

CHILTON PARISH COUNCIL

Clerk: Dave Crimmin, Cragston, Sudbury Road, Newton, Sudbury, Suffolk CO10 0QH
Tel: 01787 375085 email: chiltonpc@btinternet.com

20th October 2017

Steven Stroud
Babergh District Council
Corks Lane
Hadleigh
Ipswich IP7 6SJ

By email

Dear Mr Stroud

Outline application (with all matters reserved except for access) - Erection of up to 1,150 dwellings (Use Class C3); 15ha of employment development (to include B1, B2 and B8 uses, a hotel (C1), a household waste recycling centre (sui generis) and a district heating network); village centre (comprising up to 1,000m2 Gross Floor Area (GFA) of retail floor space (A1, A2, A3, A4 and A5), village hall (D2), workspace (B1a), residential dwellings (C3), primary school (D1), pre-school (D1) and car parking); creation of new vehicular access points and associated works; sustainable transport links; community woodland; open space (including children's play areas); sustainable drainage (SuDS); sports pavilion (D2) and playing fields; allotments; and associated ancillary works

1. We write in response to the second consultation circulated on 14th September 2017 and to the officers report dated 25th October 2017. Unless otherwise stated paragraph numbers in this letter refer to paragraphs in the Officers report. We also refer to our earlier responses to the previous stages of the consultation process which are attached for ease of reference and reiterate those points, which regrettably continue to be ignored by the Applicant.
2. As we are a small parish council we regret that due to the considerable volume of recently posted material we have not been able to respond earlier. Due to the Planning Committee Meeting being held on Wednesday 25th October at 9.30 am we are circulating this response to the members Planning Committee direct as well as to yourselves.

Duty to Co-operate

3. We have for several years since this scheme was originally promoted asked Babergh District Council ("**BDC**") to liaise with us on section 106 provisions. We are disappointed at the continued failure of both SCC and Babergh District Council to comply with the specified obligations under Policy CS4. Policy CS4 provided that "***the Council i.e. BDC is committed to working cooperatively with partners and Chilton Parish Council, Sudbury Town Council, Long Melford and Acton Parish Councils and the local community to bring forward and deliver the Chilton Woods scheme in a timely way***". Regrettably this has not been our experience. One of our district councillors, Mr Frank Lawrenson, has been in regular contact with your planning officers to reiterate our wish to be involved in section 106 discussions. We pointed out in our letter of 26 March 2016 our wish to be involved in these negotiations and that we considered it particularly important that there is a final form of section 106 agreement to go before any planning committee in consideration of this application for outline permission rather than the section 106 being negotiated after planning permission has been granted since in such circumstances BDC are at a negotiating disadvantage. It appears however that you are intending to negotiate the final form of section 106 agreement after the committee hearing. Again we repeat that we consider that this is not an efficient way to proceed. It appears from references in the documents that there may already be some draft terms of section 106 agreement in existence. Most of the land the subject of this application is within our parish. We ask therefore that we now be provided urgently with a full unredacted draft of the proposed section 106 deed of planning obligation, to which our Parish Council should be a party, which BDC intends to negotiate and/or enter into in connection with this application as soon as possible.
4. We also seek your confirmation that the facts and terms of the obligations will be advertised in accordance with the requirements of Article 36(3)(b) of the Town & Country Planning Development Management Procedure (England) Order 2010. We regard the continuing failure to involve us as a breach of Babergh District Council's duty to co-operate with us as provided for by legislation and particularly under Policy CS4. Please explain the decision not to involve us in the section 106 negotiations despite our continuing requests and those of our District Councillors?

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Policy CS4

5. It is at the heart of the strategic land allocation of Chilton Woods, pervasive to the whole of Policy CS4, that:
- a Masterplan will be required to guide development;
 - development feasibility and viability evidence will be provided, which clearly demonstrates that a comprehensive, mixed land-use employment-led development will come forward;
 - that a phasing programme, which includes as a minimum the items listed in paras i – vii of the Policy is demonstrated; and
 - that the development will provide an integrated high-quality and sustainable development that fulfils the requirements of other policies in the Local Plan, including reflecting the aspiration of Suffolk's Greenest County initiative.

According to the Policy, a piecemeal approach to development within the allocated area is absolutely not acceptable.

We also note that as defined within Policy CS4 "approximately 1,050" new dwellings will be accommodated on the strategic site. This application seeks to accommodate 1,150 new dwellings and is wholly enclosed within the strategic site of CS4. Planning Application DC/17/04052 Land North of Waldingfield Road is also wholly enclosed within the strategic site and seeks to add a further 130 new dwellings to the Policy CS4 site as included in the current Local Plan. We do not regard the increased number of dwellings of 1,280 as being "approximately 1,050" new dwellings.

