

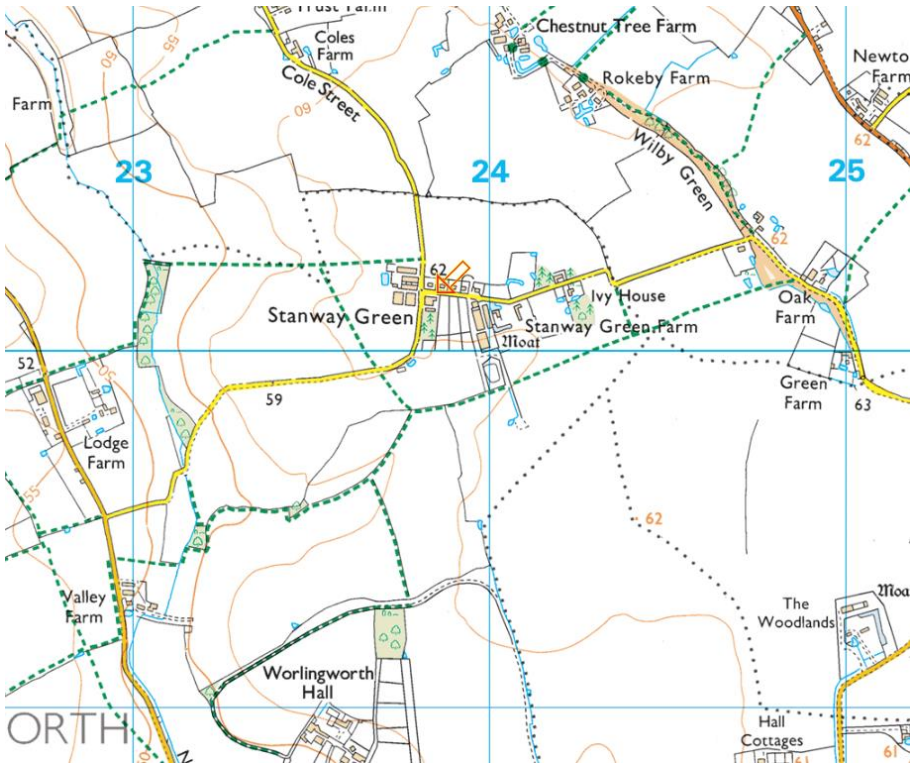
DESIGN & ACCESS STATEMENT

FOR

**Demolition of existing agricultural building and
erection of two new residential units (as an
alternative to Prior Approval DC/23/01583)**

AT

**Stanway Green Farm, Stanway Green,
Worlingworth IP13 7NY**



Street Map



Aerial Photo

INTRODUCTION

This statement is prepared to accompany a planning application for the demolition of an existing agricultural building and the erection of two new dwellings, with associated cart lodge garaging.

The proposal is an alternative to the existing Prior Approval for the conversion of two agricultural buildings to form two new dwellings, granted under Class Q of the *Town and Country Planning (General Permitted Development) (England) Order 2015* in June 2023.

This statement is intended to be read in conjunction with the submitted plans and documents:-

- 23 94 - 5 Location Plan & Block Plan
- 23 94 - 6 Plot 1 - Proposed Plans & Elevations
- 23 94 - 7 Plot 2 - Proposed Plans & Elevations
- 23 94 - 7 Phasing Plan

Preliminary Ecological Appraisal
Phase I Land Contamination Assessment

SITE HISTORY AND CURRENT USE

Although originally built as a grain store the unit was still in use until recently as an agricultural building for the storage of items and equipment used within the wider farming business, comprising arable land of approximately 220 acres.



In June 2023 under ***Schedule 2 Part 3 Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015***, Prior Approval was given for the change of use and conversion of the existing agricultural buildings to provide two residential units (Ref: DC/23/01583). A copy of the permission is attached as Appendix A.

This consent has yet to be implemented and the building has remained in part agricultural use.

The total site application area equates to 0.24 Ha.

PROPOSAL

This application seeks to demolish the existing agricultural unit and erect two new single-storey dwellings.



As detailed in the table below, the new units will comprise a total gross internal area of 436 square metres. The existing Class Q prior approval conversion provides two dwellings with a GIA of 431 square metres.

