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind, the tests in paragraph 56 of the NPPF.
64. The proposal would also make community infrastructure levy contributions to fund additional school places or surgery expansion if required and address any shortfalls in local services and facilities. Ensuring adequate water supplies and adequate drainage would be the responsibility of the developer.
65. The Council and appellants have agreed a list of 22 conditions should the appeal be allowed and these have been assessed against the relevant tests, making minor amendments as necessary. In addition to the standard time limit for submission of reserved matters and commencement, a condition is necessary to define the approved plans in the interests of certainty. Condition

2 also specifies certain requirements with which the reserved matters must comply in order to enable development to proceed by mitigating the adverse effects. The rationale for these is explained above.

66. Further conditions are necessary to ensure that any archaeological interest in the site is investigated and published, also that working hours are limited, burning materials precluded and a construction management plan prepared and followed to ensure highway safety and protect the amenity of nearby residents. Conditions to control site levels and refuse/recycling storage arrangements are required to ensure the satisfactory appearance of the development, others to provide visibility splays, details of the access/roads/footpaths, residents travel packs & fire hydrants, to control water discharge, and ensure space for parking & manoeuvring vehicles and cycles are necessary to protect highway and other safety and to secure sustainable development. Finally, conditions are needed to secure ecological enhancements, skylark mitigation, a lighting scheme and a landscape/ecological management plan in the interests of biodiversity and satisfactory site appearance.

## **Conclusion**

67. The proposal would deliver up to 65 dwellings (including a minimum of 35% affordable) on a greenfield site adjacent to the BUAB of Brantham, defined as a hinterland village in the CS where development is acceptable subject to Policies CS2, CS11 and CS15. In this case the local need for the level of market and affordable housing proposed has been justified in addition to the other planned development in the village to address past under provision of housing, reverse population decline, rebalance the ageing population, provide more affordable housing which is in particularly short supply and better match the substantial employment growth which is planned for the village. In respect of the second main issue, the sense of separation between Brantham and East End would be slightly reduced resulting in some marginal harm to the settlement pattern and landscape character of the Plateau Farmlands.
68. The proposal complies with 7 out of 11 criteria in Policy CS11 and 17 out of 19 criteria in Policy CS15, the overwhelming majority; there is slight conflict with the remaining criteria regarding landscape effects. In relation to the Policy CS2 tests there is a proven justifiable need for the development and in Brantham's case this also amounts to exceptional circumstances. In any event, as noted above, this aspect of the policy conflicts with the NPPF and thus carries reduced weight.
69. Overall the proposal complies with the development plan taken as a whole and, insofar as there is any conflict, material considerations in favour are sufficient to warrant permission. The social and economic benefits of providing further market and affordable housing in the specific circumstances of Brantham outweigh the limited environmental harm that would arise in this case.
70. Having regard to the above the planning balance is firmly in favour of the scheme and the appeal should therefore be allowed.

*David Reed*

INSPECTOR



## Schedule of Conditions

1. Application for approval of reserved matters must be made not later than the expiration of three years beginning with the date of this decision, and the development must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates the final approval of the last such matter to be approved.
2. Before any development is commenced, approval of the details of the appearance, scale, layout of the buildings and the landscaping of the site (hereinafter called 'the reserved matters') shall be obtained in writing from the Local Planning Authority. For the avoidance of doubt, the reserved matters shall comply with the following:
  - a. Development shall be no more than 2 storeys high across the site
  - b. No buildings shall be permitted forward of a line drawn across the site from the front elevation of the bungalow 'Coronation'
  - c. Any buildings alongside the bungalow 'Coronation' on the Slough Road frontage shall be no more than 1 storey in height and
  - d. The development shall include structural landscaping and tree planting along the western boundary of the site and on the Slough Road frontage. The development shall thereafter be implemented in accordance with the approved details.
3. The development hereby permitted shall be carried out in strict accordance with the following approved plans that were submitted to the local planning authority with the application: Site Boundary Plan drawing 1001B and Proposed Vehicular Access drawing 001 rev P7.
4. No development shall take place within the site until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority.

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

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

The submitted scheme of archaeological investigation shall be in accordance with a brief procured beforehand by the developer from Suffolk County Council Archaeological Service, Conservation Team.
5. No dwelling shall be first occupied until the site investigation and post investigation assessment has been completed, submitted to and approved in writing by the Local Planning Authority, in accordance with the programme

set out in the Written Scheme of Investigation approved under condition 4 and the provision made for analysis, publication and dissemination of results and archive deposition.

