

**TOWN AND COUNTRY PLANNING ACT 1990**

**TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)  
(ENGLAND) ORDER 2015**

**TOWN AND COUNTRY PLANNING (INQUIRIES PROCEDURE) (ENGLAND) RULES 2000**

**PROOF OF EVIDENCE**

**MID SUFFOLK DISTRICT COUNCIL (“THE COUNCIL”)**

**APPEAL AGAINST REFUSAL OF OUTLINE PLANNING PERMISSION (ACCESS TO BE  
CONSIDERED, ALL OTHER MATTERS RESERVED) – ERECTION OF CARE  
VILLAGE COMPRISING 66 BEDROOM CARE HOME (C2 USE), 37 NO. EXTRA  
CARE BUNGALOWS (C2 USE), 3 NO. ALMHOUSES (C3), MANAGEMENT  
OFFICE (E(G)(I) USE), CLUB HOUSE, COMMUNITY GROWING AREA,  
ORCHARD, COMMUNITY BEE HIVES AND OPEN SPACE PROVISION**

**LAND TO THE NORTH AND WEST OF, SCHOOL ROAD, ELMSWELL, SUFFOLK**

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## **1.0 Introduction**

- 1.1 This Proof of Evidence (“Proof”) has been prepared in support of Mid Suffolk District Council’s (‘the Council’) for the appeal brought by Richard Brown Planning Limited (‘Agent’) on behalf of Christchurch Land & Estates (Elmswell South) Limited (‘the Appellant’) against the decision of the Council to refuse outline planning permission for the following development on Land to the North and West of School Road, Elmswell, Suffolk: the erection of a care village comprising 66 bedroom care home (c2 use), 37 no. extra care bungalows (c2 use), 3no. almshouses (c3 use), management officer (e(g)(i) use), club house, community growing area, orchard, community bee hives and open space provision.
- 1.2 My name is Daniel Cameron and I am employed by Babergh and Mid Suffolk District Council as a Principal Planning Officer, a position which I have held since November 2021. Prior to that I had held the position of Senior Planning Officer since August 2018. Prior to that I was employed at Colchester Borough Council as a Planning and Section 106 Officer and held that position since April 2014.
- 1.3 I hold an undergraduate honours degree in History and received my Master’s degree in Town Planning from Newcastle University. I am a licentiate member of the Royal Town Planning Institute.
- 1.4 My evidence should be read in conjunction with the Statement of Case and the further Proofs of Evidence prepared in respect of heritage and landscape impacts specifically.
- 1.5 The structure of this document firstly sets out the relevant background information pertaining to the site covering the reasons for refusal as set out in the decision notice. It moves onto highlight and discuss the statutory duties affecting the decision taker and assess the planning policy context in which the decision was reached. It then assesses the principal issues and the reasons for refusal directly before moving onto draw together conclusions and assess the planning balance.
- 1.6 The evidence that I have prepared and provide for in this appeal is true and has been prepared and is given in accordance with the guidance of my professional institution, irrespective of by whom I am instructed. I can confirm that the opinions expressed are my true and professional opinions.

## **2.0 The Site and Background Information**

- 2.1 I was the relevant case officer for application DC/23/05651 and a copy of the Officers Report in respect of that application is appended to the Council's Statement of Case (CD1/4).
- 2.3 The site is a roughly rectangular parcel of land located to the west of Parnell Lane and School Road. Its northern boundary is the railway line and embankment, and a drainage ditch runs down its western boundary. The topography of the site is generally higher at its eastern boundary and falls away down towards its western boundary.
- 2.4 The site is located outside of the current settlement boundary of Elmswell as set out within the Joint Local Plan Part 1 (CD5/1) and this is mirrored by the Elmswell Neighbourhood Plan (CD5/2). The site is adjacent to the existing settlement boundary of Elmswell in places, along its boundary with Parnell Lane and School Road, however, for the purposes of these policies, the site is located within the countryside.
- 2.5 The site is currently utilised for agriculture (noted as being Grade 2 agricultural land). The site does not sit within a conservation area, however, attention is drawn to a number of nearby listed buildings including Church of St. John which is Grade II\* listed (CD11/10) as well as the nearby Almshouses (CD11/11), Church Cottage and Elmswell Hall (CD11/12) which are all Grade II listed. Attention is also drawn to the relationship between the Church, the Almshouses and Elmswell Hall and the views between the three.
- 2.6 Part of the site lies within Flood Zones 2 and 3 which follow the run of a drainage ditch along the western boundary of the site. Surface water flood risk also affects the site with runs from the higher ground at School Road and Parnell Lane towards the drainage ditch noted within the site. A public right of way runs roughly east to west through the site and is identified as Elmswell Footpath 14. Footpaths 24 and 13 run close by the site and offer views into it, but do not run through it. There is a notable Oak Tree to the west of the site which is protected by Tree Preservation Order (CD11/3).
- 2.7 The adopted Development Plan for the area consists of:
- Part One of the Joint Local Plan, adopted by the Council on the 20<sup>th</sup> November 2023.
  - Elmswell Neighbourhood Plan, a made neighbourhood plan adopted on the 24<sup>th</sup> November 2023.
- 2.8 The refusal of the application was issued 29<sup>th</sup> October 2024 (CD3/2). A revision to the National Planning Policy Framework ("the Framework") (CD4/1) was issued on the 19<sup>th</sup> December 2023 and a further update was given on 12<sup>th</sup> December 2024, therefore references within the decision notice refer to the December 2023 edition of the Framework. For clarity, I have left them unchanged within the reasons for refusal set out below but have updated them to reflect the latest edition of the NPPF within the rest of the document.

