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**Parish:** SUDBURY/GREAT CORNARD

**Location:** Land east of 66 Cats Lane

**Proposal:** Erection of Care Home (C2) and 5 no houses with associated car parking, amenity space, landscaping and supporting infrastructure, as amplified by Energy Statement received 26/11/2009, as further amplified by Mitigation Strategy received on the 09/03/2010 and as amended by drawing WPG/CR/1201 Rev F A3 received on the 22/02/2010 (showing amended access)

**Applicant:** Miss D. Griffith

**Case Officer:** Graham Chamberlain

**Date for Determination:** 16/02/10

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**This application is reported to Development Committee as representations have been received which are at variance to the recommendation of Officers.**

### **THE SITE**

1. The application site is a parcel of land measuring 0.42ha located on the south eastern side of Cats Lane. The site was a former chalk quarry which has since been filled in. Cats Lane marks the boundary between Sudbury and the parish of Great Cornard. Cats Lane is a predominately residential area with a mix of dwelling styles. To the north western side of the road is a mid 20<sup>th</sup> Century housing estate with a clear character to the buildings and pattern to the layout. The estate is spacious in character with houses set back from the road.
2. On the south eastern side of the street the houses are tighter to the edge of the road giving a strong linear building line parallel with the road. There are some 19<sup>th</sup> Century houses to the south with the style becoming more modern further along the road. To the immediate north of the site is a modern estate (situated around the Maldon Grey Pubic House) which is quite high in density with some three storey flats under construction to the back of the site.
3. The site is located between the disused railway bank to the south east and Cats Lane to the north-west. It is about 1000m (linear measurement) from the town centre. It is currently designated as a County Wildlife Site, its importance relating to rare reptile species found in the area. The site has, however, deteriorated and is very over grown due to under management.
4. The site is also identified as being an Area of High Archaeological Potential and there is a history of landfill in the vicinity of the site. The site is located within the Built up Area boundary of the Sudbury/Great Cornard Urban Area.

### **THE PROPOSAL**

5. The proposal is for the erection of a care home (for elderly and dementia care) and 5 no houses. The application is in outline form with all matters reserved apart from the access. The applicant has provided indicative drawings showing the scale parameters which could form the basis of the reserved matters. The main details regarding the scheme are as follows:-

- The care home would be 1733sqm (the applicants have indicated to the PCT that this would enable approximately 35 bedrooms to be provided. This is only a scale parameter; the final size could in theory, be different. The height is indicated at 10.5m over three floors with 2 two-storey wings. The care home would be located at the back of the site.
  - The indicative scale of the care home is 43m in width and 9m in depth.
  - The proposal would include five houses at the front of the site arranged in a terrace. The indicative scale being 4 x three beds and 1 x four bed. The houses would be two storeys with accommodation in the roof giving a height of 8.7m.
  - The indicative layout shows parking for the houses to the rear of the gardens. Each house would have two allocated spaces. Parking for the care home would be to the front. The block plan shows 13 spaces, four of which would be allocated disabled space.
  - There would also be a bin store and secure cycle area at the west end of one of the buildings two story wings.
  - A resident's amenity area (for the care home) would be provided to the south of the building measuring 526sqm.
  - A new footpath would be provided along the highway frontage of the site.
  - There would be five full time members of staff.
6. The application is supported by:-
- Indicative elevations and layout.
  - Design and Access Statement.
  - Phase 1 Contaminated Land Assessment.
  - An assessment against the Building for Life Criteria (undertaken by the applicant, not accredited).
  - Reptile survey and mitigation strategy for translocation.
  - Planning Statement.
  - Energy Strategy.
7. These documents can be viewed before the meeting by appointment with the case officer.

### **RELEVANT HISTORY**

8. B/89/01116 - Erection of 4 detached two storey dwellings with garages - Approved
9. B/92/00640 - Erection of 5 detached two storey dwellings with garages - Approved
10. Neither of these approvals were implemented and have now expired. Due to the passage of time and changing policy framework, they are of little significance to the current proposal.

