

Committee Report

Item No: 8A

Reference: DC/19/02090

Case Officer: Vincent Pearce

Ward: Thurston.

Ward Members: Cllr Austin Davies & Cllr Harold Richardson.

RECOMMENDATION: REFUSE PLANNING PERMISSION/AGREE PUTATIVE REASON(S) IN RESPONSE TO APPEAL

Description of Development

Outline Planning Application (some matters reserved) - Erection of up to 210 dwellings and new vehicular access to include planting and landscaping, natural and semi-natural green space including community growing space(s), children's play area and sustainable drainage system (SuDS), to include 35% affordable dwellings.

Location

Land To The East Of, Ixworth Road, Thurston, Suffolk

Expiry Date: 31/01/2023

Application Type: OUT - Outline Planning Application

Development Type: Major Large Scale - Dwellings

Applicant: Gladman

Parish: Thurston

Site Area: 8.87ha

Gross Density (Total Site): 23.6dph

Details of Previous Committee / Resolutions and any member site visit:

29 January 2020 - Referrals Committee: **DEFERRED**

12 August 2020 - Referrals Committee: **DEFERRED**

16 September 2020 - Referrals Committee: Resolution to **GRANT** conditional outline planning permission subject first to the completion of S106 to secure specified matters

Has a Committee Call In request been received from a Council Member : No

Has the application been subject to Pre-Application Advice: No

PART ONE / A – REASON FOR REFERENCE TO COMMITTEE [8 March 2023]

1. The application comprising as it does – ‘up to 210 dwellings’ is a major planning application, the size of which exceeds the threshold prescribed with the Council’s Formal Scheme of Delegation above which the matter must be referred to Committee for determination.
2. This application is now the subject of a notification of an intended appeal to be submitted by the applicant in relation to the ‘Failure of the Council’ to decide the application and the Council needs to determine its position in respect of that appeal or, in the event that an appeal has not yet been made, determine the application. When the Committee last considered the merits of this application back in September 2020 it resolved to Grant conditional outline planning permission subject to a S106. That decision was not issued for reasons that will be discussed in Part Two of this report. Since September 2020 there have been material changes in circumstance that now prompt a review of the merits of the application and a refreshed determination and officers are now recommending that the application is unacceptable in the light of these changed circumstances.
3. The application was presented to the Council’s Referrals Committee rather than Committee A or Committee B on the basis that other recent major planning applications in Thurston had been determined by the Referrals Committee in view of their significant and locally controversial nature. The application is now referred to Referrals Committee as this was the authorising committee when the previous resolution was made.

