

**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**

**STATEMENT OF CASE**

**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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## **APPENDICES**

## 1. INTRODUCTION AND PROCEDURAL MATTERS

- 1.1 This Statement of Case (SoC) has been prepared by Mid Suffolk District Council ('the Council') in response to the planning 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 for 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 The application reference DC/21/05651 was refused by the Council on 29<sup>th</sup> October 2024 for the following reasons:
- 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.*
  - 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.*
  - 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.*
  - 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.*
  - 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.*

- 1.3 A copy of the decision notice with the above reasons for refusal set out should already have been provided as should a copy of the supporting report presented to Planning Committee.
- 1.4 With regards to procedural matters the Council will continue discussions with the Appellant to reduce areas of dispute wherever possible via the Statement of Common Ground (SoCG).
- 1.5 The draft SoCG has been received by the Council who will begin the process of finalising the document with the Appellant and their Agent. The Council will make all necessary endeavours to ensure that a signed copy of the SoCG is with the Inspector in accordance with the required timeline, it is agreed that any matters which could be resolved or agreed after this date (5 weeks prior to the start date) could be managed through a further SoCG which would be provided to the Inspectorate prior to the opening of the inquiry.
- 1.6 A Heads of Terms document has been received in support of the appeal. The Council will be in touch with the Appellant and their agent to begin the drafting process in order to provide a Section 106 Agreement.
- 1.7 The draft Core Document List submitted by the Appellant in support of this appeal has been reviewed and is considered appropriate at this time. Should the Appellant require any updates or additions to this list, it is considered that this can be agreed between the parties at the relevant time.

## **2. SITE AND CONTEXT**

2.1 A description of the site and its surroundings is provided within the supporting committee report. It is not considered that the description provided therein is objected to by the Appellant.

### **3. PROPOSED DEVELOPMENT**

3.1 The Appellant seeks planning permission in outline with all matters save access to be reserved for the following development:

*Erection of 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.*

3.2 The supporting plans and documents upon which the Inspector is expected to take their decision based upon, will be agreed with the Appellants as part of the Core Document List and SoCG.

#### **4. PLANNING POLICY AND DECISION-TAKING FRAMEWORK**

4.1 Relevant to this appeal, the statutory development plan comprises the following:

- Babergh and Mid Suffolk Joint Local Plan Part 1 (2023)
- Elmswell Neighbourhood Plan (2023)

4.2 Within the development plan, those policies considered most important for the determination of this appeal are as follows:

Babergh and Mid Suffolk Joint Local Plan Part 1 (2023):

- SP01 – Housing Needs
- SP02 – Affordable Housing
- SP03 – The Sustainable Location of New Development
- SP09 – Enhancement and Management of the Environment
- SP10 – Climate Change
- LP06 – Supported and Special Needs Housing
- LP16 – Biodiversity and Geodiversity
- LP17 – Landscape
- LP19 – The Historic Environment
- LP24 – Design and Residential Amenity
- LP27 – Flood Risk and Vulnerability
- LP32 – Developer Contributions and Planning Obligations

Elmswell Neighbourhood Plan (2023):

- ELM1 – Planning Strategy
- ELM2 – Protection of Important Views

4.3 At the time of the determination of the application, the Council had adopted Part 1 of its Joint Local Plan and was progressing work to bring forward Part 2 which was intended to address settlement boundaries and site allocations. The Local Development Scheme was amended in March 2025 to reflect the change in housing requirements brought forward by Government in their new National Planning Policy Framework ('NPPF') announcement in December 2024. The Council is now progressing to a full review of the Joint Local Plan and will not now be progressing a Part 2 document.

4.4 The NPPF was last revised in December 2024 and sets out the Government's planning policies for England and how they should be applied; it is a material consideration for decision-taking purposes though it makes clear that it cannot displace the statutory primacy of the development plan.

4.5 The NPPF is supported and complemented by the national Planning Practice Guidance ('PPG'). The guidance provided by the PPG is advice on procedure and elaboration of NPPF policies and is an online reference as a living document. The Council considers that it too is an important material consideration alongside the NPPF.

4.6 Among other matters, the Council will examine in its evidence whether the most important policies for the determination of the appeal are up to date, including having regard to their consistency with the NPPF, the five-year housing land supply position and the delivery test; and the appropriate weighting to be ascribed to those policies for the planning balance.

4.7 The Council does not consider that the tilted balance set out in paragraph 11d(ii) of the NPPF is engaged as a consideration for the purposes of this appeal.