2.9 The reasons for refusal (RfR) are set out below:

- 1. The proposed development conflicts with the aims of the Elmswell Neighbourhood Plan policy ELM1 and the Babergh and Mid Suffolk Joint Local Plan policies SP03 and LP06. It is located outside of the settlement boundary for Elmswell and as such falls within the countryside. The development is unallocated and does not accord with the exceptional circumstances test set out within SP03 or LP06 and is not considered to be countryside compatible development. The development would extend Elmswell into a sensitive countryside location which would represent incongruous and discordant growth on the western edge of the village.*
- 2. The site is shown to experience surface water flooding issues moving east to west through the site from Parnell Lane and School Road. Insufficient information has been provided to demonstrate that the development would be safe for its lifetime and that it would not increase flood risk elsewhere. The proposal fails to pass the sequential test and is therefore contrary to policy LP27 of the Babergh and Mid Suffolk Joint Local Plan as well as paragraphs 165, 167, 168 and 173 of the NPPF.*
- 3. Development of the site would result in the loss of an area of open countryside and the change in character of the land from agriculture this is considered to erode the historic setting of the Church of St. John which is listed at Grade II\* as well as the associated Grade II listed almshouses and Grade II listed Elmswell Hall. This harm extends to both the built form proposed within the site as well as the open space. Harm would also accrue as a result of the coalescence of the historic buildings with the built-up core of the village of Elmswell. A level of less than substantial harm to the heritage assets has been identified and the required balancing exercise has not been successful. As a result the development is contrary to policy LP19 of the Babergh and Mid Suffolk Joint Local Plan together with paragraphs 205, 206 and 208 of the National Planning Policy Framework.*
- 4. The proposed development would lead to a irreparable loss of the countryside landscape to the edge of Elmswell. This area creates the entrance to the village itself through the transition from a rural area to an urban area and views of the Church of St. John from the rural area and over the landscape itself are identified within policy ELM2 of the Elmswell Neighbourhood Plan and is also noted to be high quality agricultural land (Grade 2) and adequate justification for its loss is not provided. The impact on the landscape is considered to be harmful with adverse impacts noted with regards to the onsite landscape and to a limited extent on the district level landscape. This is contrary to policies LP15, LP17 and LP24 of the Babergh and Mid Suffolk Joint Local Plan, policy ELM2 of the Elmswell Neighbourhood Plan and paragraph 84 of the NPPF.*
- 5. In the absence of a signed Section 106 agreement or similar undertaking to provide for appropriate obligations, there would be an unacceptable impact on local infrastructure, contrary to policy SP02 and LP32 of the Babergh and Mid Suffolk Joint Local Plan.*

6. *No metric has been submitted to demonstrate how 10% biodiversity net gain will be achieved. Whilst this application was submitted prior to biodiversity net gain becoming mandatory, the application was determined under the Babergh and Mid Suffolk Joint Local Plan (JLP) (2023). Policies SP09 and LP16 of the JLP require development to provide for 10% biodiversity net gain. The development therefore conflicts with these policies.*

2.10 For clarity, RfR 2, 5 and 6 are all considered to be agreed between the parties with confirmation being given within the Statements of Common Ground (CD1/5 and CD1/7). Only RfR 1, 3 and 4 are therefore covered in detail within the Proofs of Evidence submitted on behalf of the Council. Further, in relation to heritage and landscape matters, I rely upon the evidence given within the separate Proofs of Evidence prepared by Mr Tim Murphy and Mrs Kim Howell (CD1/10 and CD1/11 respectively).