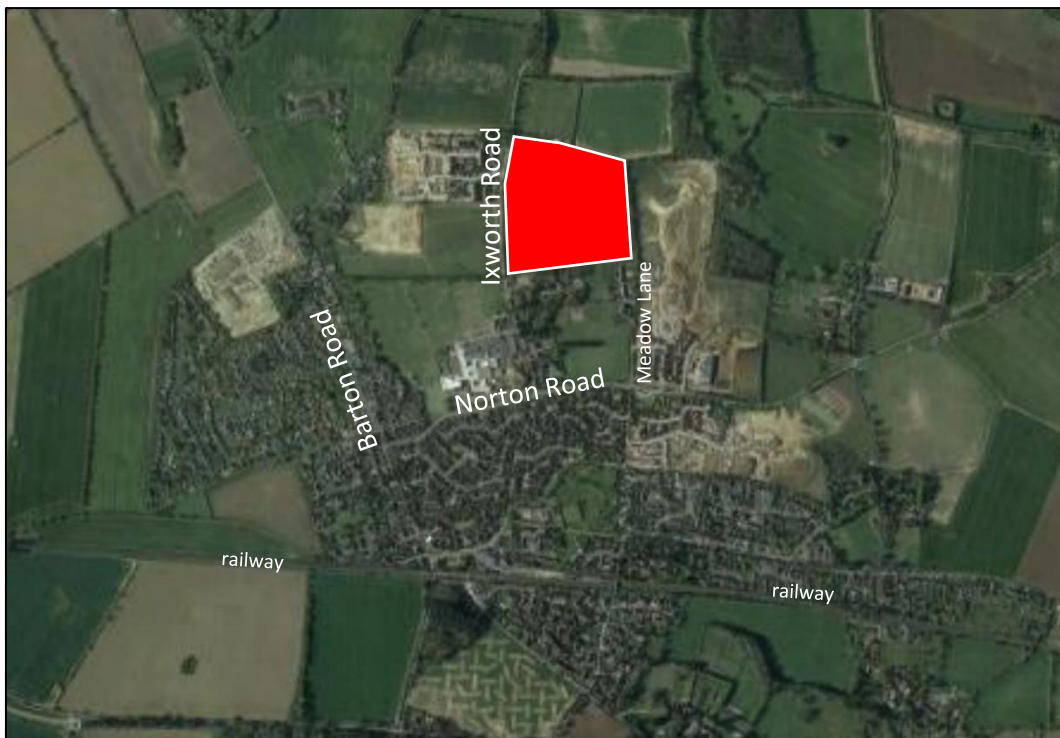


figure 1:
**The site in its
wider context**

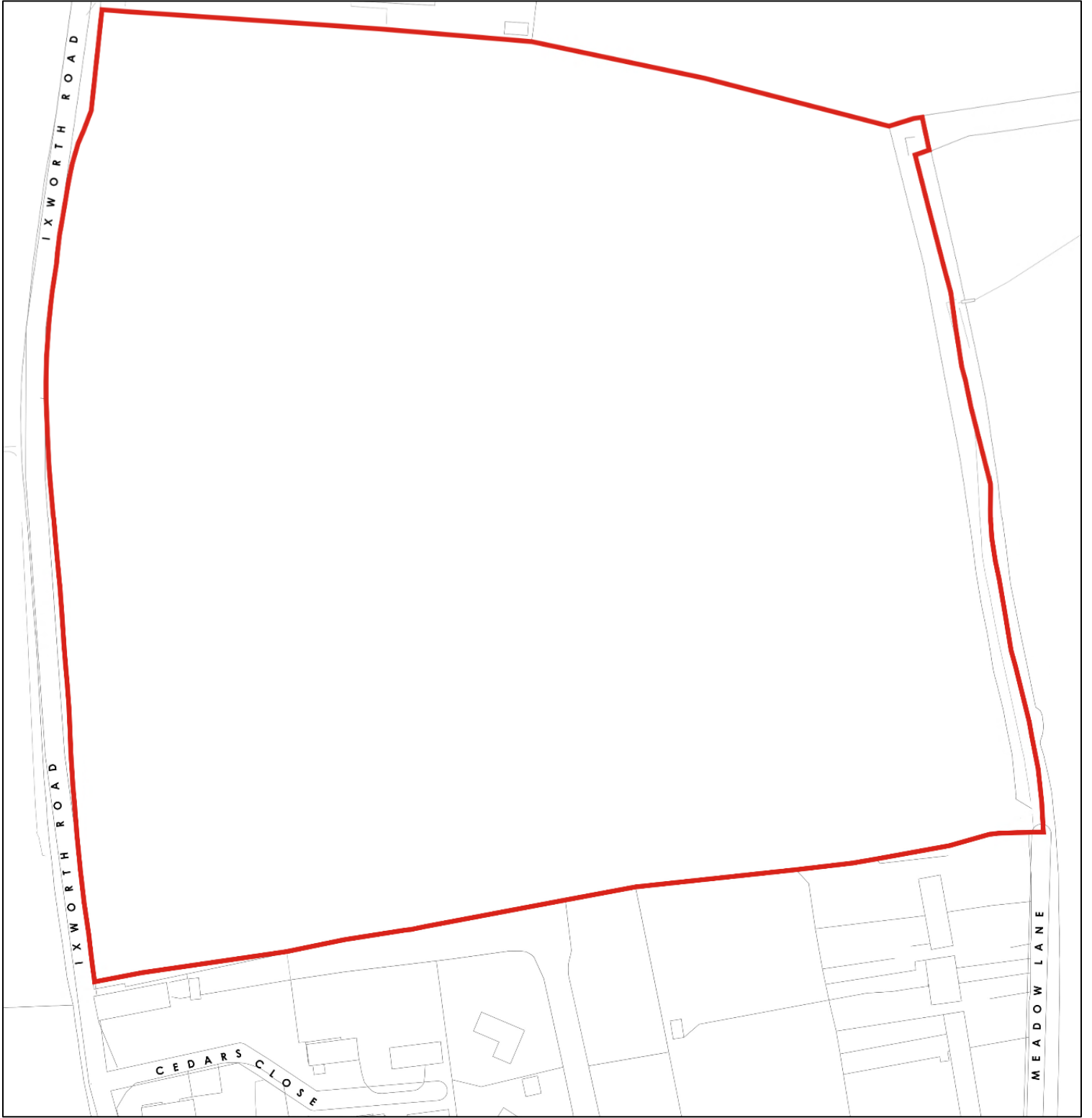


figure 2: **The application site [red line plan]**

PART ONE / B – RELEVANT BACKGROUND [8 March 2023]

Update

The applicant has provided the Council with notice of its intention to lodge an Appeal against the Council's failure to decide the application [non-determination]. The Council now needs to determine its position in respect of the merits of the application as it will be required, in essence, either to defend what will be a 'deemed refusal' as a result of the appeal or to inform the Planning Inspectorate that it will not be defending the case as it would have been minded to grant permission had the appeal not been lodged.

