

SUMMARY PROOF OF EVIDENCE

Town and Country Planning Act 1990 Planning and Compulsory
Purchase Act 2004

Section 78 Appeal

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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. Almshouses (C3), management office (E(g)(i) use), club house, community growing area, orchard, community bee hives and open space provision

Land at School Road, Elmswell, IP30 9NL

CHRISTCHURCH LAND & ESTATES (ELMSWELL SOUTH) LIMITED

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Introduction

Section 1

Qualifications

- 1.1 My name is Iain Warner, and I am a Senior Director at Tetlow King Planning. I hold a BSC Honours Degree in Town and Country Planning (2000) and a Diploma in City and Regional Planning (2002) from the University of Wales, Cardiff. I have been a Member of the Royal Town Planning Institute (RTPI) since 2003.

Introduction

- 1.2 In accordance with the Planning Inspectorate's Procedural Guidance, I hereby declare that:

"The evidence which I have prepared and provide for this appeal reference APP/W3520/W/25/3364061 in this statement is true and has been prepared and is given in accordance with the guidance of the Royal Town Planning Institute. I confirm that the opinions expressed are my true and professional opinions."

The Appeal Proposals

Section 2

- 2.1 The appeal site is well described in both the original Design and Access Statement in support of the application [CD 2/17] and the committee report [CD 3/1] and is not therefore repeated again here.
- 2.2 The appeal scheme was submitted in outline form in [date] and validated on [date].
- 2.3 The scheme proposes the delivery of 37 extra care bungalows, a 66 bed care home, 3 almshouses, communal facilities to support the later living scheme along with a community growing area, orchard, community bee hives and open space.
- 2.4 The scheme proposes 35% affordable housing to be secured through a s106 Agreement. That s106 Agreement will also secure the delivery of the appeal proposals as C2 use in accordance with the Heads of Terms submitted with the application.
- 2.5 The appeal proposals will enable residents to maintain their independence, with the support of 24-hour on-site staff, communal facilities, and optional care and support as needed.
- 2.6 Extra care is generally recognised as enhancing quality of life through the promotion of greater independence but with the security of knowing that help is available; flexible care and support packages; allowing couples to remain together despite differing care needs; delaying the need to move into a care home and greater opportunities to make friends and stay active.

Use Class

- 2.7 The Appeal Scheme is submitted and validated as a C2 development. The Council's assessment of the Appeal Scheme was and remains as a C2 scheme. The Appeal Scheme will deliver 37 extra care bungalows with their own front doors however there will also be a range of community facilities and communal areas alongside on-site facilities including café / restaurant and staffed medical facilities.
- 2.8 The S106 Agreement proposes a minimum age for the primary occupier of 65 years (70 for the care home) and a minimum level of personal care need (the quantum of hours is under discussion). The development will be staffed 24 hours a day (from first occupation) to ensure that care needs are met.

Reasons for Refusal

- 2.9 The application was refused by the planning committee on [date] with the decision notice [CD 3/2] identifying six reasons for refusal:

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.

Updated Information

- 2.10 Following submission of the appeal the Appellant has worked with the council to provide additional information to address Reason for Refusal 2 (flood risk) and Reason for Refusal 6 (BNG). In addition, subject to the signing of the s106 Agreement, Reason for Refusal 5 is also addressed.
- 2.11 This appeal therefore proceeds only in respect of Reasons for Refusal 1, 3 and 4.
- 2.12 This position is confirmed in the agreed Statement of Common Ground [[CD 1/5](#)].

The Appeal Case

Section 3

- 3.1 In advance of the re-arranged Case Management Conference (CMC) on Monday 4th August the following matters were confirmed by the Inspector as the likely main issues:
- (i) Whether the appeal site is a suitable location for the development having regard to local and national planning policy;
 - (ii) Whether the development would preserve the setting of the Church of St John which is Grade II*, the associated Grade II listed almshouses, and the Grade II listed Elmswell Hall;
 - (iii) The effect of the development on the character and appearance of the surrounding area;
 - (iv) The effect of the development on high quality agricultural land; and,
 - (v) The effect of the development on flood risk.
- 3.2 Following the CMC, it was subsequently agreed that the matter of agricultural land should not be a main issue and instead form part of the overall planning balance exercise.
- 3.3 My evidence deals with Main Issue (i) alongside the evidence of Mr Copp (ii) and Mrs Ellinsfield (iii).
- 3.4 Matter (iv) is dealt with by way of an addendum note that is attached to my main Proof of Evidence.
- 3.5 Matter (v) is dealt with by way of a proof of evidence from Mr Chris Patmore that addresses the compliance with the sequential assessment.