## **5. THE CASE FOR THE COUNCIL**

- 5.1 The planning balance to be struck under section 38(6) of the *Planning and Compulsory Procedure Act 2004* must consider (a) whether the appeal application accords with the statutory development plan taken as a whole, and (b) whether other material considerations (including the NPPF) indicate that a decision should be taken other than that which accords with the development plan. The Council's evidence will set out why the answer to both considerations is in the negative.
- 5.2 The Council's case follows the reasons for refusal as set out on the decision notice and within the supporting report to committee and are outlined as follows:

### **REASON FOR REFUSAL 1 – COUNTRYSIDE LOCATION**

- 5.3 The appeal site falls outside of the settlement boundary for Elmswell and is considered to fall within the countryside. The site does not fall within any of the permitted types of development which could be allowed within the countryside and therefore conflicts with policies SP03, LP06 and ELM1. As a development in the countryside, it would not form part of the existing settlement and would be incongruent with the existing settlement.
- 5.4 At examination of Part 1 of the JLP, the examiner was content to allow the Council time to assess and revise settlement boundaries as part of the work in bringing forwards Part 2 of the plan, in part because the Council could demonstrate a strong housing land supply position. Policy SP03 makes clear that the settlement boundaries defined within the policies maps and established under earlier Local Plans and Core Strategies were carried forward without change. Work to bring forward Part 2 of the JLP has now been subsumed by work to carry out a full review of the JLP.
- 5.5 The Elmswell Neighbourhood Plan was made on 24<sup>th</sup> November 2023 following referendum on 21<sup>st</sup> November 2023. Policy ELM1 sets out the planning strategy for the village and states that proposals outside of the settlement boundary of the village, as defined on their own policies map, will only be permitted where they are in accordance with national and district level strategic policies.
- 5.6 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.
- 5.7 Manual for Streets (2007) 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.
- 5.8 Department for Transport guidance, 'Inclusive Mobility: A Guide to Best Practice on Access to Pedestrian and Transport Infrastructure' (2021) gives clarity on recommended footpath widths and walking distances for those with mobility issues or visual impairments. The width of the footpath is likely sufficient at points but is unlikely to be sufficient along the entire length of the route. Further, it sets out the recommended distance limits for those with visual or mobility impairments is 150m without a rest. It is not considered that opportunities for rests are provided along School Road, especially where the footpath is narrow. 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.



- 5.9 While provision for a minibus may offer alternative options for future residents to access the services and facilities within Elmswell, no detail regarding frequency or routes has been provided.
- 5.10 Policy LP06 recognises that specialist elderly accommodation and care homes need to be located in a position whereby it offers good access to services and facilities which should be interpreted as being within the abilities of its likely future residents to make access to them. It requires that these developments are located within the settlement boundary.
- 5.11 While the Appellant suggests that the proposed development amounts to a technical breach of the Development Plan, this is still a conflict with the policies of the adopted Development Plan which weighs negatively against it, and in any event the Council will set out in evidence why this is not the case by reference to the considerations set out above.

### **REASON FOR REFUSAL 2 – FLOOD RISK**

- 5.12 The site is known to experience surface water (pluvial) flood risk. At the time of application, the Lead Local Flood Authority ('LLFA') advised that insufficient information had been presented within the supporting Flood Risk Assessment ('FRA') such that the proposed development would fail the sequential test and would thereby be contrary to LP27 and the NPPF.
- 5.13 In the time between issue of the decision notice and the appeal being brought, changes to the NPPF have led the LLFA to reconsider their position based on the updated national flood risk mapping which shows the site at a lower pluvial flood risk than previously shown. This has alleviated the position of the LLFA, and they are content that development could proceed safely subject to the Appellants providing an updated FRA. It is understood that a SoCG is being prepared between the LLFA and the Appellant through their Agent which will be shared in due course once it is completed and signed by all parties.
- 5.14 Based on the above, the Council is content to withdraw this reason of refusal subject to the satisfactory provision of the updated FRA as required by the LLFA and the signing of their SoCG by both parties. The up-to-date position on this reason for refusal will be reflected in the SoCG between the Council and the Appellant.

### **REASON FOR REFUSAL 3 – HERITAGE IMPACT**

- 5.15 The site is currently an agricultural field and has been in use recently as such for the production of crops. It is located on the edge of the village of Elmswell, directly adjacent to the Church of St. John (Grade II\* listed), a medieval parish church, restored in 1862 and 1872 and with C14 and C15 internal details. Externally, it is finished in materials with slated roof to the nave and plaited roof to the chancel. Its associated Almshouses (Grade II listed), a terrace of 3 cottages originally built as 6 Almshouses in 1614 finished in red and buff brick with parapet gables and slated roofs. Elmswell Hall (also Grade II listed) lies beyond the railway line which forms the northern boundary of the site and is a farmhouse and formerly a manor house built circa 1550-80. It is timber framed and the encased in gault brick in early C19. A concrete tiled hipped roof is noted as is a partially infilled medieval moat.
- 5.16 It is considered that the appeal site contributes to the setting of the identified listed buildings by speaking to their agricultural setting and the agricultural heritage of the area. The proposed development would erode the agricultural character of the site which informs and positively contributes to the setting of the Church of St. John as well as the associated Almshouses and Elmswell Hall. This harm is considered to extend from the proposed built form which includes the proposed open space, orchard and beehives which would completely remove the agricultural use of the land. Harm is also considered to accrue from the coalescence of these

buildings into the settlement of Elmswell when historically they have always stood apart from the main village.

