

Mid Suffolk District Council

Elmswell
Neighbourhood Plan
2022-2037

Independent Examiner's Report

By Ann Skippers BSc (Hons) MRTPI FHEA FRSA AoU

31 August 2023

Contents

	Summary	3
1.0	Introduction	4
2.0	The role of the independent examiner	4
3.0	The examination process	6
4.0	Neighbourhood plan preparation	7
5.0	Compliance with matters other than the basic conditions	8
6.0	The basic conditions	9
	<i>National policy and advice</i>	9
	<i>Sustainable development</i>	10
	<i>The development plan</i>	11
	<i>Retained European Union (EU) obligations</i>	12
	<i>European Convention on Human Rights (ECHR)</i>	14
7.0	Detailed comments on the Plan and its policies	15
	1. Introduction	15
	2. Planning Policy Context	15
	3. Neighbourhood Plan Policies	15
	- Planning Strategy (Policy ELM 1)	15
	- Landscape Character and Views (Policy ELM 2)	17
	- Green Spaces (Policy ELM 3)	19
	- Sport and Recreation Facilities (Policy ELM 4)	20
	- Employment and Business Sites (Policy ELM 5)	21
	Policies Map	22
	Appendix 1	22
8.0	Conclusions and recommendations	22
	Appendix 1 List of key documents	23
	Appendix 2 Notice of significant change	24

Summary

I have been appointed as the independent examiner of the Elmswell Neighbourhood Development Plan.

Elmswell Parish is bounded by the A14 to the south and to the west by the A1088. Stowmarket lies about 8km to the east and Bury St Edmunds about 12km to the west. It has a number of facilities and services.

The Plan has been a long time in production; understandably given the pressures of the emerging Joint Local Plan and various planning applications. It takes a pragmatic approach to what has been a rather uncertain planning policy context seeking to revise the settlement boundary for the village in its first policy. The Plan contains four other policies covering views, Local Green Spaces, employment and recreational facilities. The policies are designed to complement higher level policies by adding local detail and address matters of importance to the local community.

A number of representations have been made. Many focus on the opportunity to include policies on the natural environment and climate change. Others seek the allocation of sites or identifying reserve sites. Whilst the Plan could have addressed some of these issues and indeed others, there is no set formula for neighbourhood plans.

In addition, as part of a response to a question of clarification, the Parish Council indicated a wish to remove a site (land north of Church Road) from the settlement boundary. In my view this constituted a significant change. A short period of focused consultation was held from 4 – 18 August.

It has been necessary to recommend some modifications. In the main these are intended to ensure the Plan is clear and precise and provides a practical framework for decision-making as required by national policy and guidance.

Subject to those modifications, I have concluded that the Plan does meet the basic conditions and all the other requirements I am obliged to examine. I am therefore pleased to recommend to Mid Suffolk District Council that the Elmswell Neighbourhood Development Plan can go forward to a referendum.

In considering whether the referendum area should be extended beyond the Neighbourhood Plan area I see no reason to alter or extend this area for the purpose of holding a referendum.

Ann Skippers MRTPI
Ann Skippers Planning
31 August 2023



1.0 Introduction

This is the report of the independent examiner into the Elmswell Neighbourhood Development Plan (the Plan).

The Localism Act 2011 provides a welcome opportunity for communities to shape the future of the places where they live and work and to deliver the sustainable development they need. One way of achieving this is through the production of a neighbourhood plan.

I have been appointed by Mid Suffolk District Council (MSDC) with the agreement of the Parish Council, to undertake this independent examination.

I am independent of the qualifying body and the local authority. I have no interest in any land that may be affected by the Plan. I am a chartered town planner with over thirty years experience in planning and have worked in the public, private and academic sectors and am an experienced examiner of neighbourhood plans. I therefore have the appropriate qualifications and professional experience to carry out this independent examination.