### **NATIONAL GUIDANCE**

11. **PPS1** (Delivering Sustainable Development)
12. **PPS3** (Housing)
13. **PPS9** (Nature Conservation)
14. **PPG13** (Transport)
15. **PPG23** (Planning and Pollution Control)

## PLANNING POLICIES

16. The Development Plan comprises the East of England Plan, adopted 2008, saved policies in the Suffolk Structure Plan, adopted 2001, and the Babergh Local Plan (Alteration No. 2) adopted 2006. The following policies are relevant to this proposal:

### **East of England Plan (EEP) 2008**

- **ENV7** (Quality in the Built Environment)
- **SS1** (Achieving Sustainable Development)
- **ENG1** (Carbon Dioxide Emissions and Energy Performance)

### **Babergh Local Plan (Alteration No.2) 2006**

- **LP01** (Infrastructure)
- **CN01** (Maintaining Local Distinctiveness)
- **HS39** (Special Needs Housing)
- **HS01** (Housing in Towns/Urban Areas)
- **HS27** (Housing Density)
- **HS28** (Infilling)
- **TP15** (Parking)
- **EN02** (Local Wildlife and Geological Sites)

**The relevant documents can be viewed via the internet. Please see Page 4 for details.**

## CONSULTATIONS

17. Great Cornard Parish Council - Recommends approval.
18. Sudbury Town Council - Approve - although concerned over lack of adequate parking.
19. Local Highway Authority - Concerned by the lack of achievable visibility splays. Therefore recommends refusal. If the visibility splays can be provided, approval is recommended with conditions. Members will be updated at the meeting.
20. BDC Arboricultural Officer - There are no significant trees that warrant being a constraint on development.
21. BDC Contaminated Land Officer – No objection subject to a condition. The site is a former quarry which has now filled in. it is identified as low risk but may still be contaminated therefore the development should proceed with appropriate caution.
22. County Archaeologist - No objection, no condition recommended.
23. Suffolk Fire and Rescue - No objections raised.
24. Environment Agency - The site is situated within a Groundwater Source Protection Zone, there is also a history of land contamination. A number of conditions have therefore been recommended. Conditions have also been recommended regarding water efficiency and pollution control.
25. Natural England - Objects to the proposal - comments discussed in more detail below.
26. Suffolk Wildlife Trust - Objects to the application - comments discussed in more detail below.

27. Primary Care Trust - The proposal will put pressure on existing health care infrastructure, therefore a financial contribution should be made towards the provision of local healthcare infrastructure.
28. Anglian Water - No objections raised. Have submitted a suggested Informative Statements and Conditions report outlining a number of relevant informative (no conditions recommended in this instance).

## **PLANNING CONSIDERATIONS**

29. The main considerations in this application are:-

- The principle of the development.
- The impact on the Ecology/County Wildlife Site.
- The design and impact of the buildings.
- The sustainability of the proposal.
- Impact on neighbour amenity.
- Section 106 Agreement.
- Traffic and Highways.
- Contamination.

### **Principal of Development**

30. The proposal is for residential development and care home (a care/nursing home falls under the C2 use class being a residential institution) within the Built up Area Boundary of the Sudbury and Great Cornard. The principle is therefore acceptable within the context of Policies HS01 and HS39 subject to adherence with these and other relevant policies (identified above), in particular Policy EN02 - Local Wildlife and Geological Sites.

### **Impact on Ecology/County Wildlife Site**

31. The site was designated as a County Wildlife Site (CWS) in 1998. The designation was for reptile, slow worm and common lizard populations. A CWS designation is a non statutory local designation. The Suffolk Wildlife Trust has confirmed that there is no requirement for the owner to manage the site in a positive way for biodiversity. However, the species, and their habitat, may be protected under different legislation.

