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# STONE Me!

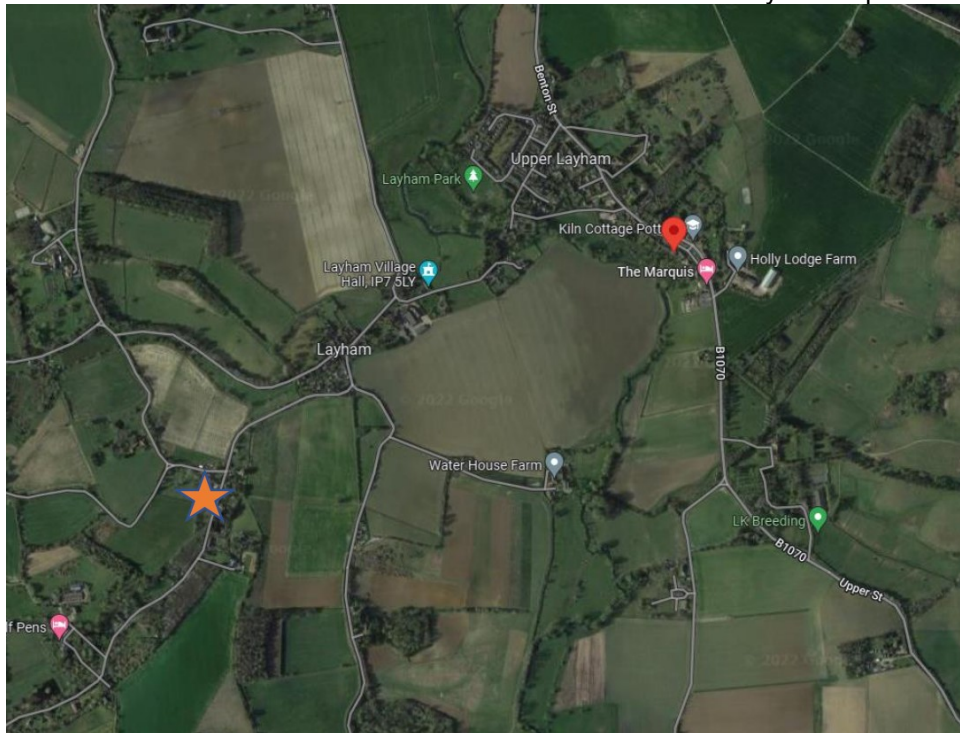
ARCHITECTURE & INTERIOR DESIGN

## SUPPORTING STATEMENT

This statement has been produced by a third party and paid for by our client, with updates from Stone Me Design Ltd, to support a planning application for alterations to a previous approval at Cherry Orchard Farm, Stoke Road, Layham IP7 5RB.

### 1.0. INTRODUCTION

- 1.1. This statement is prepared in support of an application for planning permission for the erection of a new detached dwelling following the demolition of the existing agricultural building on the site that has the benefit of prior approval to be converted to a dwelling under DC/21/06064 at Cherry Orchard Farm, Stoke Road, Layham. That approval will hereafter be referred to as 'the prior approval proposal'.
- 1.2. The site also has the benefit of a second approval to erect a new build replacement dwelling on site in lieu of the conversion approval under permission DC/22/06374.
- 1.3. It will consider the planning policy position, referencing the existing permission, and will provide an overview of the relevant material considerations relating to the proposed development.
- 1.4. The extract below shows the location of the site relative to nearby development.



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## 2.0. SITE DETAILS

- 2.1. The existing building on the site is the subject of prior approval for conversion to a dwelling. It is an agricultural building located at Cherry Orchard Farm in Layham, and comprises a redundant barrel roofed brick barn located to the rear of the farmyard. It sits to the southwest of the farmhouse and within a cluster of buildings of varying form and scale.
- 2.2. The barn is setback from, but also visible from, Stoke Road, and benefits from an existing site access. There is an existing dwelling known as Bridge Barn located to the north of the barn. The nearest neighbouring properties are The Farmhouse at Cherry Orchards Farm, and Partridge Cottage which also lies to the north.
- 2.3. The site lies within Flood Zone 1, is not within any designated landscapes, is not within close proximity to any noise generating uses, benefits from existing vehicular access and is not known to be contaminated.
- 2.4. The images below show the exterior of the building that benefits from the Class Q approval and is now proposed to be demolished.



- 2.5. In considering the prior approval proposal, the Council identified no other constraints on the land that would affect this current proposal.