2.0 The role of the independent examiner

The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

The basic conditions¹ are:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan
- The making of the neighbourhood plan contributes to the achievement of sustainable development
- The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, retained European Union (EU) obligations²
- Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

¹ Set out in paragraph 8 (2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

² Substituted by the Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018/1232 which came into force on 31 December 2020

Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to in the paragraph above. Only one is applicable to neighbourhood plans and was brought into effect on 28 December 2018.³ It states that:

- The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

The examiner is also required to check⁴ whether the neighbourhood plan:

- Has been prepared and submitted for examination by a qualifying body
- Has been prepared for an area that has been properly designated for such plan preparation
- Meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area and that
- Its policies relate to the development and use of land for a designated neighbourhood area.

I must also consider whether the draft neighbourhood plan is compatible with Convention rights.⁵

The examiner must then make one of the following recommendations:

- The neighbourhood plan can proceed to a referendum on the basis it meets all the necessary legal requirements
- The neighbourhood plan can proceed to a referendum subject to modifications or
- The neighbourhood plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

If the plan can proceed to a referendum with or without modifications, the examiner must also consider whether the referendum area should be extended beyond the neighbourhood plan area to which it relates.

If the plan goes forward to referendum and more than 50% of those voting vote in favour of the plan then it is made by the relevant local authority, in this case MSDC. The plan then becomes part of the 'development plan' for the area and a statutory consideration in guiding future development and in the determination of planning applications within the plan area.

³ Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

⁴ Set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act

⁵ The combined effect of the Town and Country Planning Act Schedule 4B para 8(6) and para 10 (3)(b) and the Human Rights Act 1998

3.0 The examination process

I have set out my remit in the previous section. It is useful to bear in mind that the examiner's role is limited to testing whether or not the submitted neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).⁶

Planning Practice Guidance (PPG) confirms that the examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.⁷

In addition, PPG is clear that neighbourhood plans are not obliged to include policies on all types of development.⁸ Often, as in this case, representations suggest amendments to the submitted policies or new policies or put forward other alternative suggestions or seek the inclusion of land for development. It is my role only to consider the submitted plan and not whether any new policies should be included. However, I feel sure that the Parish Council will wish to give serious consideration to some of the suggestions in any future review of the Plan. Where I find that the submitted policies do meet the basic conditions, it is not necessary for me to consider if further amendments or additions are required.

PPG⁹ explains that it is expected that the examination will not include a public hearing. Rather the examiner should reach a view by considering written representations. Where an examiner considers it necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case, then a hearing must be held.¹⁰

I raised a question of clarification with the Parish Council on 10 June 2023. The response asked for the land in question, land north of Church Road (Site LA064 in the emerging JLP), to be excluded from the settlement boundary. The correspondence and notice of a significant change is attached to this report as Appendix 2.

In my view this constituted a significant change. A further focused period of consultation was therefore held between 4 – 18 August 2023. This has resulted in 79 representations.

In 2018, the Neighbourhood Planning Independent Examiner Referral Service (NPIERS) published guidance to service users and examiners. Amongst other matters, the guidance indicates that the qualifying body will normally be given an opportunity to comment upon any representations made by other parties at the Regulation 16 consultation stage should they wish to do so. There is no obligation for a qualifying body to make any comments; it is only if they wish to do so. The Parish Council made

⁶ PPG para 055 ref id 41-055-20180222

⁷ Ibid

⁸ Ibid para 040 ref id 41-040-20160211

⁹ Ibid para 056 ref id 41-056-20180222

¹⁰ Ibid

comments on the Regulation 16 stage representations and I have taken these into account.

The Parish Council was also given an opportunity to comment on the representations received during the focused consultation. The Parish Council confirmed they have no further comments.

I am very grateful to everyone for ensuring that the examination has run so smoothly and in particular Paul Bryant at MSDC.

I made an unaccompanied site visit to familiarise myself with the Plan area on 27 June 2023.

Where modifications are recommended they appear in **bold text**. Where I have suggested specific changes to the wording of the policies or new wording these appear in ***bold italics***.

As a result of some modifications consequential amendments may be required. These can include changing section headings, amending the contents page, renumbering paragraphs or pages, ensuring that supporting appendices and other documents align with the final version of the Plan and so on.

I regard these issues as primarily matters of final presentation and do not specifically refer to such modifications, but have an expectation that a common sense approach will be taken and any such necessary editing will be carried out and the Plan's presentation made consistent.