Therefore, the proposed scheme provides a similar gross internal floor area to the fall-back position which could be achieved under the Class Q Prior Approval consent.

Description	No of Units	Total SQM
Existing Class Q Conversion	2	431
TOTAL		431
New dwelling - Plot 1 (exc Garage)	1	180
New dwelling - Plot 2 (exc Garage)	1	256
TOTAL		436

LAYOUT

The new dwellings will be situated broadly within the same site footprint as the existing agricultural building.

The site occupies a prominent corner position at the junction of Stanway Green and Cole Street. The proposed dwellings will be orientated so the principal (front) elevations directly address Cole Street.

The majority of the private amenity space will be provided to the rear of the dwellings, with parking and garages located at the front.

DESIGN AND SCALE

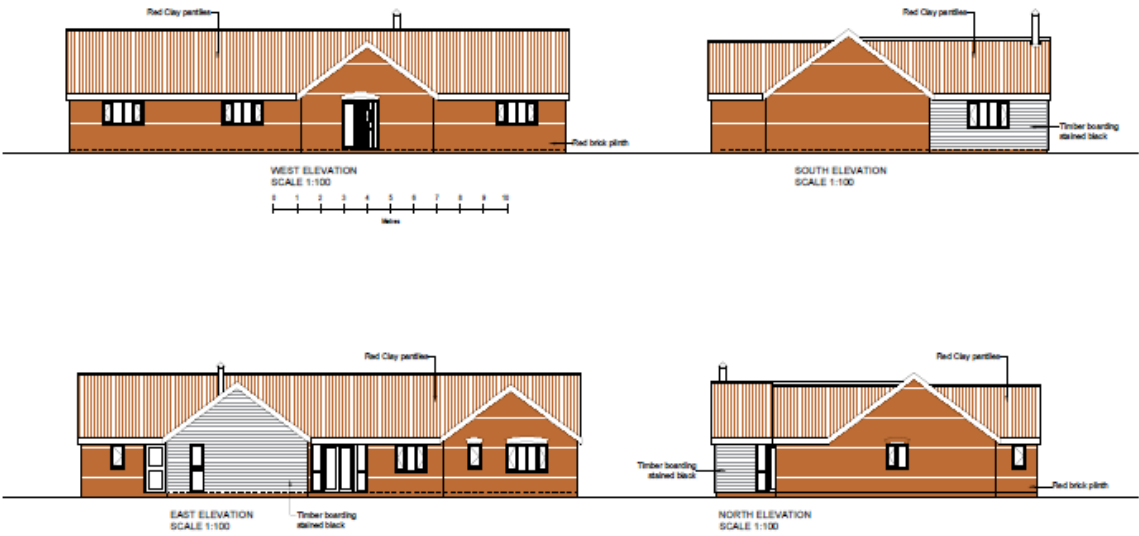
It is intended that the proposal reflects the former agricultural nature of the site and its rural location.

Therefore, the general unit designs (as shown below) reflect converted outbuilding-style dwellings, of which there are numerous examples throughout the region.

Plot 1 will comprise a single-storey four-bedroom dwelling, with a ridge height of approximately 5.4m. The external walls will be finished in a combination of horizontal timber boarding and red brickwork beneath a clay pantile roof.

Plot 2 will comprise a two-storey four bedroom dwelling, with a ridge height of approximately 8.8m. The external walls will be finished with horizontal timber boarding above a red-brick plinth and a clay pantile roof covering.

Plot 1



Plot 2



ACCESS AND PARKING

Each property will be provided with an individual access point, directly form Cole Street.

Two parking spaces will be provided for both units, two internally within the cartlodge garages and two externally, as shown on ***Drg. No. 23 94 -5 Proposed Block Plan & Location Plan.***

An electronic vehicle charging point will be provided in each garage as well as secure space for cycle storage.

PLANNING JUSTIFICATION

The current Prior Approval 'consent' allows for the existing agricultural building to be converted into two dwellings and establishes the principle of residential development on the site.

Although the existing building can be converted to provide residential accommodation, the limitations of Class Q are such that the finished units will have a somewhat awkward appearance that could be greatly improved with a more flexible approach.