6. The audit of the application against Policy CS4 set out in the Officers' Report between paras 154 and 220 is, with respect, unconvincing and open to question. In a number of respects, it appears to be directly in conflict with the assumptions stated in the Financial Viability Assessment (August 2017) provided by the applicant's viability consultant, Deloitte, and by the companion document, the Viability Review, undertaken by Aspinall Verdi, also dated August 2017 to which we refer below. There are a number of disquieting inconsistencies. For example, the following should be noted:
- The applicant's offer of affordable housing assumes that the delivery of the residential is not conditional on delivery of the employment land. The original planning application Planning Statement made it crystal clear that Phase 1 would include 5.8 ha of employment land (including 5.2 ha of B1, B2 and B8 uses, plus 0.6 ha of hotel). It would only be right in principle to grant permission here if the Council is certain that the employment development will be forthcoming, and be delivered in full, in line with the Policy.
 - Progressing with the development to later phases until this delivery has been secured would clearly be a significant breach of the Policy and drive a coach and horses through the carefully constructed framework, without which there is clearly a substantial risk of piecemeal development.
 - Again, it is the essence of the Policy that areas of undeveloped land, in particular structural planting, landscaping and green spaces, be provided from the very start of the development of the Masterplan, and throughout, in order to mitigate unavoidable harm and significant change to the character of the area, and adverse impacts on the existing fabric of Sudbury and surrounding villages. Unsurprisingly, the application documents seek to portray all of this as guaranteed and taken for granted when in fact they are only illustrative.
7. It is essential that the Planning Committee be convinced that this is indeed the case. It is right to record that there is a high degree of concern on the part of the local community as to whether this will prove to be the case, and whether the Council will have the fortitude and determination to insist that the scheme is designed and carried through to a high standard. The absence of demonstrable controls and a detailed set of Masterplan parameters does not auger well.

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Reference to the Secretary of State

8. As to employment use the Western Employment area provides for approximately 61,650 m² of employment space comprising 18% B1 uses, 35% B2 users and 47% B8 users. The employment mix is based on evidence provided by Fenn Wright in 2015. We remain of the view that the proposed siting of B2 uses i.e. industrial processes is inappropriate located next to a residential area. We believe this is a concern also shared by your Environment Protection Officer and the Design Panel. We also remain of the view that there is too high a provision of land for B8 use. The above areas ignore the Eastern Employment area.
9. Paragraph 362 of your Officers report states that it is “**considered necessary to set parameters in respect of the uses permitted and associated operations.**” In paragraph 383 you state that the Western Employment area will comprise of 2.9 hectares of B1 use, 4.4 hectares of B2 and 5.3 hectares of B8. Amec Foster Wheeler’s (“**Amec**”) letter of 24 August 2017 states that the 2.9 hectares of B1 land is equivalent to 10,143 m².
10. In the light of the above we point out that this application should not be considered by the BDC Planning Committee but rather it should be referred to the Secretary of State for consideration. We draw your attention to the Town & Country Planning (Consultation) (England) Direction 2009 (“**2009 Direction**”) which specifies the types of development application which local planning authorities are required to refer to the Secretary of State for his consideration. This is such an application. The 2009 Direction applies to development which falls within the description in paragraph 5(1) which is as follows:-
 - (i) For the purposes of this Direction “development outside town centres” means development which consists of or includes ... office use, and which –
 - (a) is to be carried out on land which is edge-of-centre, out-of-centre or out of town; and
 - (b) is not in accordance with one or more provisions of the development plan in force in relation to the area in which the development is to be carried out; and
 - (c) consists of or includes the provision of a building of buildings where the floor space to be created by the development is:-
 - (i) 5,000 square metres or more; or
 - (ii) extensions or new development of 2,500 square metres or more which, when aggregated with the existing floor space would exceed 5,000 square metres.”
11. The purpose of the Direction is to ensure that for certain types of large scale development there is ministerial involvement in planning decisions. This development proposal falls within the description in paragraph 5.1 on the 2009 Direction in that:
 - (a) It is to be carried out on land “out of town”. Most of this development is located in land within the parish of Chilton and the Western Employment Area is within the parish of Long Melford. Please see Appendix A the Applicant’s drawing / map showing the parish boundaries.
 - (b) The proposed development includes B1 office space.
 - (c) The development is not in accordance with one or more provisions of the development plan (e.g. policies CS1, CS4, CS19, CN14, EM08 and CN06).
 - (d) It consists of new floor space which will exceed 5,000 sq metres. Amec’s above referenced letter confirms that the floor space will exceed 10,000 sq meters.
12. For these reasons this planning application should be referred to the Secretary of State for consideration. Given the scale of development here, and the inescapable sense of the challenge posed by a scheme which is struggling to convince everyone of its deliverability and the viability of

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the scheme, it is in our view highly doubtful whether the right procedure to follow here is for Babergh DC to proceed to determine this case without referring it to the Planning Casework Unit, and inviting a ruling on whether the application should be called in for determination by the Secretary of State.