4.0 Neighbourhood plan preparation

A Consultation Statement has been submitted.

Pre-submission (Regulation 14) consultation took place between 11 May – 1 July 2022. A summary leaflet and response form was distributed to every household and business in the Parish. Both electronic and paper versions of the Plan were available at various local locations. The consultation was publicised in the Elmswell Newsletter.

This appears to be the only consultation with the local community and other interested parties. However, given the nature of the Plan and its contents, I consider this to be acceptable.

Submission (Regulation 16) consultation was carried out between 6 March – 26 April 2023.

A total of 13 representations were received at Regulation 16 stage including a late representation from Historic England accepted by MSDC.

As I outline in the previous section, a short additional focused period of consultation was held between 4 – 18 August 2023. 79 representations were received.

Whilst I make reference to some responses and not others, I have considered all of the representations and taken them into account in preparing my report.

5.0 Compliance with matters other than the basic conditions

I now check the various matters set out in section 2.0 of this report.

Qualifying body

Elmswell Parish Council is the qualifying body able to lead preparation of a neighbourhood plan. This requirement is satisfactorily met.

Plan area

The Plan area is coterminous with the administrative boundary for the Parish. MSDC approved the designation of the area on 14 January 2014. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with these requirements. The Plan area is shown on page 4 of the Plan.

Plan period

The Plan period is 2022 – 2037. This is clearly shown on the Plan's front cover and confirmed in the Basic Conditions Statement. This requirement is therefore satisfactorily met.

Excluded development

The Plan does not include policies that relate to any of the categories of excluded development and therefore meets this requirement. This is also helpfully confirmed in the Basic Conditions Statement.

Development and use of land

Policies in neighbourhood plans must relate to the development and use of land. Sometimes neighbourhood plans contain aspirational policies or projects that signal the community's priorities for the future of their local area, but are not related to the development and use of land. If I consider a policy or proposal to fall within this category, I will recommend it be clearly differentiated. This is because wider community aspirations than those relating to development and use of land can be

included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable.¹¹

6.0 The basic conditions

Regard to national policy and advice

The Government revised the National Planning Policy Framework (NPPF) on 20 July 2021. This revised Framework replaces the previous National Planning Policy Framework published in March 2012, revised in July 2018 and updated in February 2019.

The NPPF is the main document that sets out the Government's planning policies for England and how these are expected to be applied.

In particular it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the delivery of strategic policies in local plans or spatial development strategies and should shape and direct development outside of these strategic policies.¹²

Non-strategic policies are more detailed for specific areas, neighbourhoods or types of development.¹³ They can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment as well as set out other development management policies.¹⁴

The NPPF also makes it clear that neighbourhood plans should not promote less development than that set out in strategic policies or undermine those strategic policies.¹⁵

The NPPF states that all policies should be underpinned by relevant and up to date evidence; evidence should be adequate and proportionate, focused tightly on supporting and justifying policies and take into account relevant market signals.¹⁶

Policies should be clearly written and unambiguous so that it is evident how a decision maker should react to development proposals. They should serve a clear purpose and avoid unnecessary duplication of policies that apply to a particular area including those in the NPPF.¹⁷

¹¹ PPG para 004 ref id 41-004-20190509

¹² NPPF para 13

¹³ Ibid para 28

¹⁴ Ibid

¹⁵ Ibid para 29

¹⁶ Ibid para 31

¹⁷ Ibid para 16

On 6 March 2014, the Government published a suite of planning guidance referred to as Planning Practice Guidance (PPG). This is an online resource available at www.gov.uk/government/collections/planning-practice-guidance which is regularly updated. The planning guidance contains a wealth of information relating to neighbourhood planning. I have also had regard to PPG in preparing this report.

PPG indicates that a policy should be clear and unambiguous¹⁸ to enable a decision maker to apply it consistently and with confidence when determining planning applications. The guidance advises that policies should be concise, precise and supported by appropriate evidence, reflecting and responding to both the planning context and the characteristics of the area.¹⁹

PPG states there is no 'tick box' list of evidence required, but proportionate, robust evidence should support the choices made and the approach taken.²⁰ It continues that the evidence should be drawn upon to explain succinctly the intention and rationale of the policies.²¹

Whilst this has formed part of my own assessment, the Basic Conditions Statement sets out how the Plan's policies correspond to national policy and guidance.