32. Planning Policy Statement 9 states (in Para 9) that:-

*'Sites of regional and local biodiversity and geological interest, which include Regionally Important geological Sites, Local Nature Reserves and Local Sites, have a fundamental role to play in meeting overall national biodiversity targets; contributing to the quality of life and the well-being of the community; and in supporting research and education. Criteria-based policies should be established in local development documents against which proposals for any development on, or affecting, such sites will be judged. These policies should be distinguished from those applied to nationally important sites.'*

33. The document draws a distinction between internationally and national important sites and local sites. The highest levels of protection are afforded national and international sites, but not local sites.

34. Local sites should be safeguarded and protected where they are of ecological benefit. Policy EN02 of the Local Plan reinforces this stating that:-

*'Development will not be permitted which, directly or indirectly, would have a material adverse impact on existing or proposed County Wildlife Sites....'*

35. In this instance the applicant has submitted a case/evidence that the site has deteriorated significantly, which has had a knock on impact upon the protected species. The applicant is arguing that the site has deteriorated to such an extent it is of no practical benefit as a CWS and should be developed.
36. At the time of the designation in 1998, the site comprised grassland. This has now deteriorated and the site is predominantly scrub. The applicants have submitted a chronology of events:-
  - A reptile survey was undertaken in 1998 where it found that the site held significant numbers of slow worms and common lizard. On this basis it was designated as CWS. The report indicated 60-70% of the site provided suitable habitat.
  - A subsequent report was undertaken in 2007 which found that the suitable habitat had reduced to 184sqm or 4.6% of the site. The population of protected species inevitable decreased. A forecast stated that the habitat would be completely lost within 3-5 years.
  - The report submitted within the planning application now before members indicates that only 3.2% of the site is suitable habitat. The rate of decline is actually faster than that predicated in 2007.
37. The applicant's ecologist is of the opinion that the site does not warrant the CWS status anymore given the decline in habitat and therefore the protected species. They propose that the site be carefully surveyed and any protected species are trans-located to an appropriate receptor site. If nothing is done they are of the opinion that any protected species left on site would ultimately die out as the habitat shrinks further. Of course, improved management could increase the habitat but there is little prospect of this (even though the applicant is the owner of the site) as there is no mechanism to require management. Furthermore, with development on all sides the long term viability of the CWS as a sustainable habitat is questionable. The applicant also points to the fact lizards and slow worms were trans located off the site to the north when the new 46 home estate was approved (outline in 2000 with reserved matters in 2006).
38. The SWT do not question the survey methodology but have concerns in two respects (quoted below):-
  1. *The report submitted by the applicant does not provide grounds to de-designate the CWS. That would only happen if the site had completely lost its wildlife value and the opportunity to reinstate this wildlife value was irretrievable. The current situation is that the site has declined in ecological value due to lack of habitat management, but if management was reinstated then the numbers of reptiles would increase and this management would benefit other wildlife also.*
  2. *The difficulty with the report submitted by the ecologists is that they have not provided sufficient details regarding proposed mitigation to ensure 'no net loss' to biodiversity. No receptor site has yet been identified - this is partly because of the difficulty in finding suitable sites. Consequently, there is currently no guarantee that the receptor site would have long term security or would be suitably managed.*