### **3.0 Statutory Duties and Policy Context**

- 3.1 This section provides an overview of the relevant policy context, including the development plan and the policies most applicable to this appeal, along with the policies of the National Planning Policy Framework (“NPPF”) and the guidance contained within the national Planning Practice Guidance (“PPG”) (CD4/2) which are material considerations. The weight that should be afforded to those policies (amongst other material considerations) for the purposes of determining this appeal is dealt with at the end of this section. The conclusions reached will inform the following sections of my proof, including my assessment of the proposals and the overall planning balance and conclusion.

#### Statutory duties

- 3.2 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“Listed Buildings Act”) states that in considering whether to grant planning permission for development which affects a listed building or its setting, the decision taker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest that it possesses.
- 3.3 The effect of the statutory provision is that the desirability of preserving the setting of a listed building must be treated as a matter of ‘considerable importance and weight’, with this duty regarded as presenting a ‘strong presumption’ against a grant of planning permission where harm to a designated heritage asset is identified.
- 3.4 Section 70(2) of the Town and Country Planning Act 1990 requires that, in dealing with an application for planning permission, a local planning authority must have regard to the provisions of the development plan, so far as is material to the application, and to any other material considerations.
- 3.5 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission under the planning Acts be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 3.6 The primacy of the development plan for the purposes of decision taking must not be underplayed. Development should come forward in a planned way and there is a statutory presumption in favour of the development plan; where a proposal conflicts with an up-to-date development plan permission should not usually be granted (see NPPF paragraph 12).
- 3.7 The mere age of policies does not cause them to cease to be part of the development plan or suddenly become “out of date” (see NPPF paragraph 225). Even if policies are considered to be out of date, that does not make them irrelevant: their weight is not fixed, and this judgment sits firmly within the bailiwick of the decision taker.

#### The National Planning Policy Framework

- 3.8 The NPPF, last updated in December 2024, sets out the Government’s planning policies for England and how they should be applied. It is a material consideration for decision-taking purposes and can affect the weight to attach to policies of the

development plan. It cannot, however, alter whether there is a conflict with the development plan nor undermine the statutory primacy that a development plan holds.

- 3.9 For the purposes of taking decisions, the policies of the NPPF should be considered as a whole. However, the following are of particular and direct relevance to this appeal:
- 3.10 Paragraphs 61, 62 and 63 of the NPPF are identified by the appellant. Paragraphs 61 and 62 speak to the need for strategic policies to ensure sufficient land comes forward to meet housing requirements and that these policies should be informed by a local housing need assessment. Paragraph 63 gives further information on the context of establishing housing need and identifies that housing for older people includes retirement housing, housing-with-care and care homes.
- 3.11 Paragraph 187 speaks to the natural and local environment and again provides a number of points. Point a) in protecting and enhancing valued landscapes and point b) in recognising the intrinsic character and beauty of the countryside are particularly relevant.
- 3.12 Paragraph 212 transposes the requirements of the Listed Buildings Act and states that when considering the impact of a proposed development upon the significance of a designated heritage asset, great weight should be given to the asset's conservation. The great weight should be given irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 3.13 Paragraph 213 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
- 3.14 Paragraph 215 states that where less than substantial harm will arise as a result of a proposed development, this harm should be weighed against the public benefits of a proposal.
- 3.15 Paragraph 232 states that existing policies should not be considered out of date simply because they were adopted prior to the publication of the NPPF. It goes on to state that *'due weight should be given to [development plan policies], according to their degree of consistency with this Framework'*. As government policy, I consider the requirement to test the consistency of development plan policies as being an important direction.
- 3.16 The NPPF is supported and complemented by the PPG. This too is an important material consideration alongside the NPPF. I note in particular the PPG on Housing for Older and Disabled People which identifies the "critical" need to provide housing for older people (para 001). It also recognises that housing needs will differ greatly, ranging from accessible and adaptable general needs housing to specialist housing with high levels of care and support (para 003). It provides further guidance on making provision for specialist housing and allocating sites (paras 012-013).

#### Status of the JLP

- 3.17 The JLP was examined in September 2023 and formally adopted in November 2023. Part 2 of the JLP was intended to review settlement boundaries and make site allocations. Following changes to the NPPF made in December 2024, the Councils have now formally agreed to pursue a full plan review instead.