Contribute to the achievement of sustainable development

A qualifying body must demonstrate how the making of a neighbourhood plan would contribute to the achievement of sustainable development.

The NPPF confirms that the purpose of the planning system is to contribute to the achievement of sustainable development.²² This means that the planning system has three overarching and interdependent objectives which should be pursued in mutually supportive ways so that opportunities can be taken to secure net gains across each of the different objectives.²³ The three overarching objectives are:²⁴

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

¹⁸ PPG para 041 ref id 41-041-20140306

¹⁹ Ibid

²⁰ Ibid para 040 ref id 41-040-20160211

²¹ Ibid

²² NPPF para 7

²³ Ibid para 8

²⁴ Ibid

- c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

The NPPF confirms that planning policies should play an active role in guiding development towards sustainable solutions, but should take local circumstances into account to reflect the character, needs and opportunities of each area.²⁵

Whilst this has formed part of my own assessment, the Basic Conditions Statement sets out how each Plan policy helps to achieve sustainable development as outlined in the NPPF.

General conformity with the strategic policies in the development plan

The development plan consists of the saved policies of the Mid Suffolk Local Plan 1998 (LP 1998); the Mid Suffolk Local Plan First Alteration: Affordable Housing 2006 adopted on 13 July 2006; the Core Strategy 2008 (CS) adopted on 4 September 2008 and the Core Strategy Focused Review 2012 (CSFR) adopted on 20 December 2012. The LP 1998 has mostly been superseded by CS and CSFR policies. In addition the Minerals Core Strategy and the Waste Core Strategy produced by Suffolk County Council also form part of the development plan.

Whilst this has formed part of my own assessment, the Basic Conditions Statement contains an assessment of how the Plan complements the objectives of the LP 1998, CS and CSFR and how policy generally conforms to relevant LP 1998, CS and CSFR policies. It also includes an assessment of the Plan's policies alongside the objectives of the emerging JLP.

Where I have not specifically referred to a strategic policy, I have considered all strategic policies in my examination of the Plan.

Emerging Joint Local Plan

MSDC and Babergh District Council are working together to deliver a new Joint Local Plan (JLP) which will cover the period up to 2037. Once adopted, it will replace all other policies across the two Districts. The JLP was formally submitted to the Secretary of State for Housing, Communities and Local Government on 31 March 2021.

Following an exploratory meeting with the inspectors on 16 December 2021, the two Councils agreed to progress this emerging JLP as a 'Part 1' local plan. This will be followed by the preparation and adoption of a 'Part 2' local plan, anticipated to be adopted in Winter 2025. A number of Supplementary Planning Documents will also be produced during this period.

²⁵ NPPF para 9

On 16 March 2023, the two Councils published the Modifications Schedule to the Joint Local Plan Part 1 for consultation. The consultation period ended on 3 May 2023 and only applied to the proposed modifications to the JLP and not on those unchanged aspects.

An Explanatory Note from the inspectors explains that the main modifications include – where relevant to this examination - the removal of all site allocations and changing settlement boundaries to reflect those on the extant Policies Maps.

I do not consider that any implications arise from the recent consultation and indeed the consultation period on this Plan would allow any interested party to make comments about the position with the emerging JLP as part of the consultation on this Plan.

There is no legal requirement to examine the Plan against emerging policy. However, PPG²⁶ advises that the reasoning and evidence informing the local plan process may be relevant to the consideration of the basic conditions against which the Plan is tested. Furthermore Parish Councils and local planning authorities should aim to agree the relationship between policies in the emerging neighbourhood plan, the emerging local plan and the adopted development plan with appropriate regard to national policy and guidance.²⁷

It is clear from the Plan and the Basic Conditions Statement that the direction of the emerging JLP has been a consideration in the preparation of the Plan.