## 3.0. PROPOSAL

- 3.1. The proposal seeks planning permission for a new detached dwelling in lieu of the previously approved prior approval achieved via the approval of application DC/21/06064.
- 3.2. The proposed dwelling is of simple form and comprises a four bedroom property with a adjoined garage. The proposed materials provide featheredged boarding set over a red brick plinth under a clay pan tiled roof. The proposed dwelling would resemble a traditional farm house in appearance and has been designed with minimal uplift on the foot print of the previous approval to achieve the desired dwelling. In fact, the majority of additional floor space is concealed behind the principal part of the building, by the single storey link to the garage.

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- 3.3. The new dwelling would be approached from a new access to the south of the site, which would lead to a manoeuvring area adjacent to the property. An enlarged curtilage area would be formed to provide a more appropriate garden space to accompany the new dwelling.
- 3.4. Included within this application is a proposal to demolish the existing building for which consent has been granted under Class Q of the Town and Country Planning (General Permitted Development) (England) (Order) 2015 (as amended). The removal of this building will mean that this proposal will result in only a single dwelling being able to be constructed on this site. It is, therefore, a proposal to replace one approval for another.

#### **4.0. PLANNING HISTORY**

- 4.1. As detailed above, prior approval was given under application reference DC/21/06064 for the "Change of Use of Agricultural Building and any land within its curtilage to 1no. Dwellinghouse (C3) together with the building operations reasonably necessary for conversion. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 3, Class Q".
- 4.2. The relevance of that permission to this proposal will be considered within the 'Planning Considerations' section of this statement which follows.

#### **5.0. PLANNING POLICY CONTEXT**

- 5.1. The National Planning Policy Framework 2021 (NPPF) contains the Government's planning policies for England and sets out how these are expected to be applied. Planning law continues to require that applications for planning permission are determined in accordance with the Development Plan unless material considerations indicate otherwise. The policies contained within the NPPF are a material consideration and should be taken into account for decision making purposes.
- 5.2. The NPPF is supported by the Planning Practice Guidance (PPG), which assists applicants and decision makers in interpretation the NPPF.
- 5.3. The development plan for Babergh consists of the saved policies of the Babergh Local Plan (2006) and the Babergh Core Strategy (2014) and its associated Focussed Review document. The following policies from these documents are

Babergh Local Plan Alteration No.2 (2006)

- CN01 Design Standards
- CR04 Special Landscape Areas
- CR10 Change of use from Agricultural Land
- CR19 Buildings in the Countryside - Residential
- HS05 Replacement Dwellings
- TP15 Parking Standards – New Development

Babergh Core Strategy 2014

- CS1 Applying the presumption in Favour of Sustainable Development in Babergh
- CS2 Settlement Pattern Policy
- CS15 Implementing Sustainable Development

- 5.4. Where relevant to the consideration of this proposal, these policies will be referred to within the 'Planning Considerations' section of this report.

#### **6.0. PLANNING CONSIDERATIONS**

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- 6.1. Paragraph 10 of the NPPF states “So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development”.
- 6.2. The grant of the Class Q consent established the principle of the existing building being converted to a dwellinghouse and constitutes a viable ‘fallback’ position. The consideration of a fallback position as a material consideration in reaching subsequent planning decisions was confirmed by the recent Court of Appeal decision - Michael Mansell v Tonbridge and Malling Borough Council v Croudace Portland, the East Malling Trust [2017] EWCA Civ 1314 – where the judge found that;

“The status of a fallback development as a material consideration in a planning decision is not a novel concept. It is very familiar. Three things can be said about it:

(1) Here, as in other aspects of the law of planning, the court must resist a prescriptive or formulaic approach, and must keep in mind the scope for a lawful exercise of planning judgment by a decision-maker.

(2) The relevant law as to a "real prospect" of a fallback development being implemented was applied by this court in Samuel Smith Old Brewery (see, in particular, paragraphs 17 to 30 of Sullivan L.J.'s judgment, with which the Master of the Rolls and Toulson L.J. agreed; and the judgment of Supperstone J. in R. (on the application of Kverndal) v London Borough of Hounslow Council [2015] EWHC 3084 (Admin) , at paragraphs 17 and 42 to 53). As Sullivan L.J. said in his judgment in Samuel Smith Old Brewery, in this context a "real" prospect is the antithesis of one that is "merely theoretical" (paragraph 20). The basic principle is that "... for a prospect to be a real prospect, it does not have to be probable or likely: a possibility will suffice" (paragraph 21). Previous decisions at first instance, including Ahern and Brentwood Borough Council v Secretary of State for the Environment [1996] 72 P. & C.R. 61 must be read with care in the light of that statement of the law, and bearing in mind, as Sullivan L.J. emphasized, "... "fall back" cases tend to be very fact-specific" (ibid.). The role of planning judgment is vital. And "[it] is important ... not to constrain what is, or should be, in each case the exercise of a broad planning discretion, based on the individual circumstances of that case, by seeking to constrain appeal decisions within judicial formulations that are not enactments of general application but are themselves simply the judge's response to the facts of the case before the court" (paragraph 22).