- 3.18 The Local Development Scheme adopted by both Councils envisions a new Local Plan will be adopted in April 2029 following examination in July 2028 to March 2029. This has resulted in a delay to the delivery of site allocations and settlement boundary review. As a result of the new methodology for calculating housing need, there is a substantial uplift in overall housing numbers now required: an uplift of 88% in Babergh and 37% for Mid Suffolk. On this basis, the Councils have decided to deliver a plan which positively addresses the increased housing need.
- 3.19 Mid Suffolk District Council can currently demonstrate in excess of the five-year housing land supply with the December 2024 Annual Monitoring Review (CD5/3) showing a 10.46-year housing land supply such that the Council can be shown to be delivering housing in sustainable locations. Currently it is thought that following the changes to the housing land supply requirements, Mid Suffolk will be able to demonstrate a 6-to-7.5-year housing land supply position. Of the housing developments approved by the Council since the adoption of the JLP in November 2023, policy LP24 requires that at least 50% of new dwellings meet the requirement of Building Regulations part M4(2) which requires that they must be accessible and adaptable for occupants with differing needs including older persons and those with disabilities.

#### Assessment of JLP Policies

- 3.20 Under this subsection, I note the most important development plan policies engaged by the appeal proposal and identify the weight that I believe should be afforded to them in reaching a decision. In doing so, and where relevant, I take into account paragraph 232 of the NPPF and determine whether they are out of date.
- 3.21 The paragraph 232 test is a matter of substance as opposed to form: it is my opinion that “consistency” should be understood by its natural meaning and within that context it is a question of the degree to which local and national policies are capable of operating in harmony and without conflict.
- 3.22 It is noted that JLP was only recently adopted and therefore it is considered that the policies contained within the JLP will be in conformity with the requirements of the NPPF and should generally be afforded full weight, except in relation to SP03 which is considered further.
- 3.23 For the purposes of the appeal, the following policies of the JLP are considered to be the most important:
- SP03 – The Sustainable Location of New Development
  - SP09 – Enhancement and Management of the Environment
  - LP06 – Supported and Special Needs Housing
  - LP17 – Landscape
  - LP19 – The Historic Environment
  - LP24 – Design and Residential Amenity
- 3.24 I consider Policy SP03 in further detail as the settlement boundaries were not reviewed as part of the JLP Part 1. SP03 seeks to direct new development towards existing settlement boundaries, accepting the principle of development within settlement boundaries where development accords with the other policies of the plan. Outside of settlement boundaries, development is only normally permitted where the site is

allocated for development, is in accordance with a made neighbourhood plan, is in accordance with certain exempt forms of development listed in Table 5 of the policy or is in accordance with paragraph 80 (now paragraph 84) of the NPPF.

- 3.25 SP03 is considered to accord with the general provisions of paragraph 84 of the NPPF which also seeks to protect the countryside from the development of isolated homes unless exceptional criteria apply. Similar considerations are set out within SP03 to allow such development in exceptional circumstances. Further, the act of concentrating development to within settlement boundaries where services and facilities are provided would serve to further the aims of sustainable development held at the core of the NPPF.
- 3.26 The Examiner's Report (CD5/4) on Part 1 of the JLP did explicitly consider the modification of the policy in order to lessen restrictions on development outside of the settlement boundaries, however, the Examiner concluded that if development adjoining settlement boundaries were allowed by the policy, this would result in significant and unsustainable expansion of settlements, potentially leading to coalescence with neighbouring settlements.
- 3.27 It is concluded that with respect to SP03, full weight cannot be attributed to this policy as the Part 2 of the JLP has not and now will not come forward. However, retaining the focus for development within existing settlement boundaries would serve the underlying principles of sustainable development enshrined within the NPPF. The Examining Inspector considered that the existing settlement boundaries were sufficient to deal with development in the short and medium term, as is reflected in the supporting text to this policy. It is considered that given the lifespan of the JLP, we are still within that short to medium term period as envisaged by the Examining Inspectors and the policy itself. As a result, I consider that significant weight can still be afforded to this policy and the existing settlement boundary.
- 3.28 Finally, I draw attention to LP06 which deals with supported and special needs housing including care for older, disabled or vulnerable persons as well as care leavers, people with learning difficulties, mental illness and physical disabilities. It requires that development for supported and special needs housing be located within settlement boundaries with good access to services and facilities, especially health services and public transport, have access to open spaces designed to meet the needs of the intended residents, achieve a high quality of design and as a minimum meet the requirements of Part M4(2) of Building Regulations.
- 3.29 The Examiner's Report on the JLP notes the likely increasing need for supported and special needs housing over the plan period. Additional allocation of sites in order to meet identified need was set to be accommodated under Part 2 of the JLP. Information provided under document H50 (CD5/6) sets out the amount of such housing delivered since the start of the plan period and notes 249 care home beds provided by the market between 2017 and September 2023 within Mid Suffolk. Attention also needs to be given towards the delivery of dwellings which meet Part M4(2) of Building Regulations which would, due to the accessible and adaptable requirement, be able to allow older persons to remain in a dwelling rather than in a more formal care environment.