Financial Viability

13. The Applicants have only recently provided evidence as to financial viability by way of a financial viability assessment produced by Deloitte in August 2017 ("**Deloitte Report**") which report has been reviewed by Aspinall Verdi ("**Aspinall Verdi Report**") also in August 2017 on behalf of your council. Deloitte's analysis was done in May 2017 and this report issued in August 2017 but only posted on the application website on 28 September 2017, a week before responses to the second consultation were due. It was obviously available to Amec well before 24 August 2017 as the provision on 25% affordable housing is asserted in that letter but strangely no reference to any supporting evidence or viability assessment is referred to when such material was obviously crucial. We became aware of its existence when we received the Officers report. We, together with, other local parish councils, have been asking for viability evidence for some considerable time and it is disappointing that it has only been produced at this very late stage in the process when it is apparent that discussions about viability have been ongoing between the applicants, their advisers, your council and your advisers since 2014 (Aspinall Verdi report para 1.3). An unfortunate impression of slipping out this very relevant information is created.
14. Deloitte were instructed to test the level of affordable housing which could be supported by the development. In doing this test Deloitte have relied on cost and planning information prepared and provided to them by Amec. Both reports are attached for ease of reference.
15. First, we should say that we are not convinced that the appraisal based on a smaller development site of a notional 100 unit appraisal is the most appropriate to use in this case as this development is intended to be a large integrated development rather than as Deloitte appear to have been instructed that a master developer would acquire the site, install infrastructure and sell off parcels of service land to housebuilders. That would likely result in there not being an integrated scheme and could result in what we and the other parishes involved are very keen to avoid namely a piecemeal development of different styles and density. In arriving at the residual appraisal of 100 residential units as stated in para 4.8 of the Deloitte Report the appraisal does not include any allowances i.e. it excludes **all** the following development costs:-
 - Section 106 costs (excluding affordable housing where applicable);
 - planning costs (excluding reserved matters, application costs for the 100 units);
 - strategic infrastructure;
 - community woodland space;
 - allotment space;
 - public open space;
 - earthworks;
 - distributor roads (including western access link road);
 - off-site highway works;
 - utilities and drainage;
 - other costs including a village centre, archaeological excavations and land remediation; and
 - development management fees.

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16. Therefore, we point out that we consider paragraph 461 of the officers report where they say that the utilities costs of approx £1 million has been taken into account is incorrect as Deloitte state this is specifically excluded. Further the off-site highway improvements are not included.
17. As Deloitte explain if the net present value (**NPV**) is positive this scheme is potentially viable. They calculate in paragraph 4.20 and 4.21 that under both scenarios with 35% affordable housing or 0% affordable housing the illustrative masterplan cannot afford to provide any affordable housing and provide an acceptable return to a master developer. Accordingly, the scheme as proposed is not financially viable. We also note that the housing density now proposed by Deloitte is higher than that which has been suggested in the illustrative masterplan documents.
18. Deloitte's analysis clearly shows that this scheme as proposed cannot support the policy level of 35% affordable housing as required under policy CS19.
19. Deloitte also refer to a scenario where the residential element of their proposed development comes forward but areas of non-developable land not required for housing are excluded. This obviously reduces the land cost. The non-developable land in this scenario would remain as it is i.e. undeveloped. This we understand would mean that for example there would be no community woodland, no village green, no landscaping, no open spaces, no playing fields and no allotments which is clearly not acceptable. Even on that scenario the proposed scheme can only "*in theory deliver 20% affordable housing (228 units) in total with 0% affordable housing in phase 1, 35% in phase 2 and 35% in phase 3.*" As mentioned above this proposed scenario would mean that the employment land would not come forward as is envisaged under the scheme in phase 1. Therefore the figures for employment/job creation as suggested to be supplied by this development cannot be relied on since there is no certainty whether the employment would come forward. Further the Core Strategy provides that "the new plan is to be jobs led not homes led"
20. Accordingly, due to the inability to fund these other items the scheme as a whole is clearly financially unviable and for these reasons permission should be refused. All Deloitte's calculations are based on the assumption that the residential units are not conditional upon delivery of the employment land. However, as Aspinall Verdi point out the employment land and its associated infrastructure are part of the planning application/masterplan as are what Deloitte refer to as "the non-developable land". Accordingly, the scheme now envisaged by the Applicant appears substantially different from that which is proposed in the material supporting the planning application and members should be very aware of that.
21. We also do not accept that the Deloitte viability assessment has been prepared on the required basis under the National Planning Policy Framework ("**NPPF**"). The viability analysis should properly take into account **all** of the costs of development – including any section 106 requirements. Paragraph 16 of the National Planning Practice Guidance ("**PPG**") provides –