On 8 September 2017 the Court of Appeal upheld a High Court decision (*Mansell v Tonbridge and Malling Borough Council [2017] EWCA Civ 1314*) that a fallback position in the form of Class Q permitted development rights (PDRs) was a relevant material consideration in the approval of a planning application for an alternative residential development - where there is a 'real prospect' of a fallback development being implemented.

It is worth noting that in this Court of Appeal case no Class Q permission existed, ***merely the prospect of it***, yet that was considered realistic enough to be worthy of material consideration.

When considering the concept of a 'real prospect', it was established under judgement EWCA Civ 333, Paragraph 21 *"...for a prospect to be a real prospect, it does not have to be probable or likely: a possibility will suffice"*, therefore under Mansell v TMBC the judge ruled that as the owners had strongly indicated they wanted to redevelop to provide residential accommodation then it *"...was entirely reasonable to assume that any relevant permitted development rights by which the.....(owner) could achieve residential development value...would ultimately be relied upon if an application for the construction of new dwellings were refused."*

Fundamentally as confirmed by Lindblom L. J. for the 'fallback' position to be a material consideration in a planning determination, the proposal must be comparable.

For this application site, under the existing Prior Approval a development of two converted dwellings is possible and likely, whilst the alternative full planning application seeks the same number of dwellings, with a comparable floor area, via a scheme benefitting from a greatly improved design and layout.

The fallback position has been integral to several recent appeal decisions where the replacement dwellings have been allowed as an alternative to approved (or possible) Class Q schemes.

For example, in August 2020 an appeal was allowed for **‘Replacement of agricultural buildings and erection of 2 no. dwellings with associated works (following previous prior approval under Class Q - Ref 36/18/0008/CQ)’** - Appeal Ref: APP/W3330/W/20/3248009.

The inspector concluded that:

28. *I have found that the appeal proposal would enhance the appearance of the site and would not harm the character of the area or designated heritage assets. It would also comply with other development plan policies in relation to parking, highway safety and the living conditions of neighbours. It would not however be an appropriate location for housing given the limited access to services and facilities. As such, the proposal would conflict with the development plan taken as a whole.*
29. *However, there is a realistic fallback position which would result in the same amount of housing being delivered in the same location, and in these circumstances I afford the conflict with the development plan moderate weight. The appeal proposal would however deliver significant benefits to the appearance of the site compared to that fallback position, and this carries significant weight in favour of the appeal proposal.*
30. *Overall, taking account of the Framework and the above considerations, I find that the benefits of the proposed development compared to the identified fallback position are a material consideration which outweighs the conflict with the development plan and justifies granting planning permission for the proposal. Consequently, I conclude that the appeal should be allowed.*

Through this and other appeal decisions, it is clear there is a general acceptance that in the right circumstances the Class Q fallback position is a material consideration that outweighs conflict with existing Local Plan policies.

There have been several applications within the MSDC area where a replacement scheme based on an existing Class Q approval has been acceptable, establishing a clear precedent for support. This includes but is not limited to the examples shown in the table below.

App Ref	Description	Location	Date
DC/18/03598	Demolition of an agricultural building and erection of a new dwelling and cartlodge garage as an alternative proposal to granted approval DC/18/00598	Crowfield	Oct-18
DC/19/03339	Conversion/replacement of agricultural buildings to form 5 no. dwellings including alterations to existing vehicular accesses and erection of associated garages	Hoxne	Nov-19
DC/20/03940	Planning Application - Erection of 1no. Dwelling (following demolition of agricultural building)	Redlingfield	Sep-20
DC/20/04166	Conversion of agricultural building to form 2no. Residential dwellings with associated curtilages and creation of two vehicular accesses (as an alternative proposal to existing Grant of Prior Approval Ref. DC/20/00218)	Weybread	Nov-20
DC/21/06384	Planning Application. Demolition of existing agricultural buildings and erection of 2no residential units as alternative to original prior approval consent - DC/20/02781	Laxfield	Mar-22
DC/21/06464	Full Planning Application - Erection of 4No dwellings (following demolition of existing agricultural buildings (as alternative to Prior Approval DC/19/03434)	Worlingworth	Feb-22
DC/22/03599	Planning Application - Demolition of existing agricultural buildings and erection of 2no new residential units in two phases (as alternative to Prior Approval DC/20/02792)	Mendham	Oct-22
DC/23/04323	Full Application - Erection of 2No dwellings with garaging (following demolition of existing grain store).	Coddenham	Sep-23

In terms of providing an answer to the question '*whether the proposed development represents an improvement over that which could be built under the prior approval*', we comment as follows.