Retained European Union Obligations

A neighbourhood plan must be compatible with retained European Union (EU) obligations. A number of retained EU obligations may be of relevance for these purposes including those obligations in respect of Strategic Environmental Assessment, Environmental Impact Assessment, Habitats, Wild Birds, Waste, Air Quality and Water matters.

With reference to Strategic Environmental Assessment (SEA) requirements, PPG²⁸ confirms that it is the responsibility of the local planning authority, in this case MSDC, to ensure that all the regulations appropriate to the nature and scope of the draft neighbourhood plan have been met. It states that it is MSDC who must decide whether the draft plan is compatible with relevant retained EU obligations when it takes the decision on whether the plan should proceed to referendum and when it takes the decision on whether or not to make the plan.

²⁶ PPG para 009 ref id 41-009-20190509

²⁷ Ibid

²⁸ Ibid para 031 ref id 11-031-20150209

Strategic Environmental Assessment and Habitats Regulations Assessment

The provisions of the Environmental Assessment of Plans and Programmes Regulations 2004 (the 'SEA Regulations') concerning the assessment of the effects of certain plans and programmes on the environment are relevant. The purpose of the SEA Regulations, which transposed into domestic law Directive 2001/42/EC ('SEA Directive'), are to provide a high level of protection of the environment by incorporating environmental considerations into the process of preparing plans and programmes.

The provisions of the Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations'), which transposed into domestic law Directive 92/43/EEC (the 'Habitats Directive'), are also of relevance to this examination.

Regulation 63 of the Habitats Regulations requires a Habitats Regulations Assessment (HRA) to be undertaken to determine whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans or projects. The HRA assessment determines whether the Plan is likely to have significant effects on a European site considering the potential effects both of the Plan itself and in combination with other plans or projects. Where the potential for likely significant effects cannot be excluded, an appropriate assessment of the implications of the Plan for that European Site, in view of the Site's conservation objectives, must be carried out.

A Screening Determination dated October 2022 has been prepared by MSDC. This in turn refers to a SEA Screening Opinion Report prepared by Land Use Consultants (LUC) in August 2022 which concluded that the Plan was unlikely to have significant environmental effects. Consultation with the statutory bodies was undertaken. Responses from Historic England and Natural England concurred; no response was received from the Environment Agency.

I have treated the Screening Opinion Report and the Screening Determination to be the statement of reasons that the PPG advises must be prepared and submitted with the neighbourhood plan proposal and made available to the independent examiner where it is determined that the plan is unlikely to have significant environmental effects.²⁹

Taking account of the characteristics of the Plan, the information put forward and the characteristics of the areas most likely to be affected, I consider that retained EU obligations in respect of SEA have been satisfied.

Turning now to HRA, a Habitats Regulations Screening Determination dated October 2022 has been prepared by MSDC. This refers to a HRA Screening Report of August 2022 prepared by LUC.

Four habitats sites are identified within 20km of the Plan area.

²⁹ PPG para 028 ref id 11-028-20150209

The Screening Report concludes that no likely significant effects are predicted, either alone or in combination with other plans and projects. It concluded an Appropriate Assessment (AA) was not needed as none of the policies will result in development. Natural England concurred with the findings of the Screening Report.

On 28 December 2018, the basic condition prescribed in Regulation 32 and Schedule 2 (Habitats) of the Neighbourhood Planning (General) Regulations 2012 (as amended) was substituted by a new basic condition brought into force by the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 which provides that the making of the plan does not breach the requirements of Chapter 8 of Part 6 of the Habitats Regulations.

Given the distance from, the nature and characteristics of the European sites and the nature and contents of the Plan, I agree with the conclusion of the Screening Determination and consider that the prescribed basic condition relating to the Conservation of Habitats and Species Regulations 2017 is complied with.

Conclusion on retained EU obligations

I have noted that the Screening Reports prepared by LUC and the Screening Determinations prepared by MSDC refer to the pre-submission version of the Plan. Some changes to the Plan have been made between pre-submission and submission stages including the proposed designation of an additional Local Green Space and the location of one of the important views. I consider that neither change is so significant given the issues considered and conclusions reached in the reports and determinations that would lead me to reach a different conclusion.