This report seeks to review the merits of the application and then make a recommendation as to which path to pursue.

Members may also be aware that the policy context for development in Thurston has been subject to consideration by the Courts.

In *R(Thurston Parish Council) v Mid Suffolk DC* [2022] EWCA Civ 1417, the Court of Appeal upheld as lawful the Council's decision to grant planning permission for up to 210 dwellings at land south-east of Beyton Road (DC/19/03486).

The High Court had previously quashed the Council's decision on the basis that the advice given by planning officers to members was misleading. The Court found that members should have been advised that, because the proposed development was outside the defined settlement boundary of Thurston, it would be contrary to Policy 1 of the Thurston Neighbourhood Development Plan.

The Court of Appeal allowed the Council's appeal against this Judgment and found that there was no error in the Council's decision to grant planning permission. In particular, the Court of Appeal confirmed as 'correct' the advice given by officers that, although there was some 'tension' between the proposal and the Thurston Neighbourhood Plan, there would be no 'conflict' with Policy 1. Importantly for this application, the Court confirmed that the requirement in Policy 1 of the Thurston Neighbourhood Plan for development to be 'focused' within the settlement boundary does not mean that there can never be any development outside the settlement boundary. Thus, the Court of Appeal has confirmed that the Council's approach to Policy 1 is correct. Development will not be in conflict with Policy 1 of the Thurston Neighbourhood Plan simply because it is located outside the settlement boundary provided that the question of "focus" is addressed.

Further consideration is given to Policy 1 below.

Committee history and background to application

29 January 2020 - Referrals Committee: DEFERRED with Committee indicating that it was minded to **REFUSE** the application subject to further information being provided to address the issues identified:

The formal minute of the meeting of 29 January 2020 records the following:

“28.27 By 5 votes to 2, with 4 abstentions

28.28 RESOLVED

The application is minded to **refuse** and is subject to the following points:

- Further analysis of the highway situation at the Bunbury Arms junction and Barton Road/ Station Hill junction
- Updated information on railway station improvements
- Greater certainty over the landscape buffer forming part of the scheme.
- And that the application be reported back to Committee with such further “information

12 August 2020 - Referrals Committee: DEFERRED due to lack of time to debate the item and need for a highway officer to be present.

16 September 2020 Referrals Committee: Resolution to **GRANT** conditional outline planning permission subject first to S106 to secure specified matters.

The formal minute of the meeting of 16 September 2020 records the following:

“58.21 By 10 votes to 4 with no abstentions.

58.22 RESOLVED

1. The satisfactory and prior completion of a S106 Agreement to secure the Matters set out below, Namely,

Please note: [text in italics is unchanged from 12 August 2020 report; and, Text not in italics is new for the 16 September 2020 report]

- ❖ *The need for a highway works phasing plan to be submitted to and approved by the Council as local planning authority before any development on site proceeds above slab height. That plan shall identify when each of the required highway works is to have been provided by reference to a prior to [tba] occupations within the residential development.*

The mechanics for delivery of those works shall be the subject of S278 Agreements with SCC as local highway authority. MSDC as local planning authority will require the development to conform with the Highway Works phasing plan thereafter and for phased occupations not to exceed the restrictions set out within that agreed Plan

- ❖ On-site delivery of 35% affordable housing as required by the Council's Housing Strategy Service*
- ❖ Delivery of no less than two car club vehicles within the village*
- ❖ Provision of a public electric charging point within the village*
- ❖ Provision of urban gym trail facilities within the development*
- ❖ Provision, transfer and maintenance of open space {the transfer of the land to be for £1 and to be offered via a cascade. First instance to MSDC who may offer it to a nominee and in the event that MSDC declines an offer of transfer then to a AMENDED RECOMMENDATION for 16 SEPTEMBER 2020 [for the avoidance of doubt you are advised that this recommendation now replaces the recommendation included in the report due to have been considered on 12 August 2020 and included below] management company who will manage the site on behalf of the developer in perpetuity with a proviso that the site shall be permanently available to all members of the public*
- ❖ Provision of an additional commuted financial sum of £200,000 for play equipment including the possibility of wheel play within the open space and maintenance*
- ❖ Travel Plan monitoring sum*
- ❖ Payment of the Education contributions New primary school land cost : £67,288 New primary school build cost: £1,019,772*
- ❖ Provision of a financial contribution of £30,000 towards a Thurston Railway Station Improvement feasibility study*
- ❖ Provision of a financial contribution of £31,500 towards a discount cycle purchase voucher scheme to new occupiers of homes within the development*
- ❖ Delivery of the package of the footway, cycleway and pedestrian/cycle crossings to an agreed timetable [details of which may be included within a S278 Highway Agreement]*

