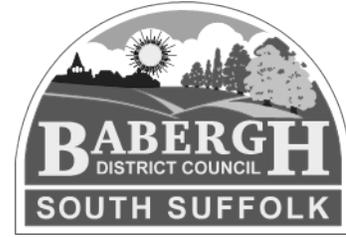


**Philip Isbell - Corporate Manager**  
**Growth & Sustainable Planning**

**Babergh District Council**  
Endeavour House, 8 Russell Road, Ipswich IP1 2BX

Website: [www.babergh.gov.uk](http://www.babergh.gov.uk)



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## **REFUSAL OF PLANNING PERMISSION**

### **TOWN AND COUNTRY PLANNING ACT 1990**

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**Correspondence Address:**

Mr John Jackson  
Architectural Design Associates  
Holly House  
41 Woodlands Park  
Leigh-on-Sea  
SS9 3TP  
Essex

**Applicant:**

The Stemar Group Ltd  
Jail Farm Bungalow  
Barling Road  
Southend on Sea  
SS3 0LZ  
Essex

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**Date Application Received:** 02-Mar-18

**Application Reference:** DC/18/00929

**Date Registered:** 03-Mar-18

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**Proposal & Location of Development:**

Application under Section 73 of the Town and Country Planning Act - Erection of 6 no. two-storey dwellings, following demolition of existing commercial buildings and hard standing, and construction of private access driveway (scheme to utilise existing vehicular access to public highway) - Variation of condition 2 of planning permission B/14/01103 as amplified by submission of covering letter from agent dated 26/3/18 and annotated Proposed Setting Out and Landscaping Plan (1471.21E) and Existing Site Survey Plan (1471.06) all received 26/3/18. As amended by agent's letter dated 21/6/18 and revised plans 1471.21G and 1471.22.

The Slaughterhouse And Land Adjacent, Cuckoo Hill, Bures St Mary, Suffolk

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**Section A – Plans & Documents:**

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

Plans - Proposed Proposed Setting Out and Landscaping Plan 1471.21 G - Received 21/06/2018

Sectional Drawing 1471.06 - Received 21/06/2018

Land Levels Existing Site Survey Plan 1471.06 - Received 23/03/2018

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**Section B:**

Babergh District Council as Local Planning Authority, hereby give notice that **PLANNING PERMISSION HAS BEEN REFUSED** for the development proposed in the application in accordance with the particulars and plans listed in section A for the following reasons:

1. 1. In determining this planning application the Council has not only had regard to the NPPF and its own Adopted Core Strategy and Policies but has been able to experience its physical impacts by virtue of the fact that it has been largely constructed. The retrospective nature of the application has afforded the unusual opportunity to gauge such impacts not theoretically from drawings but from seeing the development 'as built' within the context of surrounding existing development.

In assessing that impact the Council has concluded that the application would not have been approved in the form it has now been built had a planning application for a development in this form been submitted ahead of construction. In determining this application, the Council has noted and had full regard to the earlier planning permission [ref; B/14/14/01103] granted on 13 February 2015 as varied by the decision dated 12 May 2017 for a non material minor amendment. That development was not implemented in accordance with the approved drawings and it is the current application that seeks to regularise that breach.

The Council finds the current application unacceptable and consequently refuses it for reasons that will now be explained.

In summary the two storey detached houses as built on plots 5 and 6 and as shown on drawing number 1471/21G and 1471.22 are unacceptable for the significant harm they cause to:

- (i) the residential amenity enjoyed by the property known as White Horse House immediately to the south; and
- (ii) the character of the Conservation Area; and,
- (iii) the setting of the adjacent Grade II listed building - 'White Horse House'

Specifically:

Harm to Residential Amenity

As a result of:

- (a) the ground level on plot 6 being raised beyond those previously approved; and,
- (b) the consequent rise in finished floor level of the plot ;and ,
- (c) the overall increase in height of the buildings on plots 5 and 6 beyond that previously approved; and,
- (d) the relocation of Plot 5 closer to the southern boundary

The house on plot 6 as well as Plot 5 immediately to the east now have an unacceptably overbearing and over-scaled relationship with the adjacent modest-sized traditional vernacular property 'White Horse House'. They now loom over White Horse House and result in a significant and unacceptable level of harm to the outlook experienced from the rear of that property and its associated private garden space. The increase in height of the position of first floor windows to the rear of the house on plot 6 now results in an unacceptable perception from White Horse House of being overlooked and of the privacy of its amenity space being infringed.