- The existing conversion proposal is visually unappealing and there is clearly an opportunity to create more attractive dwellings with a replacement scheme of the right style that contributes positively to the character of the surrounding area.
- The proposed units will occupy a similar footprint to the existing agricultural building and therefore the built form will not negatively impact the surrounding area.
- A conversion project has less onerous building regulation requirements in terms of insulation requirements etc and a new build project can be constructed to a much higher standard of thermal efficiency and therefore represents an opportunity to promote a greater level of sustainable development.
- To add to the point above it will also be possible to introduce renewable technologies into a new build scheme that would not be possible under a Class Q conversion. For example, incorporating PV roof panels which under Class Q can be considered unworkable as they are outside of the volume of the existing building - this would further enhance the sustainable development credentials

CONCLUSION

The proposed residential units would replace permitted dwellings allowed under Class Q of the GPDO.

The High Court Decision of *Mansell v Tonbridge* deals with the fallback position whereby it was accepted that the council was entitled to conclude that there was a “realistic” fallback and that it was clear that the owners were intending to develop the site. This position has been backed up with subsequent appeals.

The use of a fallback position has been generally acceptable in other applications throughout the district and overrides any conflict with general housing policies laid out within the current Local Plan.

The replacement scheme will provide a more attractive development which, as a new build, will benefit from a far more sustainable construction methodology.

APPENDIX A

Philip Isbell – Chief Planning Officer
Sustainable Communities

Mid Suffolk District Council

Endeavour House, 8 Russell Road, Ipswich IP1 2BX

Website: www.midsuffolk.gov.uk



Hollins Architects, Surveyors & Planning
Consultants
The Guildhall
Market Hill
Framlingham
Suffolk
IP13 9BD

Please ask for: Alex Breadman
Your reference:
Our reference: DC/23/01583
E-mail: planningyellow@babberghmidsuffolk.gov.uk
Date: 1st June 2023

Dear Sir/Madam

PRIOR APPROVAL - AGRICULTURAL TO DWELLING - DC/23/01583

Notification under Schedule 2 Part 3 Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015

Proposal: Application to determine if Prior Approval is required for a proposed: Change of Use of Agricultural Buildings to Dwellinghouses (C3) and for building operations reasonably necessary for conversion. Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) Schedule 2, Part 3, Class Q - Conversion of Agricultural Building/Grain Store to 2no. dwellinghouses

Location: Agricultural Building/Grain Store, Stanway Green Farm, Stanway Green, Worlingworth Woodbridge Suffolk

Section A – Plans & Documents:

This decision refers to drawing no./entitled Location Plan 22188 1 received 31/03/2023 as the defined red line plan with the site shown edged red. Any other drawing showing land edged red whether as part of another document or as a separate plan/drawing has not been accepted or treated as the defined application site for the purposes of this decision.

The plans and documents recorded below are those upon which this decision has been reached:

Application Form - Received 31/03/2023
Ecological Survey/Report - Received 31/03/2023
Design and Access Statement - Received 31/03/2023
Structural Survey - Received 31/03/2023
Defined Red Line Plan Location Plan 22188 1 - Received 31/03/2023
Existing Plans and Elevations 22188 2 - Received 31/03/2023
Proposed Plans and Elevations 22188 3A - Received 31/03/2023
Block Plan - Proposed 22188 4 - Received 31/03/2023

Section B:

The **Mid Suffolk District Council** hereby give notice in pursuance of the above legislation:

- 1) That prior approval to the development is required;
- 2) Prior approval has been **GIVEN** subject to the following conditions:

1. ACTION REQUIRED IN ACCORDANCE WITH A SPECIFIC TIMETABLE: COMPLETION TIME LIMIT

The development hereby approved must be completed within a period of 3 years starting with the prior approval date.

Reason - To comply with the requirements of paragraph Q.2.-(3) of Part 3, of Schedule 2, of the Town and Country Planning (General Permitted Development) England Order 2015 (as amended).