39. The second point has been addressed by the applicant. They have now identified a receptor site at Cornard Country Park which is run as a nature reserve with the grassland habitat needed to sustain lizards, reptiles etc... The applicants have submitted a mitigation strategy which identifies what enhancement is needed at the receptor site, how the protected species will be trapped and relocated and what monitoring will take place. The methodology was agreed with the SWT.
40. The first point needs careful consideration. Although in principle the CWS should be retained and it is correct to say that the site has not lost all of its wildlife value, if the status quo remains then the site will continue to deteriorate to the point where there will be no protected species on site. This would be counterproductive for the remaining specimens. On balance, Officers are of the opinion that there are benefits to the translocation of the protected species for example Cornard County Park is a much larger site at 2.4ha and is already run as a nature reserve for the public. Another benefit is that Cornard County Park may become suitable for CWS status with the presence of the translocated species.
41. A S106 Agreement would need to be entered into by the applicants and the owners of Cornard Country Park to ensure the habitat enhancement at CCP takes place and the mitigation strategy is implemented.
42. The Suffolk Wildlife Trust have been consulted on the mitigation strategy, members will be updated once comments are received.
43. Assuming that the SWT have no objection to the mitigation strategy then Officers are of the opinion that the proposal would ensure 'no net loss' to biodiversity and would result in an enhancement at a nearby site (Cornard Country Park). It may be that, as a result of this application, the site is de-designated (this will be reviewed by SWT), although regrettable, this is unlikely to have a significant impact on protected species (subject to the mitigation). Instead of looking at the proposal as the loss of a CWS, it could be reasonable to view it as the enhancement of Cornard County Park.
44. Strictly speaking the proposal will have a direct impact on the County Wildlife Site contrary to Policy EN02, however for the reasons outlined above; the circumstances are such that there would be an acceptable impact on protected species overall by way of the mitigation proposed.

#### **Design, Layout and Impact on Character and Residential Amenity**

45. The proposal is akin to a residential infill development. Therefore it is correct to assess it against the principles and content of Policy HS28 of the Local Plan.
46. Policies HS28 and CN01 requires all new development to be of an appropriate scale, form, design and finish. Policy ENV7 of the EEP states that all new development should be of high quality and based on a robust site appraisal. PPS3 in Paragraph 10 states that planning authorities should deliver well designed high quality housing; this is echoed in PPS1 which places design towards the centre of the planning system (Paragraph 34) stating that development which fails to improve the quality and character of the area should not be supported.
47. Policy HS28 of the Local Plan specifically relates to residential infill development such as that proposed. It states that planning permission will be refused if the:-
  - Site should remain undeveloped.
  - Proposal represents over development.
  - Layout provides unreasonable standards of privacy, garden size and amenity, and
  - Proposal would be of a scale, density or form which would be out of keeping with the surrounding area.

48. The site does have a hedgerow along the front of the site with the road, but as a whole has the visual appearance is of scrub land. This does little for the visual amenity of the area. The contribution of the site as undeveloped, in visual terms, is not sufficient to be a constraint on development. The site is not identified as an AVRA. Contamination can be addressed via condition and for the reasons above ecology can be safeguarded as part of the proposal. Consequently there are no visual or environmental reasons for retaining this site as undeveloped.
49. The application is at an outline stage, therefore the layout and scale of the development is indicative. Notwithstanding this the applicant has demonstrated that the amount of development proposed could be accommodated on site in a satisfactory manner. The houses have sufficient amenity space and parking and would not appear cramped in the street scene. The access can be satisfactory accommodated (discussed further below) as can bin stores, manoeuvring space and secure cycle storage. The care home fits the plot and incorporates amenity space for the occupants. There would be no adverse impact on neighbour amenity and space for landscaping. For these reasons the proposal is not considered an over development of the site.
50. Neighbour amenity would be safeguarded. There could be potential for conflict between the care home and dwelling along the front by way of over looking, however the distance is in excess of 21m (25m to gardens from care home) ensuring the relationship is reasonable. There would be no harm to the residents of 66 Cats Lane if the current proposal was taken forward as the indicative elevations show no windows in the two-storey 'wing' facing their garden. The applicants also propose landscaping here. The reserved matters may not reflect the indicative scheme but the applicants have shown that an acceptable scheme could be delivered on site.
51. The design rationale is for a strong built frontage to Cats Lane mixed with simple architecture which will blend into the street scene when viewed between the modern estate under construction to the north, and the mid 20<sup>th</sup> Century estate to the west. The indicative elevations show a simple palette of materials and a simple architectural language with symmetry. The care home has been designed to be of a domestic scale and is well articulated and broken up giving the appearance of town houses rather than one single building which could jar with the smaller houses at the front of the site (the break in the ridge and eaves and the use of materials and symmetrical window placement achieves this). The two subservient wings to the care home break up the massing and give the building a hierarchy to the scale, reducing the visual bulk and providing interest. Details such as the chimneys break up the ridge line as do the string course detail and the change in materials. The orientation of Building B allows the terrace to turn the corner. Again, the final design may change but the design principles have been established and the indicative scheme shows an acceptable proposal can be delivered. As the design is indicative being a reserved matter, conditions regarding materials and detailing are not required. Likewise landscaping conditions are not required as this stage being a reserved matter.