- ❖ *Provision of two new village notice boards within the development at locations to be agreed*
- ❖ *Provision of dog bins and a financial contribution towards their emptying locations to be agreed within the development*
- ❖ *Provision of a new 20m deep landscape buffer comprising native hedgerow species to be provided behind the visibility splay on the site's Ixworth Road frontage and the provision of a 20m deep landscape buffer on the sites eastern edge [adjacent to meadow Lane] incorporating the existing hedgerow. [details of which shall be included in a landscape management and delivery plan to be agreed prior to commencement of development]*

then,

2 The Chief Planning Officer be authorised to GRANT Outline Planning Permission subject to conditions that shall include those as summarised below and those as may be deemed necessary by the Chief Planning Officer:

- *Reduced time limit for submission of reserved matters [to 2 years] and then 18 months to commence after approval of reserved matters*
- *Reserved matters as submitted shall be based substantially on the illustrative layout drawings reference...and shall include cross sections*
- *No built form shall encroach into or upon any of the open space land shown on the illustrative drawing*
- *The development shall be served by a second vehicular access, details of which shall be agreed in writing with the Council as part of the first reserved matters submission and this access shall be restricted to emergency vehicles only.*
- *The open space provision shall not be less than shown on the illustrative layout [this area shall not include such area as is required to provide a SuDS solution to surface drainage. For the avoidance of doubt the open space area referred to shall exclude the notional area allocated for water storage purposes on the illustrative drawing.*
- *Total residential units shall not exceed 210*
- *Unit size shall be a matter for reserved matters*
- *Removal of householder permitted development rights*
- *Plans (Plans submitted that form this application)*
- *Parking to comply with Adopted Parking Standards*
- *Ecological Mitigation*
- *External materials [to include traditional vernacular such as clay tiles, stock bricks]*
- *Tree protection*
- *Provision of ev. charging points to all properties and sustainable construction*

- *Provision of a minimum of superfast/ broadband to all properties*
- *Construction Method Statement*
- *As required by SCC Highways*

As required by SCC Water & Floods and,

3 Appropriate informatives

HOWEVER,

4 In the event of the Planning obligations or requirements referred to in Resolutions (1) and (2) above not being secured within 6 months then the Chief Planning Officer be authorised to refuse the application on appropriate grounds if he deems there is little or no prospect of the issues delaying the securing of (1) and (2) being resolved given a reasonable extension of time.

Additional points as detailed in the tabled papers:

- 1. Ecological mitigation to be within the S106 and not a condition*
- 2. A £30,000 contribution to platform improvement to be required within S106 [currently in latest recommendation]*
- 3. Built form not to encroach into the open space*
- 4. Buffer on the eastern boundary not to be less than 20m*
- 5. Concurrent with the submission of reserved matters a scheme for safe access to school to demonstrate east west connectivity for pedestrians and cyclists and to promote walking and cycling access to the station to be agreed having regard to the TNP delivered concurrently with the occupation of the development*
- 6. Proposed reserved matters shall be accompanied by evidence of dwelling mix and tenure and shall reflect the needs of younger and older people to accord with Policy 2 of the TNP and that such mix and tenure has taken account of discussion with TPC*
- 7. Archaeology conditions Informative. The housing mix shall also be informed by discussion with the Council's Housing Strategy Team and a minimum 3% of the overall number of units are likely to be required as bungalows.*

Additional conditions from the committee:

- That the delivery of pedestrian and cycle crossings be in place and installed prior to the first occupation of a dwelling."*

A S106 to secure the matters identified in the minute was subsequently drafted and completed. However, due to Thurston Parish Council challenging the decision of the Council to grant outline planning permission for 210 dwellings on land south-east of Beyton Road, Thurston ref. DC/19/03486 at that time, the decision in respect of the Gladman application was not issued as Thurston Parish Council had also given notice to the Council that it would challenge that decision too if issued.

The Council, with Gladman's support, agreed to await the outcome of the challenge in respect of the Beyton Road application in order that the decision of the High Court could, once known, be carefully considered and if necessary the Gladman application be referred back to Committee with the benefit of such relevant new considerations as the High Court's decision raised (or simply issued, if circumstances had not materially moved on since the original decision of the Committee).

The Judicial Review process into the Beyton Road decision ultimately involved first the High Court, then the Court of Appeal and finally The Supreme Court over a 12-month period between Court decisions.

The relevance of the decision of the Courts to the determination of the Gladman application has been summarised above and will be addressed further below.

Materially changed circumstances since September 2020

This report is presented to the Referrals Committee because since the merits of the application were last considered by Members on 16 September 2020, the circumstances around a number of material planning considerations at the heart of the debate have materially changed.