The Development Plan

Section 4

4.1 Development Plan

4.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires local planning authorities to determine planning applications in accordance with the Development Plan unless material considerations indicate otherwise.

4.3 The adopted Development Plan Framework for Mid Suffolk comprises the following:

- Joint Babergh and Mid Suffolk Local Plan (adopted November 2023) [[CD 5/1](#)].
- Elmswell Neighbourhood Plan (made November 2023) [[CD 5/2](#)]

4.4 In assessing compliance with the Development Plan, I have had regard to the case of *Cornwall Council v Corbett [2020] EWC Civ 508* and the Court of Appeal findings which confirmed the Council's approach of identifying a policy conflict (which in that particular case was a conflict in respect of the harm to an Area of Great Landscape Value) but concluded that nevertheless there was compliance with the Development Plan as a whole. The Court of Appeal affirmed that Local Plan policies can pull in different directions and that it is a matter of planning judgement for the decision taker as to the weight to be given to policies and in determining compliance as a whole with the Development Plan.

4.5 Whilst it is accepted that the appeal proposals are outside of a defined settlement boundary and thus in conflict with Policy SP03 and LP06 our position is that there has been a clear policy failure to demonstrate sufficient delivery of specialist older persons housing to meet a recognised need. Accordingly, my evidence is that the appeal site is a suitable location to come forward to deliver a much needed form of development that is presently being underprovided across the district.

4.6 I conclude that the proposals comply with the up to date policies of the Development Plan when taken as a whole. It is on that basis that I consider that the appeal proposals should be granted permission in accordance with the approach of Section 38(6) of the TCPA 1990.

Other Material Considerations

Section 5

NPPF

- 5.1 I conclude that the NPPF pulls in favour of the grant of planning permission. With regard to the paragraphs referenced in footnote 9 and their relationship to paragraph 11d ii), I consider that the appeal scheme accords with these paragraphs and thus there is nothing which would otherwise dis-apply the application of the tilted balance.

Need for Older Persons Housing

- 5.2 The evidence of elderly persons needs, included as Appendix 2 of my main proof, affords substantial weight in the overall planning balance.

Summary of Conclusions

Section 6

- 6.1 It is my starting position that the proposals accord with the development plan as a whole and thus should be approved pursuant to section 38(6) of the TCPA.
- 6.2 I have set out that the appeal proposals deliver the following economic benefits:
- Direct and indirect job creation through the construction process;
 - Employment provided through the operation of the scheme;
 - Additional expenditure from the scheme on local services and facilities from residents and employees; and
 - Reduced demands on health service and social care budgets.
- 6.3 I conclude that the economic benefits of the scheme are capable of attracting moderate weight in favour of the development.
- 6.4 The scheme is capable of delivering the following social benefits:
- Provision of specialist housing for older people to meet an identified need;
 - Freeing up family housing;
 - Better provision of social care in a single location;
 - Improved social activity of residents to tackle isolation; and
 - Meeting wider choice for suitable accommodation within local community to maintain ties.
- 6.5 I conclude that the social benefits of the scheme should carry substantial benefit in favour of the development.
- 6.6 In regard to environmental benefits, it is accepted that there are no impacts to archaeology, flood risk or highways. It is accepted that the proposal will result in the loss of a greenfield land. It is also accepted that there will be short term landscape impacts arising from the development, however it is considered that these will be mitigated over time such that the impact is considerably reduced. The delivery of the community orchard and open space are mitigation measures arising from the development.
- 6.7 I therefore conclude that the environmental impacts of the scheme are moderate.

- 6.8 I conclude that the conflict with the development plan, along with landscape harm and loss of agricultural land are all to be afforded limited weight as identified harms with only the heritage harm afforded moderate weight.
- 6.9 I summarily reach the conclusion that the benefits of the proposal significantly and demonstrably outweigh the limited environmental harm arising from the development.

Planning Obligations and Conditions

Section 7

s106 Obligations

7.1 A set of Heads of Terms were submitted with the original planning application and a draft s106 has been progressed along with the preparation of the evidence. This is likely to be agreed in full, but the obligations relate to the following main terms:

- Occupational criteria for both the extra care bungalows and care beds;
- Provision of 35% affordable housing equivalent to 14 extra care bungalows;
- Provision of communal facilities and healthcare facility;
- Provision of minibus service;
- Delivery of open space; and
- Relevant developer contributions as specified.

Planning Conditions

7.2 The Council has prepared a draft schedule of conditions, these are expected to be finalised in advance of the inquiry in accordance with the updated timetable issued following the CMC on 4th August.