## Neighbourhood Plan Policies and Assessment

- 3.30 With regards to the Elmswell Neighbourhood Plan (2023) the most important policies are considered to be:
- ELM 1 – Planning Strategy
  - ELM 2 – Protection of Important Views
- 3.31 Policy ELM 1 states that Elmswell will accommodate development commensurate with its status within the settlement hierarchy. It states that the focus of new development will be within the settlement boundary. Outside of the settlement boundary, new development is only to be permitted where they are in accordance with national or district level strategic policy.
- 3.32 ELM 1 sets out a settlement boundary which has more recently been examined and has been found to be sound at examination.
- 3.33 Policy ELM 2 sets out a number of public vantage points within and around the built-up area and countryside around the village. Proposed development should not have a detrimental effect on key landscape and built development features of those views. In particular, viewpoints 1, 2 and 4 are affected by this proposed development.
- 3.34 ELM 2 supports the NPPF in contributing to and enhancing the natural and local environment including protecting valued landscapes and the intrinsic beauty and character of the countryside. Policy ELM 2 identifies important views around the village and provides additional information to conserve the local landscape and built environment character. Both ELM 1 and ELM 2 should therefore, be awarded full weight.

## 4.0 Principal Issues and Assessment

### RfR 1: Location/Countryside

- 4.1 The appeal site lies outside of the settlement boundary of Elmswell, and is therefore in conflict with both policies SP03 and ELM 1. The proposal does not benefit from the exceptions to the two policies which would otherwise have allowed consideration of the principle of development in this location.
- 4.2 Similarly, LP06 does not allow for any discretion on the location of supported and special needs development, requiring such accommodation to be located within the settlement boundary.
- 4.3 As set out above, the Examiner's Report on Part 1 of the JLP (CD5/4) did explicitly consider the modification of SP03 in order to lessen restrictions on development outside of the settlement boundaries. However, the Examining Inspectors concluded that if development adjoining settlement boundaries were allowed by the policy, this would result in significant and unsustainable expansion of settlements, potentially leading to coalescence with neighbouring settlements. In any event, they found that the existing settlement boundaries gave adequate provision for development in the short to medium term.
- 4.4 In my view, delivery of such development would be best served in sustainable locations and given the focus of services and facilities within settlement boundaries, it is considered that the focus for these developments should be within settlement boundaries as required by LP06. This need to consider the sustainable location of specialist housing is also emphasised in the PPG, which states that the factors to consider include the proximity of sites to good public transport, local amenities, health services and town centres (para 013).
- 4.5 Further, the future occupiers of a supported and special needs housing scheme have additional mobility and accessibility issues beyond those of a physically able person such that considerations around the proximity of services and facilities should not assume that the walkable range set out in Manual for Streets is the correct one to use in this instance.
- 4.6 Elmswell does contain a good degree of services and facilities including train station, co-op food store, local shops and community coffee shop and public houses. The co-op food store is some 600m along School Road from the appeal site and the train station is a little further away, around 750m. School Road benefits from a made footpath with streetlighting although the width of the footpath is not consistent along its route.
- 4.7 Manual for Streets (2007) (CD5/7) encourages reduction in the need to travel via car and refers to facilities within 10 minutes walking distance, or up to about 800m from a site. It concedes that this is not an upper limit. However, the document does not account for the mobility needs of the intended future occupiers of the site.
- 4.8 Department for Transport guidance, 'Inclusive Mobility: A Guide to Best Practice on Access to Pedestrian and Transport Infrastructure' (2021) (CD5/8) gives clarity on recommended footpath widths and walking distances for those with mobility issues or visual impairments. Further, it sets out the recommended distance limits for those with visual or mobility impairments is 150m without a rest. In this case, the width of the footpath is likely sufficient at points but is unlikely to be sufficient along the entire length

of the route. It is not considered that opportunities for rests are provided along School Road, especially where the footpath is narrow.