"A site is viable if the value generated by its development exceeds the costs of developing it and also provides sufficient incentive for the land to come forward and the development to be undertaken".
22. All costs of developing this site should therefore be taken into account – including any section 106 obligations. As state above, para 4.8 of the Deloitte's Report expressly excludes these costs.
23. Planning permission should be refused where obligations which are necessary to make the development acceptable cannot be secured. This is supported by paragraph 176 of the NPPF which provides that -

"Where safeguards are necessary to make a particular development acceptable in planning terms (such as environmental mitigation or compensation), the development should not be approved if the measures required cannot be secured through appropriate conditions or agreements. The need for such safeguards should be clearly justified through discussions with the applicant, and the options for keeping such costs to a minimum fully explored, so that development is not inhibited unnecessarily."
24. And repeated in paragraph 19 of the PPG –

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“Assessing viability should lead to an understanding of the scale of planning obligations which are appropriate. However, the National Planning Policy Framework is clear that where safeguards are necessary to make a particular development acceptable in planning terms, and these safeguards cannot be secured, planning permission should not be granted for unacceptable development.”

25. As securing all the Section 106 obligations are necessary to make this development acceptable, then the permission should not be granted unless these obligations are provided. If they are to be provided then they should be included within the viability assessment.
26. It is not appropriate simply to disregard those development costs for the purposes of the viability analysis. The analysis should take into account the full cost of the development. When one does this it is clear that the development as proposed is not financially viable. In those circumstances it is clear that planning permission should be refused and the Applicant should reconsider and revise this application.

Heritage

27. There are important heritage assets within our parish at Chilton Hall and its historic park and gardens. We note that it is accepted by the officers that harm will occur to these heritage assets and that mitigation needs to be implemented in appropriate form by way of Section 106 obligations and planning conditions. Heritage England have advised on this and their advice is accepted and endorsed by your heritage team. We welcome this. However, there is no provision for the cost of structural landscaping/planting and earthwork buffers in the below referenced table and this also needs providing for.

Village Hall

28. We do not agree that it would be appropriate for the village hall/community centre facilities to be shared or used as Police premises. The ambience of the village hall would be different from that on Police premises and the police premises would require a higher level of security. Accordingly, such premises will need separate provision.

Draft Planning Conditions

29. It is imperative that the Committee is provided with a detailed set of draft planning conditions and expressly advised that, taken together, these would provide a sufficient level of control and protection before it was right for this project to progress to a resolution to grant, in line with the Officers' recommendations.
30. It is not understood why the position in this respect is as reflected in the Officers report, with the barest skeleton of an indication of the conditions proposed. The application should surely be referred back to the Committee in due course.
31. It goes without saying that representatives of local groups will wish to have a close involvement in the evolution of the detail.

Section 106 Planning Obligations

30. The concluding section of the Officers' Report contains a Table beneath para 537, giving (in some cases) very precise levels of contribution, and in some cases providing very approximate and non-specific indications of the nature and level of the contribution being sought.
32. Notable for the very general nature of the description (again, this is most worrying) are obligations which would cover Community Woodland, Playing Fields, Open Spaces, the Sports Pavilion and Car Parking, Play Provision and the proposed Village Hall. We have accordingly revised the Table to include where figures are available in the document the amounts which are missing. However, there are other sums which need insertion. We attach the revised Table with this letter.

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33. These are of course critical components against which neighbours and the members of the local community will be assessing and judging the acceptability of the proposed development.
34. The planning system operates in the public interest, to ensure that development is controlled, and that it delivers for the benefit of the local community necessary benefits and enhancements needed in order to make a scheme acceptable. In a number of respects there is simply insufficient precision in the description of what is being offered here. The application needs to be supplemented in this respect, with the detail spelled out much more fully.
35. As with the working up of conditions, it would be a serious mistake to fail to engage with local parish councils in progressing any detail to build up a secure, legally safe, set of planning obligations.

Yours sincerely



Dave Crimmin MILCM
Clerk, Chilton Parish Council

cc Babergh's Planning Committee members
Cllr Lee Parker, Babergh Cabinet member for Planning
Cllrs Margaret Maybury and Frank Lawrenson, members for Waldingfield Ward

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Appendix A