2. APPROVED PLANS & DOCUMENTS - PRIOR APPROVAL

The development hereby permitted shall be carried out in accordance with the drawings/documents listed under Section A above and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this approval or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non material amendment following an application in that regard.

Reason - To comply with the requirements of paragraph W-(12) of Part 3, of Schedule 2, of the Town and Country Planning (General Permitted Development) England Order 2015 (as amended).

3. ACTION REQUIRED PRIOR TO USE/OCCUPATION: PROVISION OF PARKING

The use shall not commence until the area within the site shown on Drawings listed under Section A for the purposes of loading, unloading, manoeuvring and parking (including garage spaces as applicable) of vehicles has been provided and made functionally available. Thereafter that area/s shall be retained and remain free of obstruction except for the purpose of manoeuvring and parking of vehicles.

Reason - To ensure the provision of adequate on-site space for the parking and manoeuvring of vehicles where on-street parking and manoeuvring would otherwise be detrimental to highway safety.

4. ACTION REQUIRED IN ACCORDANCE WITH A SPECIFIC TIMETABLE: CYCLE STORAGE

Before the development is commenced details of the areas to be provided for the secure, covered cycle storage including electric assisted cycles shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented for each dwelling prior to its first occupation and retained as such thereafter.

Reason - To promote sustainable travel by ensuring the provision at an appropriate time and long term maintenance of adequate on-site areas and infrastructure for the storage of cycles and charging of electrically assisted cycles in accordance with Suffolk Guidance for Parking (2019). This is a pre-commencement condition because it must be demonstrated that the development can accommodate sufficient cycle storage before construction works may make this prohibitive and in the interests of ensuring that sustainable transport options are provided.

5. ACTION REQUIRED IN ACCORDANCE WITH A SPECIFIC TIMETABLE: ELECTRIC VEHICLE CHARGING

Before the development is commenced details of the infrastructure to be provided for electric vehicle charging points shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter and used for no other purpose.

Reason - In the interests of sustainable travel provision and compliance with Local Plan Sustainable Transport Policies. This needs to be a pre-commencement condition to avoid expensive remedial action which adversely impacts on the viability of the provision of electric vehicle infrastructure if a suitable scheme cannot be retrospectively designed and built.

6. ACTION REQUIRED PRIOR TO FIRST OCCUPATION OF DEVELOPMENT: REFUSE BINS AND COLLECTION AREAS

Prior to the first occupation of the development details of the areas to be provided for storage of Refuse/Recycling bins and any associated collection areas shall be submitted to and approved, in writing, by the Local Planning Authority. The approved areas shall be provided in their entirety before the development is first occupied and shall be retained thereafter for no other purpose.

Reason: To ensure that refuse recycling bins are not stored on the highway causing obstruction and dangers for other users.

7. ACTION REQUIRED PRIOR TO THE COMMENCEMENT OF DEVELOPMENT: LAND CONTAMINATION INVESTIGATION

No development shall take place until:

1. A strategy for investigating any contamination present on site (including ground gases, where appropriate) has been submitted for approval by the Local Planning Authority.
2. Following approval of the strategy, an investigation shall be carried out in accordance with the strategy.
3. A written report shall be submitted detailing the findings of the investigation referred to in (2) above, and an assessment of the risk posed to receptors by the contamination (including ground gases, where appropriate) for approval by the Local Planning Authority. Subject to the risk assessment, the report shall include a Remediation Scheme as required.
4. Any remediation work shall be carried out in accordance with the approved Remediation Scheme.

5. Following remediation, evidence shall be provided to the Local Planning Authority verifying that remediation has been carried out in accordance with the approved Remediation Scheme.

Reason - To identify the extent and mitigate risk to the public, the wider environment and buildings arising from land contamination.

8. ACTION REQUIRED PRIOR TO COMMENCEMENT: CONSTRUCTION MANAGEMENT PLAN

No development shall commence until a construction management plan has been submitted to and approved, in writing, by the Local Planning Authority.