(3) Therefore, when the court is considering whether a decision-maker has properly identified a "real prospect" of a fallback development being carried out should planning permission for the proposed development be refused, there is no rule of law that, in every case, the "real prospect" will depend, for example, on the site having been allocated for the alternative development in the development plan or planning permission having been granted for that development, or on there being a firm design for the alternative scheme, or on the landowner or developer having said precisely how he would make use of any permitted development rights available to him under the GPDO. In some cases that degree of clarity and commitment may be necessary; in others, not. This will always be a matter for the decision-maker's planning judgment in the particular circumstances of the case in hand. In this case, in the circumstances as they were when the application for planning permission went before the committee, it was plainly appropriate, indeed necessary, for the members to take into account the fallback available to the East Malling Trust as the owner of the land, including the permitted development rights arising under Class Q in the GPDO and the relevant provisions of the development plan, in particular policy CP14 of the core strategy. Not to have done so would have been a failure to have regard to a material consideration, and thus an error of law”.

- 6.3. In this respect, whilst the judge found that it is not always necessary for permission to have been granted for the fallback development, it is clear that in the case of this proposal the

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Class Q consent has been secured in this instance as recently as 23rd December 2021, together with the first approval to erect a new dwelling on site under DC/22/06374. The applicant would, in the event that permission is not secured for this proposal, seek to rely on that consent and create the new build approved dwelling on the land through implementation of the existing permission. It is, therefore, a realistic fallback position that it is considered should be given due weight in the process of making a decision on this proposal.

- 6.4. The proposal can, therefore, be assessed on the basis that a new build residential dwelling has been established on the site, and the previously approval new build can be considered to be a realistic fallback position. Furthermore, the Council have already agreed on a number of occasions that, in cases where there are benefits/enhancements to be gained through an improved design resulting from a new build property, then those benefits weigh in favour of a replacement property.
- 6.5. In considering this proposal, therefore, the key issues here will be the external effects of the proposed dwelling relative to recognised material planning considerations, and the applicant's position on these matters is set out below.
- 6.6. Policy CN01 requires development to be of a high-quality design that respects the local distinctiveness and the built heritage of the Babergh district, enhancing the character and appearance of the area. Policy CS15 also provides criteria relating to design as part of a list of sustainable development aims, and the stated policies above all identify the impacts of such proposals as important considerations.
- 6.7. The starting point for considering this proposal was a detailed appraisal of the site, its setting and the wider landscape character by Roger Balmer Design (RBD) such that the applicant was in a fully informed position prior to the work to design the dwelling. The appraisal made by RBD identified that the site lies to the south/south west of an existing cluster of buildings which form Cherry Orchard Farm and that there is some visibility of these buildings in the wider landscape such that the scale and form of a proposal here is important relative to the context in which a new property could be seen.
- 6.8. The result is that this proposal provides a design response that engages with the character of the landscape and surrounding area and which would enhance the site relative to the previously approved scheme. The dwelling has been kept identical in terms of its height and additions only consist of marginal width and depth increase and single storey connection to garage. The proposed dwelling would take on the appearance of a more traditional Suffolk farm house in appearance with the use of red brick plinth, black weatherboarding and red clay tiled roof. These exact material can also be seen on the cart lodge of the adjacent property to the north, which would be viewed as the nearest adjacent building when viewed in a street scene elevation. The proposal is considered to fully comply with the Council's design and landscape policies (namely CN01 and CS15).



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6.9. Below is an image of the adjacent cart lodge.