### **Energy and Sustainable Construction**

52. Policy EN09 of the Local Plan states that development should be designed to a high sustainable development standard. The policy states that factors which need to be addressed are alternative and renewable energy and the efficient use of energy and materials, including renewable and recycled materials that do not have adverse environmental impacts. Policy EN13 states that proposals must incorporate measures for the conservation and efficient use of water. This is reiterated in PPS1 and its supporting document on climate change.

53. Policy ENG1 of the East of England Plan is part of the development plan. This policy is a material consideration in assessing any applications. The Policy requires the following:-

*'Local authorities should...encourage the supply of energy from decentralised, renewable and low carbon energy sources and through Development Plan Documents set ambitious but viable proportions of the energy supply of new development to be secured from such sources and the development thresholds to which such targets would apply. In the interim, before targets are set in Development Plan Documents, new development of more than 10 dwellings or 1000m<sup>2</sup> of non-residential floorspace should secure at least 10% of their energy from decentralised and renewable or low-carbon sources, unless this is not feasible or viable;'*

54. Babergh has no specific policy which sets the proportion of energy supplied from such sources. Therefore Babergh should follow the interim approach set out above.
55. The applicants were made aware of this policy and its requirements prior to the submission of the application. Consequently an Energy Strategy has been submitted. The strategy compares the proposal with bench marks, which is reasonable as the final design is not known. The strategy identifies the potential energy use of the development, identifies the available technology and then balances this in a feasibility study. The recommendation is for a ground source heat pump which would provide 21% of the total annual energy for the site. The applications also wish to achieve as a minimum, Code for Sustainable Homes Level 3 for the five houses. The ground source heat pump will serve the care home, therefore a condition requiring CFSH Level 3 for the other dwellings is reasonable as the development has to be seen as a whole for the purposes of Policy ENG1. Conditions have been recommended relating to this.

### **Policy HS39**

56. The Local Plan contains a specific policy which relates to the provision of new care homes. The proposal complies in part with this policy (as far as it can at outline stage).
- The proposal is within the built up area of a town.
  - The proposal does not conflict with housing policies (the site is not allocated in the local plan for housing).
  - No floor plans have been submitted so it is not possible to check whether there is adequate staff accommodation. This will need to be dealt with at the reserved matter stage.
  - A garden has been provided on the south side of the building. It has the potential to be both attractive and useable for residents.
  - The development is well located in relation to local facilities.
  - The Local Highway Authority has raised no objection with regards to the level of parking.
  - The design will need to meet the needs of people with mobility problems due to the nature of what is proposed.
  - The use can be controlled via the s106 Agreement.
  - There is no detrimental impact on road safety (no objection for the Local Highway authority). Anglia Water have confirmed no objections.

## **Highways and Parking**

57. The application as originally submitted included an access on the southern side of the proposed terrace. The LHA raised concerns regarding the visibility splays which were proposed to cut across the front garden of 66 Cats Lane - land outside of the applicant's control. Following discussion with the LHA the access has been moved to the northern end of the site (the terrace moved south). The visibility splays are now within the site or on highway land. The relocated access also reduces impact on 66 Cats Lane.
58. Concerns have been raised regarding the level of parking. Each dwelling would have two spaces and there would be space for staff and visitors. The Local Highway Authority has not objected to the scheme on the level of parking. The nature of the use is such that occupants of the care home are unlikely to have cars. The s106 Agreement will control the use to Class C2 thereby limiting the parking requirements.
59. At the time of writing Officers are awaiting formal confirmation that the LHA has no objection to the revised access.