In any case, national guidance establishes that the ultimate responsibility for determining whether a plan meets EU obligations lies with the local planning authority.³⁰ In undertaking work on SEA and HRA, MSDC has considered the compatibility of the Plan in regard to retained EU obligations and does not raise any concerns in this regard. MSDC will also review this again in reaching a view on whether the Plan can proceed to referendum following receipt of my report.

European Convention on Human Rights (ECHR)

The Basic Conditions Statement contains a statement in relation to human rights and equalities.³¹ Having regard to the Basic Conditions Statement, there is nothing in the Plan that leads me to conclude there is any breach or incompatibility with Convention rights.

³⁰ PPG para 031 ref id 11-031-20150209

³¹ Basic Conditions Statement page 22

7.0 Detailed comments on the Plan and its policies

In this section I consider the Plan and its policies against the basic conditions. As a reminder, where modifications are recommended they appear in **bold text** and where I suggest specific changes to the wording of the policies or new wording these appear in ***bold italics***.

The Plan is presented to a clear and very high standard with photographs of the local area that give a strong sense of place. The Plan begins with a helpful contents page that lists the five policies.

1. Introduction

This is a helpful introduction to the Plan that sets out the background to the Plan, its approach and includes a useful diagram showing the timetable for completion of the Plan.

2. Planning Policy Context

This is a helpful section that sets out the planning policy context for the Parish.

3. Neighbourhood Plan Policies

Planning Strategy

Policy ELM 1 - Planning Strategy

This section sets out the overall strategy for new development.

In the CS, Elmswell is identified as one of 12 Key Service Centres which are the main focus for development outside the towns of Stowmarket, Needham Market and Eye in CS Policy CS 1. CSFR Policy FC 2 seeks to deliver 750 new dwellings in the Key Services Centres over a 15 year period from April 2012.

The Plan explains that the emerging JLP identified Elmswell as a Core Village and proposed a housing figure of around 834 new homes. However, the Plan explains that given the current position with the emerging JLP, it has been decided that this Plan is not the appropriate vehicle to determine the overall amount of houses to be built over the Plan period or allocate any sites for housing.

This is an acceptable approach to take; neighbourhood plans do not have to address housing. The neighbourhood planning examination process does not require a rigorous examination of District level housing requirements; this will form part of the examination into the emerging JLP. It is not my role to determine whether the Plan would be inconsistent with the adopted version of the emerging JLP should it be revised to accommodate further growth.

Policy ELM 1 uses the settlement boundary for the main built up area of the village based on the boundaries contained in the LP 1998, but the opportunity to review the boundary has been taken. It has been redefined to reflect any alterations in the built up area since the 1998 boundary definition and takes account of recent planning permissions. This seems to me to be a pragmatic way forward.

I found that paragraph 3.2 on page 8 of the Plan incorrectly indicates that it is the LP 1998 boundary that will be taken forward. This is reinforced by the inclusion of that boundary in Map 2 on the same page of the Plan. In common with one of the representations, I also thought this showed the settlement boundary sought by this Plan. Two recommendations are therefore made in the interests of accuracy and clarity.

I also raised a query about one site, land north of Church Road and known in the emerging JLP as LA064, which had been included in the revised settlement boundary.

This site seemed to me to have been included in the settlement boundary whereas other sites originally proposed for allocation in the JLP had not. I asked if planning permission had now been granted.

The response confirmed planning permission has not been granted and the Parish Council has requested that the land be taken out of the settlement boundary in the interests of consistency. I note that a representation comments on the site in question, but the landowner in this case, MSDC, does not raise any objection to the site's removal from the settlement boundary. As the Parish Council has requested this, and the landowner has no objection, then I make a recommendation to exclude this site.

As I considered this would be a significant change, as referred to in earlier sections of this report, a short focused consultation was held between 4 – 18 August 2023 on the removal of this land from the settlement boundary. The majority of representations received supported the proposed change.

Turning now to the wording of the policy, it supports development in line with the village's designation and status in the settlement hierarchy. It defines the newly revised settlement boundary and cross-references this on the Policies Map.