- 6.10. Within the pre-application response, the Planning Officer identifies that the loss of the existing building could be seen to be harmful to the landscape character. It is considered that this significantly overplays the impacts of removing the building. The building may not be harmful in terms of its impact, but that does not mean that it makes a positive impact. It is forwarded that the building is of neutral impact. The building exists comfortably in its context but does not contribute in a manner that is important in the landscape nor does it have a particular character that is so unusual that warrants protection for its own sake. It is seen primarily in the context of the larger buildings adjacent, and could be removed without any specific consent from the LPA.
- 6.11. The proposal would deliver betterment relative to the conversion of the existing building. The new dwelling would provide an attractive new property that would complement the existing properties adjacent to the site and which is of a form that can be seen elsewhere in the locality of the site and within the wider countryside of the Babergh district. The absence of landscape harm resulting from the removal of the existing building demonstrates that the building can readily be replaced without giving rise to harm as a matter of principle, and the impacts of the new building have been carefully considered to ensure that it would be appropriately sited and landscaped to settle into the landscape setting.
- 6.12. The approach taken here, is, therefore, also in accordance with the principles of good design set out in the NPPF, which seeks (paragraph 130) to ensure that planning policies and decisions ensure that development will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting; optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks.
- 6.13. Policy TP15 requires development to be delivered with safe and sufficient highways access and function.

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- 6.14. Paragraph 109 of the NPPF confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
  - 6.15. A new access would be created to the south of the site with appropriate visibility splays, informed by recent speed surveys. On-site parking is provided in accordance with the requirements of the Suffolk Adopted Parking Standards SPD (2015), ensuring future residents are provided with on-site parking provision, thus avoiding parked vehicles on the public highway. The turning space is functional and designed so as not to dominate the site and the property is to be provided with dedicated garage space in which to park vehicles.
  - 6.16. As such, the proposal can be seen to meet the requirements of the development plan and the NPPF insofar as it relates to highway safety and parking.
  - 6.17. Paragraph 130 of the NPPF sets out a number of core planning principles as to underpin decision-taking, including, seeking to secure a good standard of amenity for all existing and future occupants of land and buildings.
  - 6.18. The property is of a scale that will ensure that the proposal would not give rise to any overlooking of any existing nearby neighbouring properties. Furthermore, the spacing between the proposed dwelling and existing properties means that the proposal would not give rise to loss of light to neighbouring occupants nor would the proposal have an overbearing impact on any adjoining land.
  - 6.19. Occupants of the new dwelling would benefit from private amenity space that is set well away from any road/noise generating use and is private. As such, the proposal would offer good quality amenity space in line with the aims of paragraph 130 of the NPPF.
  - 6.20. The site lies wholly in Flood Zone 1 and is thereby outside the designated Flood Zones 2 and 3. Suitable drainage can be designed to ensure that the development does not increase the risk of flooding elsewhere by use of soakaways (if ground conditions permit) or SUDS designed systems.
  - 6.21. As such, there is no identifiable restraint upon the delivery of drainage for both surface and foul water that would prevent planning permission being granted in this regard.
  - 6.22. The application is supported by a Groundsure Site guard Report and Land Contamination Questionnaire which demonstrate that the development is not at risk from land contamination.
  - 6.23. Regulation 9(5) of the Conservation of Habitats and Species Regulations 2010 (Implemented 1st April 2010) provides that all "competent authorities" (public bodies) to "have regard to the Habitats Directive in the exercise of its functions".
  - 6.24. Guidance on the conservation of protected species is given in ODPM Circular 06/2005. At Paragraph 99 the Circular advises that the presence or otherwise of protected species, and the extent to which they might be affected by the proposed development, must be established before planning permission is granted.
  - 6.25. The application is supported by a Preliminary Ecological Appraisal which addresses the ecological and biodiversity aspects of the proposal.
  - 6.26. Paragraph 8 of the NPPF outlines the three pillars of sustainable development that schemes should seek to deliver. The proposal is also considered relative to these three objectives below.

