

Objection Statement:

B/16/01458/OUT - Persimmon Homes Development, Land East of Longfield Road, Capel St Mary

B/16/016365 and B/17/00122 - Hopkins Homes Development, Land North and West of Capel Community Church, Capel St Mary

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Objection Statement:	1
<i>Instructions</i>	3
<i>The application(s):</i>	3
<i>5 year housing supply</i>	5
<i>Local Policy does not support the applications.</i>	8
<i>I address below a selection of these matters, directly or indirectly related, in further detail.</i>	8
<i>Sequential Approach</i>	9
<i>Housing mix</i>	11
<i>Accident rates on the A12</i>	12

Instructions

Planning Direct has been instructed by Capel St Mary Parish Council to prepare an objection to two recent planning applications. This objection statement has been written in response to both applications due to their proximity within the parish of Capel St Mary and due to the common factors betwixt both.

The application(s):

B/16/01458/OUT - Persimmon Homes Development.

The Persimmon Homes application is for 150 homes at a 5.4 ha greenfield site to the north east of Capel St Mary via access from 'Little Tufts'.

B/17/00122/OUT Hopkins Homes Development

The Hopkins homes proposal is for 100 homes at land to the north west of the village with access from Days Road.

Capel St Mary Parish Council has objected to both applications. This objection should be read in conjunction with the objections already made by the Parish Council.

5 year housing supply

At the core of both applications Baberghs lack of 5 year housing supply is key. However the issue is not a clear cut as the developers make out.

An email between the council and one of the developers puts the situation succinctly regarding Baberghs's five year housing situation:

Email of 27th March 2017

Dear Helen,

I am able to advise that the 5 year supply of land for housing(5YSLH) in Babergh has now fallen below 5 years. This means that the requirements of paragraph 49 of the National Planning Policy Framework (NPPF), now apply to applications for housing development. Para 49 states "Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."

Our position on supply has fallen because of a number of factors acting in concert. These include the declining annual rate of housing delivery (the numbers built) in the District since 2013. Moreover, since the adoption of the District's Core Strategy in 2014, delivery in the rural area has been managed, amongst other things, through policy CS11. However, following the recent High Court challenge, the interpretation and implementation of the application of this policy is subject to review. In consequence the Council has now received a number of challenges to the Council's stated position on the 5 year supply. Therefore, a draft interim position is now being prepared which will indicate that the supply position has dropped to 3-4 years (depending on whether an estimated new OAN number is used or that stated in the current Local Plan). This interim assessment of land supply will also be informed by the our emerging evidence for the new local plan and the need to respond to the implementation challenges which the District is facing, alongside the increasing emphasis on delivery as set out in the Government White Paper 'Fixing Our Broken Housing Market'.

Subsequent to this email the council reviewed their 5 year housing supply position, 'Babergh District Council: Interim 5 year housing land supply statement' (April 2017). In this document the council states that there is a three year housing supply based upon the emerging OAN and a formal challenge to the published 5 year supply position.

However the council makes plain in the introduction to this report that they intend to adopt as quickly as possible the Governments White Paper 'Fixing Our Broken Housing Market when regulating the OAN in the future.

The upshot of the 3 years supply position is that Babergh must take into account (**but not exclusively**) the National Planning Policy Frameworks 'presumption in favour of sustainable development'. The council, indirectly, has indicated it will still take into account 'relevant Local Plan policies and other material considerations'.

Many developers are currently seeking to rely on the uncertainty regarding the application of local plan (and other material considerations policies) that prevent development to promote speculative schemes. The argument goes that as a council does not have a 5 year housing supply it cannot rely on its Local Plan Policies and must let the NPPF *presumption* take precedent. However this is not the case and the Planning Inspectorate have allowed and disallowed planning applications made on this basis. Hopkins make much of the number of appeals won on this basis. They fail to mention that equally a large number of appeals **have not** been upheld despite a lack of a 5 year housing supply.

The matter is now at the Supreme Court:

Suffolk Coastal District Council rejected planning permission for 26 houses in Yoxford in Suffolk, and the refusal was upheld by a planning inspector. The applicant, Hopkins Homes, overturned the decision at the High Court, because the Council had failed to provide certainty about the provision of housing land, and the planning inspector had erred in law when making his decision.

The High Court said that the lack of sufficient housing supply for the next five years left the Council's Local Plan policies relating to the supply of housing being out of date for planning purposes, which meant weight should only be given to them in accordance with the degree of consistency with the National Planning Policy Framework.

The Court of Appeal confirmed that this included policies which restricted the supply of housing as well as policies that provided for extra housing, even if the proposed development was in the Green Belt. The Court of Appeal was asked to look at the case, because a planning inspector had allowed an appeal for 146 homes in Willaston, near Nantwich in Cheshire. Cheshire East Council had refused permission and then asked the High Court to overturn the planning inspector's decision.

The Court of Appeal considered both cases together, because the High Court had come to two different conclusions on two very similar cases relating to the same points of law. Last year the Court of Appeal concluded that Paragraph 49 of the National Planning Policy

Framework should be interpreted very widely, and therefore applies to all policies which have the effect of restricting where housing development should go, including the open countryside and Green Belt policies.