- 4.9 Attention is also drawn to the topography of the appeal site which slopes from east to west and would provide a further challenge to the future inhabitants of the site attempting to walk into the village to make use of the services and facilities. The intended occupants of the site are older people who may be less mobile and less able to cope with the sloping terrain. While the buildings could be constructed on level platforms the surrounding landscape and pedestrian connections to the adjoining settlement, and services it provides, would be difficult to access. There is approximately an 8m elevational change between the finished floor level of the care home block and School Road and Parnell Lane which could well cause difficulties in attempting to design and build a suitable path for future occupants of the site to utilise when the mobility issues facing those occupants are considered.
- 4.10 While provision for a minibus may offer alternative options for future residents to access the services and facilities within Elmswell, no detail regarding its routes have been provided.
- 4.11 Within their Statement of Case (CD1/3) the appellant accepts that there is a breach of the Development Plan, although they note that the need for such development lessens the material weight which should be attributed to this breach. Discussion of need follows, however, for all the reasons given above, the Council considers that significant material weight should still be attributed to the breach of the relevant policies including SP03 and LP06. Regardless of the need argument (explored below), there is still material weight to be attributed to these breaches within the planning balance.

### Need

- 4.13 In their Statement of Case the appellant argues that the Council has failed to provide sufficient supported and special needs housing within the plan period up to this point.
- 4.14 The SHMA (2017) (CD7/1 and CD7/2) published in support of the JLP notes an increasing need across the plan period for specialist forms of housing, particularly with regards to older persons. It identifies the OAN projections indicate a population increase of older persons aged 65 or more by 57.8% within the Ipswich Housing Market Area (Covering Ipswich Borough Council, Babergh and Mid Suffolk District Council's, East Suffolk Council and West Suffolk Council). For Mid Suffolk this breaks down to a requirement of 1,670 people up to 2036 requiring an additional 1,004 registered care accommodation spaces.
- 4.15 At the point of publication of the Examiner's Report on the JLP (September 2023) (CD5/4), Mid Suffolk District Council could demonstrate market delivery within the plan period of 249 care home spaces. Since 2023 a further two applications have been received for specialist general care facilities within Mid Suffolk. They are both undetermined at the time of writing but would provide a 66no. bed care home, 47no. retirement living apartments and 14no. retirement bungalows within the settlement boundary of Stowmarket on an existing brownfield site.
- 4.16 A further application securing a 6-bed specialist unit to deliver adult social care has been approved, however, it has not yet been completed. This application site is located outside of the settlement boundary of the village of Weybred and is intended to provide

updated living accommodation for six adults with special educational needs. In this instance, the adults had lived in the village since they were adopted as children and are employed within a smallholding business located within the village. The benefits of keeping the adults within the village and close to their adoptive parents, who because of their advancing age, can no longer deliver the care their children require themselves, while providing them with more modern facilities built to adapt to their current and emerging needs was considered to outweigh any identified harms to the countryside. Further there were no landscape or heritage harms. It is considered that these applications add to the pipeline supply set out at paragraph 3.29 of this proof and show that the Council is continuing to act to address this need, led by its development plan unless there are strong material considerations to indicate otherwise (as with the Weybred scheme).

- 4.17 The Appellant's Statement of Case indicates that at present time, the requirements of the SHMA have yet to be met, however, it is not reasonable to assume that full delivery of this specialist housing would be made this in advance of the end of the plan period. Indeed, as set out above, the market has provided a number of developments up until 2023 and three further applications have been made which once determined and constructed will further act towards meeting the identified need.
- 4.18 Moreover, as identified above, the Council also relies on policy LP24, which ensures the delivery of dwellings which meet Part M4(2) of Building Regulations as part of the delivery of market housing. It requires that 50% of all market dwellings are constructed to meet this requirement. This would, due to the fact that they would be accessible and adaptable, allow older persons to remain in their dwellings, or to move to an adaptable and accessible dwelling, which would allow them to live more independently, rather than in a more formal care environment (as also recognised in the PPG).
- 4.19 While the Appellant makes reference to the SHMA (CD7/1 and CD7/2) and JLP underestimating the need for older person's housing, citing a number of national sources, at the point of examination of the JLP, the evidence provided still identified a significant need in this area to be addressed by the Development Plan.
- 4.20 Overall, I agree that there is a critical need to be met which should carry significant weight in the planning balance, but that this must be seen against the Council's trajectory for ensuring that this need is met over the plan period.