The construction management plan shall include details of:

- Scheduled timing/phasing of the development for the overall construction period.
- Means of access, traffic routes, vehicle parking and manoeuvring areas (site operatives and visitors) protection measures for footpaths surrounding the site.
- Loading and unloading of plant and materials.
- Wheel washing facilities.
- Lighting.
- Location and nature of compounds, portaloos and storage areas (including maximum storage heights) and factors to prevent wind-whipping of loose materials.
- Waste storage and removal.
- Temporary buildings and boundary treatments.
- Dust management measures
- Method of any demolition/removal to take place, including the recycling and disposal of materials arising from demolition.
- Noise and vibration management (to include arrangements for monitoring, and specific method statements for piling).
- Litter and waste management during the construction phases of the development.

Thereafter, the approved construction plan shall be fully implemented and adhered to during the construction phases of the hereby approved development, unless otherwise agreed in writing by the Local Planning Authority.

Note: The applicant should have regard to BS 5228:2009 Code of Practice of Noise and Vibration Control on Construction and Open Sites in the CMP.

Reason - to minimise detriment to nearby residential amenity

9. COMPLIANCE REQUIRED: CONSTRUCTION WORKING HOURS

No construction/conversion work related to the hereby permitted development, including site clearance, shall operate outside the hours of 08:00 and 18:00; Mondays to Fridays, and 09:00 and 13:00 on Saturday. There shall be no working and/or use operated on Sundays and Bank Holidays. There shall be no deliveries to or from the site outside of these hours.

Reason - To enable the Local Planning Authority to retain control over the development in the interests of residential amenity within close proximity.

10. ON GOING REQUIREMENT OF DEVELOPMENT/USE: PROHIBITION ON BURNING

No burning shall take place on site at any stage during site clearance or construction/conversion phases of the development.

Reason - To enable the Local Planning Authority to retain control over the development in the interests of residential amenity within close proximity.

11. SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF PERMITTED DEVELOPMENT RIGHTS

Notwithstanding Section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 as amended and the provisions of Article 3, Schedule 2 Part 1 Classes A to E and H and Part 2 Class A of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order with or without modification):- - no enlargement, improvement, insertion of new openings or other alteration of the dwelling house(s) shall be carried out, - no garage, car port, fence, gate, wall or any other means of enclosure, building or structure shall be erected, except pursuant to the grant of planning permission on an application made in that regard.

Reason - To enable the Local Planning Authority to retain control over the development in the interests of the amenity of the locality and to safeguard local distinctiveness.

NOTES:

The applicant is reminded that this approval is subject to the development being:-

In accordance with Class Q Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended);

1. If you have applied for a change of use only (class Q (a) only) before you begin development you must apply to the local planning authority to determine whether the prior approval of the authority will be required in relation to:
 - a) Highways impacts
 - b) Noise impacts
 - c) Contamination risks
 - d) Flooding risk
 - e) Whether the location and siting of the building makes it impractical or undesirable

The development under class Q (a) and (b) must be completed within a period of 3 years starting with the prior approval date.

Informative Notes:

1. **Statement of positive and proactive working in line with the National Planning Policy Framework (NPPF)**

The proposal has been assessed with regard to adopted development plan policies, the National Planning Policy Framework and all other material considerations. The NPPF encourages a positive and proactive approach to decision taking, delivery of sustainable development, achievement of high quality development and working proactively to secure developments that improve the economic, social and environmental conditions of the area. While the applicant did not take advantage of the service, the Council provides a pre-application advice service prior to the submission of any application. The opportunity to discuss a proposal prior to making an application allows potential issues to be raised and addressed pro-actively at an early stage, potentially allowing the Council to make a favourable determination for a greater proportion of applications than if no such service was available.

2. **Protected Species Note**

The developer is hereby reminded of their obligations under the Wildlife and Countryside Act (1981) (as amended) and the Conservation of Habitats and Species Regulations (2017) (as amended) in the carrying out of the development hereby approved.

3. **Lead Local Flood Authority Note**

- o Any works to a watercourse may require consent under section 23 of the Land Drainage Act 1991
- o Any discharge to a watercourse or groundwater needs to comply with the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017
- o Any discharge of surface water to a watercourse that drains into an Internal Drainage Board catchment may be subject to payment of a surface water developer contribution
- o Any works to lay new surface water drainage pipes underneath the public highway will need a section 50 license under the New Roads and Street Works Act 1991
- o Any works to a main river may require an environmental permit.