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- 6.27. From an economic aspect, the construction of a new dwelling would provide much needed jobs for local people, and there would be a modest economic benefit from the purchase of materials also. Occupants of the property would contribute to the local economy through the purchase of goods, their employment and involvement in community activity. It is, therefore, considered that the economic objective of sustainable development is met by this proposal.
- 6.28. The social aspects of new housing are embedded in the NPPF which states that “supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high-quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being”.
- 6.29. Notwithstanding that a proposal in this location would contribute to enhancing and maintaining services in Layham and neighbouring areas, including Hadleigh, the PPG advises that “all settlements can play a role in delivering sustainable development in rural areas”, cross-referencing to NPPF 80, “and so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided...”. Moreover, in rural areas, where public transport is limited, people may have to travel by car to a village or town to access services. At paragraph 105 of the NPPF, it identifies that “The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making”. The general policy in favour of locating development where travel is minimised, and use of public transport is maximised, has to be sufficiently flexible to take account of the differences between urban and rural areas. The dwelling is to be located on a site where the principle of residential development has already been established. The social sustainability of the site has, therefore, been established.
- 6.30. Furthermore, the delivery of a new dwelling to the market would help to meet housing need in the locality, and would help to boost the supply of housing required by the NPPF. The proposal’s contribution to the Council’s housing supply should not be underestimated. The applicant intends to carry out the development in a short timescale should a permission be secured. In this regard, the site should be considered deliverable in the terms set out in the NPPF and should thereby be afforded further weight in terms of its sustainability credentials.
- 6.31. With regards to the environmental elements of the proposal, the proposed dwelling would be built to current Building Regulations standards (as recently updated) which embed positive measures to reduce carbon emissions and energy usage. The proposal would also offer opportunities to provide an environmentally sustainable development through the incorporation of renewable energy provision, and would be constructed utilising water efficient taps, showers and toilets, and energy efficient white goods.
- 6.32. Biodiversity improvements can be offered in terms of the provision of log piles, swift bricks and bird boxes on the site which will actively encourage biodiversity on the land. This will be supported by new native landscape planting. With this in mind, the proposal is considered to offer environmental gains that would support the environmental objective of sustainable development.
- 6.33. Important environmental matters such as highway safety, residential amenity, land contamination, drainage and flood risk have all been considered in respect of the previous
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application/permission on the site. The Council have accepted that a dwelling can be accommodated here without giving rise to concerns in respect of these matters. As the proposal relates to a single dwelling in lieu of the previous permission granted, the applicant considers that there are no reasons to take a differing view in respect of this proposal.

- 6.34. As such, it is considered that the proposal demonstrates a cohesive approach to sustainability that complies with the NPPF and is in line with the way in which the dimensions of sustainable development are applied by Planning Inspectors and Planning Officers alike.

## **7.0. PLANNING BALANCE**

- 7.1. As identified through the course of this statement, there are a number of issues which the LPA will need to balance in reaching a decision on this proposal. This section of this statement seeks to work through these matters and balance them in a manner that is consistent with how both Planning Inspectors and the Council's Planning Officers have carried out the balancing exercise in respect of recent applications that bring about similar considerations.
- 7.2. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990, applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The consideration is, therefore, whether the development accords with the development plan and, if not, whether there are material considerations that would indicate a decision should be taken contrary to the development plan.
- 7.3. The development plan includes the Babergh Local Plan (2006) and the Babergh Core Strategy (2014). In light of this application relating to a proposal for new housing, important considerations in determining this application are 1) that there is an extant fallback position on the site for a new dwelling, and 2) that the most important policies for determining this proposal are out-of-date and, therefore, the presumption in favour of sustainable development is engaged.
- 7.4. In light of this, the proposal has been assessed against the three objectives of sustainable development. In respect of the economic objective, the applicant recognises that there would be modest benefits from the construction of the new dwelling and from the contribution made by future occupants into the local economy. However modest that may be, the proposal is economically sustainable.
- 7.5. In terms of the social dimension, the NPPF recognises the contribution made by the delivery of housing and the vitality of rural communities to the social aspect of sustainability. The site is located in an accessible location and, in the absence of any social detriment, the proposal must also be considered to be socially sustainable. A modest increase of homes in rural areas can assist the social stimulus of a village, with Layham being no different.
- 7.6. The matter of environmental sustainability is, as is often the case in rural areas, more complex. The PPG recognises that there is a need to take a flexible approach to considering the potential for sustainable transport modes in rural areas and the site has been found to be well located in terms of the facilities and services on offer. The application does not propose a dwelling in a location that has not been found suitable for such development, with permission having already been granted for a single dwelling on the site.

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- 7.7. In this regard, and in the absence of any recognisable detriment to matters such as heritage assets, land contamination, biodiversity, highway safety, residential amenity or flood risk, the proposal is found to be environmentally sustainable also.
- 7.8. This is particularly the case when the environmental benefits of the scheme are considered. These include;
- The construction of the dwellings would include significant insulation and energy efficient white goods, and would include water efficient showers and toilets;
  - The introduction of ecological enhancements is proposed on the site;
  - The proposal brings about the opportunity to provide new landscape planting.
- 7.9. These benefits are considered to go a significant way to offsetting any limited environmental harm that may be considered to occur (notwithstanding that this statement has found no such harm to occur in any event). As such, any harm would not significantly and demonstrably outweigh the benefits of the scheme, where the delivery of this new dwelling would contribute a modest dwelling to the districts housing supply. As such, the balancing of the main issues would result in a conclusion that the proposal is sustainable and, therefore, there would be a presumption in favour of it.
- 7.10. In light of this, and taking account of all the considerations set out above, it is hoped that the LPA will support this sustainable development by granting planning permission in the terms requested.