5.17 In assessing the level of harm caused by the proposed development, a level of less than substantial harm was identified at a medium level in relation to the impact on the Church of St. John and at a low to medium level for the Almshouses and Elmswell Hall. In accordance with the NPPF, the less than substantial level of harm was not found to be outweighed by the benefits offered by the application given that the loss of the countryside location for each of the identified designated heritage assets would be irreversible and would serve to sever their relationship with their historic agricultural setting, even if the agriculture pursued on the land was undertaken with modern machinery and techniques.

5.18 The Council's view is supported in this instance by Historic England, which found less than substantial harm to the setting of the Church of St. John and they note they are not supportive of the works and recommend that the Council refuse the application. As a statutory consultee, great weight must be given to Historic England's view.

#### **REASON FOR REFUSAL 4 – LANDSCAPE IMPACT**

5.19 Suffolk Landscape Character Assessment identifies the site as lying within the Ancient Plateau Claylands Landscape Character Area (LCA). Key characteristics of this LCA, which are considered relevant to the site and its setting, are the gently rolling arable landscape of clay soils and the pairing of the medieval church and manorial hall in valley side positions close to a water supply. The visual experience of the LCA north of the Gipping is assessed as frequently open with some woodland present. The site is located outside the urban area and defined settlement boundary, although it has no specific landscape designation.

5.20 The proposed development fails to address Policy ELM2 Protection of important views, particularly View 4 identified within the Elmswell Neighbourhood Plan, Appraisal of Important Views, 2022.

5.21 The proposed development and accompanying landscape scheme fails to suitably respond to or enhance the criteria set out within the Ancient Plateau Claylands LCA.

5.22 The topography of the site accentuates the development impact of the proposals. The east to west levels and the required earthworks to achieve accessibility for the end users, will combine to amplify the impact of the development on the landscape.

#### **REASON FOR REFUSAL 5 – SECTION 106**

5.23 The Council will seek to reach agreement with the Appellant in respect of a suitable Section 106 Agreement. As already noted, a Heads of Terms document has been received in support of the appeal. Subject to reaching a suitable agreement with the Appellant, it is considered that this reason for refusal may also be removed from consideration at appeal.

#### **REASON FOR REFUSAL 6 – BIODIVERSITY NET GAIN**

5.24 The Council does not rely on this reason for refusal. If the Inspector is minded to approve the development, then a suitable condition should secure this aspect of the development in line with nationally required maintenance of the habitats created for at least 30 years.

## **PLANNING BALANCE**

- 5.25 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications under the Planning Acts be determined in accordance with the development plan, unless material considerations indicate otherwise. The development plan is therefore the starting point for the determination of this appeal.
- 5.26 The case of *Corbett* re-emphasised that a key part of the s38(6) statutory duty is to determine whether the development accords with the development plan when viewed as a whole. It has long been recognised by the courts that it is not unusual for development plan policies to pull in different directions and that the decision taker must therefore make a judgement as to whether a proposal is in accordance with the plan as a whole and bearing in mind the relative importance of the policies which are complied with or infringed and the extent of the compliance or breach.
- 5.27 The Council will produce evidence highlighting the very clear conflict between the proposed scheme and those policies most important for the determination of this appeal. The appeal scheme does not accord with the development plan taken as a whole.
- 5.28 The Council will also deal with other material considerations in its evidence. In particular, the Council acknowledges the social benefits of specialist elderly accommodation and care home spaces as highlighted by the PPG. The Council will evidence how the need for such accommodation is to be met under the local plan policies SP03 and LP06 and show evidence of provision of similar developments within the district which address this need in more sustainable locations and which avoid the identified heritage and landscape harms associated with this site.
- 5.29 The Council will also have regard to other benefits of the scheme, including the provision of landscaping and open space within the scheme to provide a community orchard and beehives, as well as the economic benefits which would accrue during the construction phase and once the development was operational and occupied and for the potential use of local services and facilities which might arise.
- 5.30 Overall, the Council will set out evidence to show that the adverse impacts of the development clearly outweigh the benefits of the development.
- 5.31 Accordingly, the Inspector will be invited to dismiss the appeal because both: a) the development is not in accordance with the development plan; and
- b) there are no considerations which indicate that permission should be granted contrary to the direction of the plan.

## **6. CONCLUSION**

6.1 The Council consider the proposed development to be contrary to the development and would result in clear harms as identified in reasons for refusal 1, 3 and 4. Evidence will be provided on those matters to demonstrate the nature of the harm caused and an assessment of that harm that in planning terms would be against the policies of the development plan and other material planning considerations.

6.2 The Council will explain that the appeal does not comply with the development plan taken as a whole and there are no material considerations which indicate that planning permission should otherwise be granted.

6.3 On this basis, the Inspector is invited to dismiss the appeal.

6.4 The Council reserves the right to make reference to:

- The relevant policies of the Development Plan;
- Authority Monitoring Reports and Land Supply position statements;
- The NPPF and associated guidance;
- Relevant planning decisions, case law, legislation and other documents relevant to the appeal; and
- Any issues which may arise in light of the evidence prepared on behalf of the Appellant.