In *Kides v. South Cambridgeshire DC* [2002] EWCA Civ 1370, the Court of Appeal held:

“where since the passing of the resolution some new factor has arisen of which the delegated officer is aware, and which might rationally be regarded as a "material consideration" for the purposes of section 70(2), it must be a counsel of prudence for the delegated officer to err on the side of caution and refer the application back to the authority for specific reconsideration in the light of that new factor. In such circumstances the delegated officer can only safely proceed to issue the decision notice if he is satisfied (a) that the authority is aware of the new factor, (b) that it has considered it with the application in mind, and (c) that on a reconsideration the authority would reach (not might reach) the same decision.”

Officers are not satisfied that, in light of the material change in circumstances referred to, the authority would necessarily reach the same decision on a reconsideration. It is therefore considered appropriate to re-visit and review the merits of the proposal in the light of these changes and for the Committee to determine its position in respect of the Appeal that is to be lodged by the applicant against the Council's Failure to Determine [Non-Determination] the application reference DC/19/02090.

The principal changes in circumstance that need to be considered and reviewed are:

1. The Council can now demonstrate that it has a 10.88 year housing land supply. When this application was previously considered by Members the published figure stood at 5.61 years¹ after a sustained period of less than 5 years supply and so the weighting to be ascribed to relevant policies should be reviewed; and,

¹ 5.61 years July 2019 Mid Suffolk DC Housing Land Supply Position Statement

2. The application site at the time of last consideration by Members appeared as a residential allocation in the Draft Joint Babergh Mid Suffolk Local Plan. Since then and following an exploratory meeting with the examining Inspectors on 16th December 2021, it has been proposed to progress the JLP as a 'Part 1' local plan. This is expected to be followed by the preparation and adoption of a 'Part 2' local plan as soon as possible. These changes will need to be the subject of formal plan modification and publicity in the usual way.

In those circumstances the application site would no longer be proposed to be allocated for residential development and as such the current JLP allocations proposals would no longer be an indication of the direction of travel of the Council with regard to [i] the distribution of housing growth generally across the District; and [ii] growth specifically for Thurston. The current published JLP proposed allocation therefore has diminished weight as a material planning consideration.

With consultation on main modifications to the Part 1 Plan awaited, the policies of the Plan are presently a matter of limited weight and are not determinative to the assessment of this application at the present time. This is a matter that would need to remain under review and the weight to be accorded to the emerging plan may foreseeably alter again as the examination of the JLP continues to progress within the currency of the appeal. Given the notice of intention to appeal the above summary is considered a reasonable assessment of the JLP position for the purpose of this report.

PART TWO – REVIEWED ASSESSMENT [8 March 2023]

The policies most important for the determination of this application remain as CS1, CS2, and H7. Officers' position in relation to those policies remains largely the same as considered previously i.e., that they are out of date to a degree.

It remains the case that the application is not in accordance with those policies and is not in accordance with the development plan as a whole.

The "tilted balance" of policy FC1 and NPPF paragraph 11.d)ii is therefore relevant and engaged as a consideration.

The question of the weight to be afforded to policies CS1, CS2, and H7 is nevertheless of great importance to this decision and material factors that have changed since the previous committee resolution warrant a reconsideration of the planning balance.

The Thurston Neighbourhood Plan

When the matter was last considered by the Committee, the advice from officers was that the proposed development would not conflict with the Thurston Neighbourhood Plan. Officers have considered whether that advice remains correct in light of the Court of Appeal's Judgment (as

referred to above) and the circumstances as they exist today. The 'up to 210 dwellings' in the Gladman application will, if approved, be outside the settlement boundary as defined in the TNDP2019. As noted above, the Court of Appeal Decision established that Policy 1 does not in and of itself preclude development outside the settlement boundary for Thurston village.

Therefore, in light of the judgment of the Court of Appeal, there is no change to officers' previous advice regarding Policy 1 of the Neighbourhood Plan: there is no express conflict between the application and that policy at the present time, recognising that it is the policies of the District that are determinative in the assessment of applications beyond the settlement boundary.

The 5-year housing land supply position.

At this point it is worth drawing attention to correspondence of the Examiners [Joint Local Plan] dated 9th December 2021 . In that letter, among other matters the Inspectors identify that in relation to the two plan areas (with emphasis): '7. Furthermore, we understand that, across the two districts, around 90% of the housing requirement figure detailed in policy SP01 is already provided for by existing completions, sites under construction, sites with full or outline planning permission, sites with a resolution to grant planning permission subject to s106 agreement, allocations in made Neighbourhood Plans and the, reasonable, allowance for 1,000 windfall dwellings. This unusual situation means that demonstrating a supply of developable housing land for the vast majority of the plan's overall housing requirement figure is, for some years to come, unlikely to be dependent on the allocation of the housing sites included in the submitted plan.'