### RfR 3: Heritage

- 4.21 With regards to this reason for refusal, I rely upon the evidence given within the Proof of Evidence written by Mr Tim Murphy of Place Services.
- 4.22 Within his proof, Mr Murphy identifies a range of less than substantial harm upon the significance of the following designated heritage assets (including the contribution to significance made by their settings):
- Grade II\* Listed: Church of St. John – Medium level of less than substantial harm.
  - Grade II Listed : Almshouses – Low to medium level of less than substantial harm.
  - Grade II Listed: Elmswell Hall – Low to medium level of less than substantial harm.
- 4.23 I have also taken into account Historic England's views on this application. Historic England advised that they objected to the application on heritage grounds. They considered that the application did not meet the requirements of the NPPF, in particular

around paragraphs 7, 8, 199 and 200. For the avoidance of doubt, the Historic England response was given prior to the revision of the NPPF in December 2024; the current paragraph numbers are 7, 8, 205 and 206. Their view was that the development of the application site would result in harm to the significance of the listed church and would not preserve the elements of the setting that make a positive contribution to the heritage asset.

- 4.24 I acknowledge that as per the case law, great weight should be given to the views of a statutory consultee such as Historic England and that there should be cogent reasons for departing from their view: see for example *Steer v SSCLG* [2017] EWHC 1456 (Admin) (CD6/3).
- 4.25 Having considered the identified level of harm; there is a need to consider paragraph 215 of the NPPF which requires that a balancing exercise be undertaken to weigh the identified harm against the benefits of the proposed development. It is important to view this balancing exercise in the light of paragraphs 212 and 213 of the NPPF (set out above) as well as the Listed Buildings Act.
- 4.26 With regards to the benefits associated with the scheme, these are set out within this proof at sections 5.1 to 5.4. Having weighed the identified benefits, I do not consider that the benefits of the scheme (taken together) would outweigh the identified harms to the settings of the listed buildings (considered together) especially when the balancing exercise is informed by the requirements of paragraphs 212 and 213 of the NPPF and the statutory duty.
- 4.27 Further, in light of Mr Murphy's evidence and the objection from Historic England, I consider that the scheme would conflict with policy LP19 of the JLP which is reflective of the requirements of the NPPF and Listed Buildings Act.
- 4.28 Overall, I consider that the scheme creates harm to the setting of the identified heritage assets, albeit a level of less than substantial harm, however, the NPPF is clear at paragraph 212 in stating that great weight should be given to the conservation of the heritage asset regardless of the identified harm being less than substantial. In consideration of the balancing exercise required by paragraph 215 of the NPPF, the benefits of the scheme are not considered to outweigh the identified heritage harm or the conflict with policy LP19 and is considered to attract negative weight in the planning balance.

#### RfR 4: Landscape

- 4.29 With regards to this reason for refusal, I rely upon the evidence given within the Proof of Evidence written by Mrs Kim Howell of Place Services. With regards to the appeal scheme, she concludes that: the height, scale, layout and massing of the scheme would fail to address the sensitivity of the landscape character of the area; the development will result in significant adverse visual impacts which cannot be addressed through mitigation and would bring built form outside of the village of Elmswell and into the surrounding countryside. Further, the proposed tree and hedgerow planting proposed within the mitigation plan would result in a loss of the openness of the site and loss of important views as set out within the Elmswell Neighbourhood Plan. There would also be a weakening of the visual relationship between the identified heritage assets.

- 4.30 While some of the harms arising from the height, scale and massing of the scheme may be able to be addressed within the reserved matters which would follow an outline application, there are many which would persist. The care home element of the scheme is likely to be at least a two-storey building and the overall topography of the site would be unchanged and present the same challenge to the development of the site.
- 4.31 The landscape character of the site would similarly remain unchanged and the impact of development upon said landscape character would persist regardless of the final design of the development. This would involve the loss of this part of the countryside edge of Elmswell. The suggested planting within the site would then lead to the loss of the current open character of the site and would also impact on the views identified within the Elmswell Neighbourhood Plan.
- 4.32 Based on the evidence provided within Mrs Howell's proof I consider that the scheme would conflict with policies SP03, LP17 and LP24 of the JLP and policies ELM1 and ELM2 of the Elmswell Neighbourhood Plan.
- 4.33 Overall, I consider that the scheme creates landscape harm contrary to the policies of the JLP and Elmswell Neighbourhood Plan. I accept that this harm could be mitigated to a degree, however, certain elements of harm would be retained regardless of what might come forward within any future reserved matters application. I consider that this harm attracts moderate negative weight in the planning balance.