## **Other Considerations**

60. The need for a development can be a material consideration, especially if there is a public rather than private need. The applicant has prepared a case for the development; the pertinent facts are set out below:-
  - The Care Quality Commission currently shows 127 specific places for elderly/dementia care residents in Sudbury.
  - The 2001 census shows 19,993 residents in Sudbury of which 1,834 (9.2%) are over 75.
  - As the population ages there will be an increasing requirement for such care.
  - The number of people with dementia is set to double in the next 30 years.
  - The care home proposed would care for residents up to stages 4-5 (7 stages in total) of cognitive decline i.e. moderately severe cognitive decline.
  - The PCT were consulted at a pre application stage and confirmed a demand for this type of facility.
61. The need identified above further supports the principle of a care home in Sudbury, although in itself the need would not be decisive if harm was established at this site. As it is Officers are of the opinion that the proposal as applied for is acceptable and therefore the demand only adds weight to this assessment.

## **PLANNING OBLIGATIONS**

62. A S106 Agreement relating to healthcare contributions is required. The PCT have used their computer programme/model (HUDU) relating to healthcare infrastructure and have identified a figure of £13,250 that is needed to mitigate the impact.
63. The S106 Agreement will also need to cover the implementation of the ecological mitigation strategy and a contribution towards open space (for the five houses).
64. Policy HS39 also requires that the use be controlled to a nursing home within the C2 - residential institutions - use class. This ensures the use does not change into something different such as a residential school, which is also within the C2 use class.
65. These heads of terms are supported by Policies LP01, HS32 and EN02. The recommendation takes into consideration the need for an S106 to make the proposal acceptable (as without the S106 the application should be refused).

## REASONS FOR APPROVAL

66. Subject to conditions and a s106 legal agreement, the proposed development is considered to have no adverse impact on ecology, the character of the area, the street scene, neighbour amenity or highway safety. The risk of contamination is low and the proposal incorporates sustainable construction. There is also a need for the facility. The proposal therefore complies with saved Babergh District Local Plan (Alt 2) Policies:-

- **LP01** (Infrastructure)
- **CN01** (Maintaining Local Distinctiveness)
- **HS39** (Special Needs Housing)
- **HS01** (Housing in Towns/Urban Areas)
- **HS27** (Housing Density)
- **HS28** (Infilling)
- **TP15** (Parking)
- **EN02** (Local Wildlife and Geological Sites)

## RECOMMENDATION

(1) That the Solicitor to the Council be authorised to secure a Planning Obligation under Section 106 of the Town and Country Planning Act 1990 to provide:-

- An planning obligation towards recreation provision under Policy HS32.
- The development to be undertake in accordance with the ecological mitigation strategy.
- A planning obligation towards healthcare infrastructure as requested by the PCT.

(2) That, subject to the completion of the Planning Obligation referred to in Resolution (1) above to the satisfaction of the Solicitor to the Council, the Chief Planning Control Officer be authorised to grant planning permission subject to the following conditions:-

- Standard time limit.
- Conditions relating to the submission of reserved matters.
- As recommended by BDC Environmental Protection.
- As recommended by the Environment Agency.
- As recommended by the Local Highway Authority.
- 10% of predicated energy to be supplied by low carbon, decentralise on renewable sources.
- The five houses to be delivered in accordance with Level 3 or above of the Code for Sustainable Homes.

(3) That in the event of the Planning Obligation referred to in Resolution (1) above not being secured within a reasonable time period (three months), the Chief Planning Control Officer be authorised to refuse planning permission for the following reason:

- The absence of an s106 Agreement relating to those items in Resolution (1).