As Members will be aware it was on this basis that the Examiners advised splitting the JLP into two parts: Part 1 would be a local plan containing relevant strategic and development management policies (retaining the existing settlement boundaries), and Part 2 would provide for a review of those settlement boundaries, the settlement hierarchy, spatial distribution and any allocations. The letter further indicates that the Part 1 plan is likely to be found sound subject to main modifications.

There is a strong indication that there is unlikely to be any shortfall for Mid Suffolk required to be dealt with as part of the JLP, not least any immediate pressure to release new dwellings as a departure from a plan-led approach that would include a retention of existing settlement boundaries. This has a bearing on the weighting to be applied to policies CS1, CS2, and H7, such that any conflict with them is considered to be more significant as a result i.e., that they are capable of being afforded a much greater weight than they were previously (when there was a direction of travel indicating not only a future need for further housing in the District, but moreover an indication that further housing development was required in Thurston, hence the proposed allocation at the time).

It is in this context that the merits of the application must now be considered also noting that the application site no longer forms a proposed allocation or direction of travel for future growth. The Council's ability to demonstrate that it has an abundance of sites sufficient to accommodate the likely growth for many years to come now suggests there is no immediate or pressing imperative to approve yet more housing in Thurston on top of that already approved, which comprises more than 1000 dwellings. As above, this is a particular bearing upon the significance of the conflict identified with policies CS1, CS2, and H7.

Relevance of the Draft Babergh Mid Suffolk Joint Local Plan [JLP]

As highlighted earlier the section of the JLP (Part 2) that was to have been advanced at the examination has now been, in effect, withdrawn following the confirmation of the Council to the examining Inspector's that this would be the approach to be taken. This means that no allocations are now being identified as part of the JLP at the present time. Instead, only Part 1 is proceeding and that deals with policies. The Council can now rely on sites already identified and allocated in the existing Adopted Development Plan and outstanding planning permissions to meet its housing needs for the period up to 2037.

This is important because the site allocations that were in the JLP having been effectively withdrawn now through modification, have NO WEIGHT as material planning considerations and nor do they now represent a direction of travel. They no longer exist for all intent and purpose.

The site the subject of this application was a site that was allocated in the version of the Draft JLP when last considered by the Committee in September 2020. That is now no longer the position. The site remains as countryside as defined by the Proposals Map that accompanies the Adopted Development Plan with no prospect that this will change in the near-medium future.

Consequently, the weight in respect of the direction of travel of the JLP and the then allocation of the application site given by officers in the report that was considered by the Committee in September 2020 must now change.

Officers now give great weight to the fact that the site is in the countryside and no weight to the fact that at one time it was intended to seek the inclusion of the site as an allocation in the now defunct Part Two of the JLP.

In reporting the 'planning balance and conclusions' to Members in the Committee report considered on 16 September 2020, officers stated:

" With the exception of the Parish Council, the application is not subject to objection from any statutory consultee and no objection has been received in relation to any technical matter. The application is considered to be acceptable in all respects, save for noting the policy breaches relating to the site being presently unallocated, representing new housing in the countryside outside of the settlement boundary for Thurston.

From experience, and especially in the current wider national context, officers are particularly concerned with the notion of refusing housing for housing sake – the outcome of the SoS-determined Long Melford appeal² in the adjacent Babergh district (and indeed all other committee overturn appeal decisions relating to Mid Suffolk in recent years) acutely highlights this point and the significant weight placed upon the desire to significantly boost housing supply. This is especially the case given that the Council relies upon unallocated sites to make up its current housing supply; such a supply is despite its out of date housing policies, not because of them.

² Appeal reference: 3214377, available here: <https://www.gov.uk/government/publications/recoveredappealland-off-station-road-long-melford-suffolk-ref-3214377-1-april-2020>

Officer comment for 8 March Report

The material change in circumstances described earlier in this report now suggest that the district is in the position of having a very considerable housing land supply that is already likely to satiate the estimated demand for many years to come. The district has, despite many set-backs elsewhere in the country seen good rates of housing delivery. There is currently no indication that the district will need to require greenfield sites such as this to come forward to make up housing numbers in the near term. Indeed, the fact that the Examiners in the case of the JLP advised the Council in December 2021 that it need not proceed with Part Two of the Plan [allocations] as part of the present Examination because of the surfeit of already committed development adds further support to the conclusion that this development is not required to meet local or district housing needs. Thurston has been and is being heavily developed more so than any other town/village in the District.

Where the proposed development conflicts with the housing settlement policies of the Council's district development plan documents (principally through conflict with policies CS2 and H7) it does not accord with the development plan taken as a whole. In strict terms, it could be said that there is conflict with policy CS1 also – where the site falls outside of the Thurston settlement boundary – but as a development for a Key Service Centre it is nevertheless the case that the underlying spatial strategy for the District is being followed.