## **5.0 Other Material Considerations**

### **Benefits**

- 5.1 It is acknowledged that the proposed development does bring benefits.
- 5.2 The key benefit is the delivery of specialist housing to meet an identified need set out within the SHMA and JLP which attracts significant positive weight. Additionally, provision of additional almshouses and affordable housing within the scheme also contribute to the social benefits of the scheme which should rightly attract significant positive weight.
- 5.3 There will be economic benefits associated with the construction phase both through the creation of jobs within the construction sector and purchase of materials. Once the development is occupied, further economic benefits would also accrue in both the job creation associated with the development of the site and then the day to day running of the site as well as the likely economic spend of the future residents of the site. That being said, it is not clear whether the future occupants of the site would be able to fully utilise the services and facilities offered by Elmswell. I therefore consider that moderate weight should be attributed to these economic benefits of the scheme.
- 5.4 Environmentally benefits would accrue from the community orchard and outdoor space including the completion of the footpath/cycleway link between Elmswell and nearby Woolpit. That being said, these benefits are limited in my view given that in all likelihood not be of use to the future occupants of the site given their potential mobility issues and sloping topography of the site which would combine to create a very challenging route.

## **6.0 Planning Balance and Conclusion**

- 6.1 There is a strong statutory presumption in favour of the development plan. The NPPF, an important material consideration, reiterates this fundamental point.
- 6.2 The appellant's arguments relating to the underlying need for this development are noted, but whether or not the appellant's figures are preferred to the Council's is not material. Both sides agree there is a significant need which is identified within the SHMA (CD7/1 and CD7/2) and which the JLP seeks to address using the policies contained within that document.
- 6.3 No specific target is noted within the Council's policy text (nor is there any particular target in national policy, as is the case with the need to deliver market homes). The Council can demonstrate a pipeline of development including schemes which have received planning permission and have commenced, schemes which have received planning permission and are yet to commence and schemes which are yet to be determined. In addition, delivery of a greater number of Part M4(2) compliant dwellings would enable older persons to have their housing needs met through the open market rather than necessarily having to use a product which includes an element of care.
- 6.4 There is an acknowledged conflict with the proposed development and policies SP03 and LP06 of the JLP and with policy ELM1 of the Elmswell Neighbourhood Plan as the proposed development sits outside the settlement boundary of Elmswell. In addition, conflict with policy LP19 is identified through the evidence provided by Mr Murphy and the objection from Historic England. Finally, with regards to the landscape evidence provide by Mrs Howell, I consider that there are also conflicts identified with SP03, LP17 and LP24 as well as policy ELM2 of the Elmswell Neighbourhood Plan. In my view there is therefore conflict with the development plan as a whole and the starting point is that planning permission should not granted.
- 6.5 I therefore go on to consider the other material considerations in the planning balance.
- 6.6 The environmental benefits of the scheme are noted, however, for the reasons given above I consider they can be attributed limited weight. Within the pre-CMC agenda notes from the Inspectorate issues around the loss of best and most versatile agricultural land is noted. This is given limited weight within the planning balance as the loss of Grade 2 agricultural land is not particularly unusual within the district given the quality of agricultural land within the district is high.
- 6.7 Economic benefits are greater and would not be restricted to the construction phase of development but would extend into its operational phase as well. Some residents of the development would be able to access the services and facilities within Elmswell, although it is considered that given the higher likelihood of residents having mobility or visual impairments, many will be unable to access Elmswell unaided by virtue of the distances involved. Accordingly, these benefits attract a moderate weight.
- 6.8 Socially, significant weight can be attributed to the scheme. Delivery of specialist housing, additional almshouses and affordable housing all weigh positively in the planning balance.
- 6.9 On the other hand, I take into account the harms arising from the scheme. In addition to the conflict with the countryside policies and the settlement boundary, which should attract significant weight, I also note the harms to heritage and to local landscape character. For heritage, I consider that significant weight should be attributed to the

identified harms. For landscape, I consider that this should attract moderate weight. I also take into account the harm arising from the conflict with the development plan as a whole, which itself undermines the public confidence in a plan led system.

- 6.10 Weighing all of these matters in the balance, I do not believe that the benefits (considered together) outweigh the harms arising from the proposal.