Babergh and Mid Suffolk District Councils have adopted Community Infrastructure Levy (CIL) charging which affects planning permissions granted on or after 11th April 2016 and permitted development commenced on or after 11th April 2016. If your development is for the erection of a new building, annex or extension or the change of use of a building over 100sqm in internal area or the creation of a new dwelling or holiday let of any size your development may be liable to pay CIL and you must submit relevant documents to our Infrastructure Team telling us more about your development, who will pay CIL and when the development will start. You will receive advice on the amount you have to pay and what you have to do and you can find more information about CIL on our websites here: CIL in Babergh and CIL in Mid Suffolk or by contacting the Infrastructure Team on: infrastructure@baberghmidsuffolk.gov.uk

Yours faithfully

Philip Isbell

Chief Planning Officer – Sustainable Communities

Important Notes to be read in conjunction with your Decision Notice

Please read carefully

This decision notice refers only to the decision made by the Local Planning Authority under the Town and Country Planning Acts and DOES NOT include any other consent or approval required under enactment, bylaw, order or regulation.

Please note: depending upon what conditions have been attached to the decision, action may be required on your part before you can begin your development. Planning conditions usually require that you write to the Local Planning Authority and obtain confirmation that you have discharged your obligations. You should read your decision notice in detail and make a note of the requirements placed on you by any conditions. **If you proceed with your development without complying with these conditions you may invalidate your permission and put your development at risk.**

Discharging your obligations under a condition:

You should formally apply to discharge your conditions and the relevant application forms are available on the Council's website. The Local Planning Authority has 8 weeks to write to you after you submit the details to discharge your conditions. You should always account for this time in your schedule as the Local Planning Authority cannot guarantee that conditions can be discharged quicker than this. A fee is applicable for the discharge of planning conditions.

Building Control:

You are reminded that the carrying out of building works requires approval under the Building Regulations in many cases as well as a grant of planning permission. If you are in doubt as to whether or not the work, the subject of this planning permission, requires such approval, then you are invited to contact the Building Control Section of Babergh and Mid Suffolk District Councils.

Appeals to the Secretary of State

1. If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission or consent, or to grant permission or consent subject to condition, they may appeal to the Secretary of State for Communities and Local Government. The applicant's right of appeal is in accordance with the appropriate statutory provisions which follow:

Planning Applications: Section 78 Town and Country Planning Act 1990

Listed Building Applications: Section 20 Planning (Listed Buildings and Conservation Areas) Act 1990

Advertisement Applications: Section 78 Town and Country Planning Act 1990
Regulation 15

Town and Country Planning (Control of Advertisements) Regulations 2007

Notice of appeal in the case of applications for advertisement consent must be served within eight weeks of receipt of this notice. Notice of Householder and Minor Commercial Appeals must be served within 12 weeks, in all other cases, notice of appeal must be served within six months of this notice. If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice. If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within six months of the date of this notice, whichever period expires earlier. Appeals must be made on a form which is obtainable from The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN or online at <https://www.gov.uk/government/publications/modelnotification-notice-to-be-sent-to-an-applicant-when-permission-is-refused>

The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he/she will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him/her that permission for the proposed development could not have been granted by the Local Planning Authority, or could not have been so granted otherwise than subject to the conditions imposed by it, having regard to the statutory requirements*, to the provisions of the Development Order, and to any directions given under the Order. The Secretary of State does not in practice refuse to entertain appeals solely because the decision of the Local Planning Authority was based on a direction given by him/her.

2. If permission or consent to develop land or carry out works is refused or granted subject to conditions, whether by the Local Planning Authority or by the Secretary of State and the owner of the land claims that the land has become incapable of reasonable beneficial use by the carrying out of any development or works which has been or would be permitted they may serve on the Council of the district in which the land is situated, a purchase notice requiring the Council to purchase his interest in the land in accordance with the provisions of Section 137 of the Town and Country Planning Act 1990 or Section 32 Planning (Listed Buildings and Conservation Areas) Act 1990.

*The statutory requirements are those set out in Section 79(6) of the Town and Country Planning Act 1990, namely Sections 70 and 72(1) of the Act.