Officer comment for 8 March Report

It is acknowledged that Thurston is a Key Service Centre and it is within these locations [along with Towns] that the majority of growth is directed by the Adopted Core Strategy. However housing growth cannot be unrestricted if the Council is to support sustainable plan-led balanced growth.

Members will no doubt be conscious of the Government's recent comments in respect of driving the country out of the covid-19 triggered recession and the role that delivery of sustainable housing will play in the recovery.

The application proposal is not, however, considered to directly conflict with the NDP which purposefully splits its housing strategy between local policies and the strategic housing policies of the District³

Further, officers consider that there are other material considerations which direct that planning permission should nevertheless be granted, not least through acknowledging that taken in the

³ Committees attention is also drawn to the Inspectors appeal conclusion in Eye regarding the extent of additional growth planned within the Eye NDP being over and above the need anticipated for in the JLP identified requirement, and the persuasive/"decisive" effect of that upon the planning balance in that case. See appeal ref: 3215534, available here:

http://www.landmarkchambers.co.uk/wpcontent/uploads/2020/03/Appeal-Decision-3215534_-002.pdf

round the most important policies for the determination of this application are inconsistent with the NPPF and are out of date, and where the underlying aims of those policies would be otherwise met. The “tilted balance” under NPPF para 11d) is engaged; this is an important material consideration. There are no specific policies in the NPPF which direct for refusal; rather, the application complies with the policies of the Framework taken as a whole.

Officer comment for 8 March Report

It remains true that the Government is seeking to stimulate economic recovery.

However, with a 10.88 year housing land supply Mid Suffolk is already doing its bit to inject vitality into the housebuilding industry and thereby the local and national economies.

Set against a new back drop of a demonstrable 10.88 year supply of housing land and with more than 1000 new homes already delivered or under construction in Thurston the justification for further development within the village cannot be reasonably sustained.

It is acknowledged that the proposal does cause some tension between what is expected in terms of a constraint on future development within Thurston as envisaged in the Thurston Neighbourhood Plan and what is clearly a sustainable development proposal in line with the NPPF. This is because the NDP states that new development within the Parish is to be focused within the settlement boundary. That said, the NDP clearly does not preclude development outside of that boundary and it is the strategic, District policies which apply in that respect. The housing strategy within the NDP is split between it and the rest of the development plan which is to be expected given the document recognises that it could not reflect the emerging JLP and that the housing need for the village is to be determined by that new Plan, where the village will need to play a key role in addressing the significant levels of growth anticipated; hence, of course, the very fact that this site has been proposed as an allocation by the Council.

Whilst the Neighbourhood Plan includes expansion of the village envelope this is to embrace sites that have already been granted planning permission. The Neighbourhood Plan does not identify [allocate] sites for future expansion and this is left to the District Council in preparing the Draft Joint Local Plan. The District Council as local plan making authority has indicated it is minded to allocate the application site [and others] for residential development. This application conforms with that objective and will help to meet the identified requirement for Thurston during the Plan period up to 2036.

Officer comment for 8 March Report

The fact that the JLP is now expected to proceed without Part Two [allocations] is a new material planning consideration. The direction of travel referred to in the September 2020 report is no longer applicable. The site is no longer a draft allocation as all allocations have now been dropped from the JLP during the course of examination. The Councils are able to rely on outstanding planning permissions to meet identified need into the next plan period.

This proposal delivers a raft of benefits chief of which is a package of highway improvements north of Thurston Railway Bridge that will have village wide [and beyond] benefits in terms of highway safety and ease of access. [beyond that previously secured with the 'Thurston Five'. Consequently, when exercising the tilted balance these highway works need to be given significant weight. Regardless, even if the "tilted balance" was not engaged, when all the benefits are taken into account the adverse impact of permitting another 210 dwellings in Thurston (such harm chiefly amounting to the conflict with the housing policies of the development plan) is plainly outweighed. The direction of the planning balance is to grant planning permission at variance to the indication of the current development plan as a whole (but noting the conflict firmly remains with the District's strategic housing policies in the District development plan documents as presently formulated).

Officer comment for 8 March Report

The package of obligations and benefits referred to remains unchanged and have been included in a drafted S106 following the September 2020 meeting. These are:

- ❖ The need for a highway works phasing plan to be submitted to and approved by the Council as local planning authority before any development on site proceeds above slab height. That plan shall identify when each of the required highway works is to have been provided by reference to a prior to [tba] occupations within the residential development. The mechanics for delivery of those works shall be the subject of S278 Agreements with SCC as local highway authority. MSDC as local planning authority will require the development to conform with the Highway Works phasing plan thereafter and for phased occupations not to exceed the restrictions set out within that agreed Plan; and,
- ❖ On-site delivery of 35% affordable housing as required by the Council's Housing Strategy Service; and,
- ❖ Delivery of no less than two car club vehicles within the village
- ❖ Provision of a public electric charging point within the village
- ❖ Provision of urban gym trail facilities within the development
- ❖ Provision, transfer and maintenance of open space {the transfer of the land to be for £1 and to be offered via a cascade. First instance to MSDC who may offer it to a nominee and in the event that MSDC declines an offer of transfer then to a management company who will manage the site on behalf of the developer in perpetuity with a proviso that the site shall be permanently available to all members of the public; and,
- ❖ Provision of an additional commuted financial sum of £200,000 for play equipment including the possibility of wheel play within the open space and maintenance; and,
- ❖ Travel Plan monitoring sum; and,
- ❖ Payment of the Education contributions