The unacceptable harm identified above is contrary to the NPPF in so far as the houses on plots 5 and 6 as built in the opinion of the Council:

- o does not secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings; does not contribute positively to making better places (Paragraph 124);
- o has not achieved high quality (Paragraph 124);

- o does not establish a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit (Paragraph 127);
  - o is not sympathetic to local character and history, including the surrounding built environment and landscape setting (Paragraph 127)
- and therefore, as advised in Paragraph 130 the Council is refusing the development on the ground, inter alia, of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

The development is considered to be contrary to saved policies CN01, CN06, CN08, HS28 of the Babergh Local Plan (Alteration No.2) 2006 and Policy CS15 of the Babergh Core Strategy and Policies (2014).

#### Failure to preserve or enhance the character of the Conservation Area

The house on plot 6 when viewed from Cuckoo Hill is unduly prominent within the street scene rising as it does above White Horse House which forms part of a charming group of properties within the heart of the Conservation Area. In addition, the houses on plots 5 and 6 will be even more prominent and intrusive during the autumn and winter months when the trees that in part currently soften its impact are bare. This level of visual dominance harms the character of the conservation area which currently can be defined as comprising predominantly small scale linear frontage development on Cuckoo Hill.

The unacceptable harm identified above is contrary to paragraph 192 of the NPPF in so far as the houses on plots 5 and 6 as built in the opinion of the Council:

- o do not sustain and enhance the significance of the heritage asset that is a Conservation Area; ( Paragraph 192)
- o do not make a positive contribution to local character and distinctiveness. (Paragraph 192)

In carrying out the balancing exercise under Paragraph 196 of the NPPF it is considered that the increased height, proximity and oppressive relationship of Plot 6 and Plot 5 to the street scene in Cuckoo Hill and wider area are such as to outweigh the public benefits of the development.

The development is considered to be contrary to saved saved policy CN08 of the Babergh Local Plan (Alteration No.2) 2006 and Policy CS15 of the Babergh Core Strategy and Policies (2014) .

#### Harm to the Setting of the listed White Horse House

White Horse House is a 2 storey C17-C18 timber -framed house, formerly a public house, with an asymmetrical plain tile roof. The roof to the rear has a long raking sweep from the ridge reflecting the fact that it has its eaves over the single storey element.

The houses on plots 5 and 6 have been constructed in ways described in (a) - (d) [incl.] above that have resulted in significant and unacceptable harm being caused to the setting of the adjacent listed building as a result of the new houses unduly overbearing scale and juxtaposition in relation to White Horse House. Whilst intimate relationships between buildings can be found in the conservation area these tend to be visually harmonious. In this particular case the new house dwarfs the older listed building significantly detracting from its place in the street disturbing and disrupting the composition of the properties that line Rd in the heart of the Conservation Area. This dominance is something that would

not have been an issue with the previously approved scheme where the relationship between it and its listed neighbour had been carefully considered when approving that scheme.

The unacceptable harm identified above is contrary to paragraphs 192 and 196 of the NPPF in so far as the house on plot 6 as built in the opinion of the Council:

- o does not sustain and enhance the significance of the heritage asset that is the Grade II listed building - White horse House (Paragraph 192)
- o does not result in sufficient public benefits to the overall housing stock in Babergh District and the regeneration of a former commercial site to outweigh the less than substantial harm caused to the setting of the Grade II listed White Horse House particularly noting that considerable importance and weight should be given to the desirability of preserving the setting of a listed building when carrying out the balancing exercise.

The development is considered to be contrary to saved saved policy CN06 of the Babergh Local Plan (Alteration No.2) 2006 and Policy CS15 of the Babergh Core Strategy and Policies (2014) .

#### **SUMMARY OF POLICIES WHICH ARE RELEVANT TO THE DECISION:**

CS01 - Applying the presumption in Favour of Sustainable Development in Babergh  
CS02 - Settlement Pattern Policy  
CS03 - Strategy for Growth and Development  
CS11 - Core and Hinterland Villages  
CS15 - Implementing Sustainable Development  
CS18 - Mix and Types of Dwellings  
CN01 - Design Standards  
CN06 - Listed Buildings - Alteration/Ext/COU  
CN08 - Development in/near conservation areas  
CR04 - Special Landscape Areas  
HS28 - Infilling/Groups of dwellings  
TP15 - Parking Standards - New Development

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](mailto:infrastructure@baberghmidsuffolk.gov.uk)

This relates to document reference: DC/18/00929

**Signed: Philip Isbell**

**Dated: 2nd August 2018**

**Corporate Manager  
Growth & Sustainable Planning**

## **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.