6. The hereby permitted development shall only be constructed between the hours of 08:00 and 18:00 Mondays to Fridays and between the hours of 08:00 and 13:00 on Saturdays. There shall be no working on Sundays and Bank Holidays. There shall be no deliveries to the development arranged for outside of these hours.
7. Before the development hereby permitted is commenced a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Construction of the development shall not be carried out other than in accordance with the approved plan. The Construction Management Plan shall include the following matters:
  - haul routes for construction traffic on the highway network and monitoring and review mechanisms
  - provision of boundary hoarding and lighting
  - details of proposed means of dust suppression
  - details of measures to prevent mud from vehicles leaving the site during construction
  - details of delivery times to the site during the construction phase
  - details of provision to ensure pedestrian and cycle safety
  - programme of works (including measures for traffic management and operating hours)
  - parking and turning for vehicles of site personnel, operatives and visitors
  - loading and unloading of plant and materials
  - storage of plant and materials
  - a telephone number for complaints and maintenance of a register of complaints and record of actions taken to deal with such complaints at the site office as specified in the Plan throughout the period of construction.
8. There shall be no burning of waste or clearance materials associated with the development during construction of the hereby approved dwellings.
9. Prior to the commencement of works in connection with the dwellings hereby approved and/or any change in ground levels, details of existing and proposed levels of the site, finished floor levels and identification of all areas of cut or fill as measured from a fixed off site datum point shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in its entirety in accordance with the levels agreed.
10. Before the site access is first used visibility splays shall be provided as shown on Drawing No. 18351/001/P7 with an X dimension of 2.4m and a Y dimension of 70m and thereafter retained in the specified form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the area of the visibility splays.

11. Before the development is commenced, details of the access and associated works (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority. The works shall then comply with the approved details.
12. Before the development is commenced, details of the estate roads and footpaths (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority. The works shall then comply with the approved details.
13. No dwelling shall be first occupied until the carriageways and footways serving that dwelling have been constructed to at least Binder course level or better in accordance with the approved details except with the written agreement of the Local Planning Authority.
14. Before the development is commenced details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of surface water from the development onto the highway. The approved scheme shall be carried out in its entirety before the access is first used and shall be retained thereafter in its approved form.
15. Before the development is commenced details of the areas to be provided for the manoeuvring and parking of vehicles including electric vehicle charging points and secure cycle storage shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter and used for no other purpose.
16. Before the development is commenced details of the areas to be provided for presentation and storage of Refuse/Recycling bins shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter for no other purpose.
17. Within one month of the first occupation of any dwelling, the occupiers of each of the dwellings shall be provided with a Residents Travel Pack (RTP). Not less than 3 months prior to the first occupation of any dwelling, the contents of the RTP shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority and shall include walking, cycling and bus maps, latest relevant bus and rail timetable information, car sharing information, personalised travel planning and a multi-modal travel voucher.
18. Prior to the first occupation of the site, details of the provision of fire hydrants shall be submitted to and approved in writing by the Local Planning Authority. The fire hydrants shall be installed in accordance with these details in their entirety and in accordance with the agreed timetable.
19. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal and Preliminary Bat Roost Assessment (Tyler Grange Ltd, April 2019) and the Landscape and Ecological Strategy (Tyler Grange Ltd, April

2019) as submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

20. All mitigation measures and/or works shall be carried out in accordance with the details contained in the Breeding Bird Report (Tyler Grange Ltd, July 2019) as submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination. This shall include the submission of a plan detailing the skylark mitigation works in accordance with the Breeding Bird Report (Tyler Grange Ltd, July 2019) and including the provision of the three Skylark nest plots, in nearby agricultural land, prior to commencement. The Skylark nest plots shall be implemented in accordance with the approved details and all features shall be retained for a minimum period of 10 years.
21. A lighting design scheme for biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.
22. A Landscape and Ecological Management Plan (LEMP) shall be submitted to and be approved in writing by the Local Planning Authority prior to first occupation of the development. The content of the LEMP shall include the following:
- a) Description and evaluation of features to be managed.
  - b) Ecological trends and constraints on site that might influence management.
  - c) Aims and objectives of management.
  - d) Appropriate management options for achieving aims and objectives.
  - e) Prescriptions for management actions.
  - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
  - g) Details of the body or organisation responsible for implementation of the plan.
  - h) Ongoing monitoring and remedial measures.
- The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning

biodiversity objectives of the originally approved scheme.  
The approved LEMP will be implemented in accordance with the approved details.

## **APPEARANCES**

### **FOR THE APPELLANT:**

|                                |                           |
|--------------------------------|---------------------------|
| Zack Simons                    | Counsel                   |
| Mat Jones BSc DipTP MRTPI      | Senior Director, Turley   |
| Anthony Pollard BA MTPL MRTPI  | Head of Economics, Turley |
| Clare Brockhurst BSc DipLA FLI | Director, Leyton Place    |

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

|                               |                 |
|-------------------------------|-----------------|
| Matthew Henderson             | Counsel         |
| Andrew Riley BA MSc MRTPI     | Director, DLBP  |
| Michelle Bolger BA DipLA CMLI | Director, MBELC |

### **INTERESTED PARTIES:**

|                 |                                                                               |
|-----------------|-------------------------------------------------------------------------------|
| Alastair McCraw | Councillor, Babergh District Council and<br>Chairman, Brantham Parish Council |
| Ellie Crisp     | Local resident                                                                |
| Neil McManus    | Suffolk County Council                                                        |