New primary school land cost : £67,288
New primary school build cost: £1,019,772; and,

- ❖ Provision of a financial contribution of £30,000 towards a Thurston Railway Station Improvement feasibility study; and,
- ❖ Provision of a financial contribution of £31,500 towards a discount cycle purchase voucher scheme to new occupiers of homes within the development; and,
- ❖ Delivery of the package of the footway, cycleway and pedestrian/cycle crossings to an agreed timetable [details of which may be included within a S278 Highway Agreement]; and,
- ❖ Provision of two new village notice boards within the development at locations to be agreed; and,
- ❖ Provision of dog bins and a financial contribution towards their emptying locations to be agreed within the development; and,
- ❖ Provision of a new 20m deep landscape buffer comprising native hedgerow species to be provided behind the visibility splay on the site's Ixworth Road frontage and the provision of a 20m deep landscape buffer on the sites eastern edge [adjacent to meadow Lane] incorporating the existing hedgerow. [details of which shall be included in a landscape management and delivery plan to be agreed prior to commencement of development].

The development was opposed by Thurston Parish Council at the September 2020 meeting despite this list of measures and benefits. It is however acknowledged that the applicant freely entered into a draft S106 Agreement to secure these and had already offered them by the time of the meeting.

The weightiness of those aforementioned benefits generally remains important (save for those measures or contributions which primarily play a role in mitigating the impacts of the development) however they should be contextualised through further changes in circumstance.

For example, the extraordinary housing land supply position significantly tempers the weight to be afforded to the benefit of housing, also recognising that affordable housing delivery continues to improve and has significantly done so in the last few years (and since the previous consideration of this application) with several hundred units being delivered in Thurston itself, likely to far exceed any local need for such.

Revised Planning Balance and Conclusion [8 March 2023]

The proposed development is not, in and of itself, contrary to Policy 1 of the Adopted Thurston Neighbourhood Development Plan 2019 in that were it to be approved the focus of new

development would remain inside the settlement boundary for Thurston, even though the development itself, if approved, would sit outside of that boundary.

The most important policies for the determination of this application remain policies CS1, CS2, and H7. The proposal is contrary to these policies in that the proposed development is within the countryside outside of the settlement boundary. The application is thus contrary to the development plan as a whole, and permission should be refused unless material considerations indicate otherwise.

The Council is able to demonstrate that it has a 10.88 year housing land supply, and the latest evidence indicates that this supply has extended even further – indeed the supply may now be sufficient to accommodate the housing needs of the District well into the next plan period. This unusual position has a particular bearing on the weighting to be afforded to the Council's current housing policies (where the JLP remains subject to further modification and is a consideration of limited weight at the present time).

The benefits of the appeal scheme are moderated when placed into context, acknowledging the housing land supply position of the Council and the likelihood that the housing needs of the district have already been satisfied long into the future. The application site is no longer proposed for allocation. 'Need' for the application development is harder to rationalise whether that is on a district or local Thurston level. Permission of the application would seriously undermine confidence in the plan-led system.

While policies CS1, CS2 and H7, which are considered to be the most important in the determination of the application, are out of date for the purpose of paragraph 11 of the NPPF, in applying the tilted balance, and recognising the primacy of the development plan, the harm in allowing a significant number of further dwellings to be released in the absence of any real and demonstrable district or local need, contrary to the development plan, significantly and demonstrably outweighs the benefits.

The application is therefore now recommended for refusal.

REVISED RECOMMENDATION [8 March 2023]

1. That Members resolve to: refuse planning permission, or in the event that the appeal has begun agree a putative reason for refusal, for the following reason:

“The proposed development located, as it would be, outside the defined settlement boundary for Thurston and within the countryside, is contrary to Mid Suffolk’s Core Strategy policies CS1 and CS2 and Local Plan policy H7. The application would not comply with the development plan as a whole.

In applying the tilted balance, and recognising the primacy of the development plan, the harm in allowing a significant number of further dwellings to be released in the absence of any real and demonstrable district or local need, contrary to the development plan, significantly and demonstrably outweighs the benefits.”

and,

2. That Members delegate authority to the Chief Planning Officer to defend the appeal for the reasons set out under 1. above, being amended and/or varied as may be required.