In rejecting the Councils' claims that Paragraph 49 only applies to policies relating to the distribution and numbers of houses to be built, the Court of Appeal found that when read in the context of the Government's stated ambition to "boost significantly the supply of housing" then Paragraph 49 clearly should apply to all policies which have the effect of restricting housing development.

The outcome of the case is still awaited and Babergh District Council would be unwise to allow the *presumption* to override legitimate local policy concerns and grant planning permission when the situation regarding applicability of Local Plan Policies, when a 5 year housing supply cannot be demonstrated, has not been determined by the highest court in the land. The Supreme Court could, in effect, issue a judgement supporting the developers here or indeed one that does not and that judgement is due.

Local Policy does not support the applications.

Babergh District Council adopted the Core Strategy in 2014. That Strategy includes policy CS11 which sets out how development in the Core and Hinterland Villages must be approached.

The Core Strategy provides for 1050 additional dwellings to be located in Core and Hinterland Villages between 2011 and 2031 via Site Allocations. The Site Allocations have not yet been adopted and therefore the councils position is to follow the policy without the allocations at present.

Capel St Mary is a Core Village and as such the criteria for assessment of a planning application includes:

- The landscape, environmental and heritage characteristics of the village
- The locational context of the village and the proposed development (particularly the AONBs, conservation areas and heritage assets)
- Site location and sequential approach to site selection
- Locally identified need – housing and employment, and specific local needs such as affordable housing
- Locally identified community needs
- Cumulative impact of development in the area in respect of social, physical and environmental impacts

I address below a selection of these matters, directly or indirectly related, in further detail.

Sequential Approach

Both applications state that they satisfy the sequential site selection requirements of policy CS11.

The applications take very different approaches to demonstrating this however.

Persimmon

Persimmon provide no evidence at all that they have conducted a sequential exercise. They claim (excerpt from Persimmon Planning Statement below) that a draft (i.e. not adopted) SHLAA published by Babergh and Mid Suffolk shows that there are no other

Sequential approach to site selection

- 6.2.8 The Babergh and Mid Suffolk Joint SHLAA published as a draft version in May 2016 shows that there are no other available, suitable and deliverable sites in the built up area of Capel St Mary.
- 6.2.9 The application site adjoins the built up area of the village and is, therefore, in the 'next preferred location' for development identified within the Rural Development and Core Strategy Policy CS11 SPD.

available, suitable and deliverable sites in the built up area of the village. As the Persimmon Site adjoins the built up area (and there are no built up area sites available) it is therefore the next preferred location.

This is not so. There are a number of potential sites available immediately adjoining Capel St Mary and these all need assessing. A site is not sequentially preferable by dint of it being adjoining.

Firstly there are a number of adjoining sites and secondly sites further afield may still be sequentially preferable to the Persimmon site.

Persimmon offers no evidence on this matter and therefore they have not passed the CS11 test and the application should be refused on the sequential grounds alone.

Hopkins

Hopkins Homes at least have done a sequential exercise. Their conclusion? Their site is not only the best one available but scores full marks - 5/5! Hopkins claim their site receives full marks despite it not being ideal. The site is over 1km from local services which, whilst Hopkins may believe is 'acceptable' is not. The site, which will generate a lot of traffic to and from the A12, is also at the western edge of the village meaning that all A12 traffic will travel throughout the village adversely affecting traffic issues and the character of the village. Hopkins site may well score well but it does not score 5/5.

The council should take Hopkins assertions regarding the sequential test with a heavy pinch of salt and examine this matter in detail.

Hopkins cannot demonstrate (believably) that they have passed the sequential test and therefore the application should be refused under policy CS11.

Housing mix

The Hopkins application makes much of the various consultations and reports regarding housing mix. This are all carefully noted in the Design and Access statement. The outcome of this is very clear. The priority for housing mix is two and 3 bed homes with a significant number of bungalows. This is the need. Hopkins have recorded this and then ignored it.

Damming themselves with their own report they point out that 29% of the proposed housing mix will be 4 and 5 bedroom homes. Hopkins have therefore demonstrated that they are not meeting the demand and their housing mix is inappropriate. It is of course not surprising that Hopkins seeks to include as many 4 and 5 bedroom houses in their development as possible for commercial reasons but they cannot claim as well to be reflecting the identified need and therefore cannot claim to be complying with policy CS11.

The application should be refused on these grounds.

Accident rates on the A12

Whilst a considerable amount of work has been done looking at the impact on the local road network the effect on accident rates on the A12 has received only perfunctory attention.

In the last 5 years there have been 20 accidents in the immediate vicinity of the Capel St Mary junction(s) on the A12. The Highways England I believe have been remiss on not looking at accident rates here.

Clearly there is a high risk of additional accidents which has not been assessed. It is this author's view that the council must require a detailed assessment of accident risk on the A12 in the immediate area before making any decision on this application. It is clear from the evidence given, which is not disputed, that a large proportion of the additional traffic generated by both proposals will use the A12 (there is little other choice) and therefore the effects of this must be assessed.

The application should at minimum be deferred on the grounds pending further investigation.