It explains that outside the settlement boundary only development in line with national and District level policies will be permitted. This is an acceptable approach. CS Policy CS 2 specifies the categories of development accepted in the countryside and the NPPF sets out more recent policy directions on this.

However, the supporting text at paragraph 3.5 refers to exceptional circumstances which I do not consider has regard to national policy. A modification is therefore made to address this point.

With these modifications, the Plan's planning strategy will meet the basic conditions by having regard to national policy, being in general conformity with the strategic policies in the CSFR namely FC 1, FC 1.1, FC 2 and contribute to the achievement of sustainable development notwithstanding that a different level of growth may be promoted in a future iteration of the emerging JLP.

- **Change paragraph 3.2 on page 8 of the Plan to read:**

“Local plan documents generally define “settlement boundaries” around the main built-up area of a village. In general, there is a presumption in favour of new development within a settlement boundary, whereas development on land outside them is only allowed in certain circumstances. The delayed progression of the Joint Local Plan means that the Settlement Boundary for Elmswell will be *based on* that defined in the 1998 Mid Suffolk Local Plan, *but it has been updated as part of the work on this neighbourhood plan.*”

- **Remove Map 2 on page 8 from the Plan**
- **Exclude land north of Church Road from the settlement boundary [as shown on the focused consultation information]**
- **Change the last sentence of paragraph 3.5 on page 9 of the Plan to read: “Where planning permission is required, the construction of new buildings outside Settlement Boundaries will only be supported *where it accords with national, district and neighbourhood level policies.*”**

Landscape Character and Views

Policy ELM 2 – Protection of Important Views

The NPPF³² requires the planning system to contribute to and enhance the natural and local environment, including protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside. I consider that the identification of views is integral to conserving local landscape and built environment character and is important in conserving local distinction.

The Plan explains that a number of important views have been identified. These are supported by an Appraisal of Important Views document. This document identifies the nine views, includes a photograph and a short description. The views are shown on the

³² NPPF para 174

Policies Maps. It would be useful to number the views on the Policies Maps so that cross-reference is made more readily to the supporting document.

Whilst I tend to agree with some of the comments made in representations that the supporting document could be more descriptive and precise when it comes to indicating the key features of each view identified, I found that many of the views involved St John's Church. The Church is set on higher land, is isolated and, as no doubt was the intention, can be seen in the wider landscape and is visible from long distances. Its setting is also important.

From my site visit, I consider that all the views with the exception of Views 4 and 6 have been appropriately identified and have key features and attributes identified in the supporting document to a sufficient extent. Views 4 and 6 have little justification and the supporting document refers to the impact of development rather than focusing on the positive attributes of the views. I consider this could be seen to undermine the importance of the remaining views. I therefore recommend deletion of Views 4 and 6.

Now turning to the wording of the policy, this is flexible referring to the key landscape and built development features. It seeks to ensure that any new development does not have a visual detrimental impact on the landscape and built development features of the views. It does not prevent development per se.

With these modifications, the policy will meet the basic conditions. It will take account of national policy and guidance in recognising the intrinsic character and beauty of the countryside and promoting and reinforcing local distinctiveness, add a local layer to CS Policy CS 5 in particular which, amongst other things, seeks to protect and conserve landscape qualities, protecting the District's most important components and encouraging development that is consistent with conserving its overall character and CSFR Policy FC 1.1. which, amongst other things, conserves and enhances the local character of different parts of the District, and will help to achieve sustainable development.

- **Delete viewpoints of Views 4 and 6**
- **Consequential amendments to the Policies Maps will be needed and the retained views should be numbered as per the Assessment of Views document [or for the avoidance of doubt this supporting document could be updated if desired]**

Green Spaces

Policy ELM 3 – Local Green Spaces

The Plan proposes nine areas as Local Green Space (LGS). They are shown on the Policies Map and more detailed boundaries are shown in Appendix 1 of the Plan. A separate Local Green Space Assessment has been carried out.

The NPPF explains that LGSs are green areas of particular importance to local communities.³³

The designation of LGSs should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.³⁴ It is only possible to designate LGSs when a plan is prepared or updated and LGSs should be capable of enduring beyond the end of the plan period.³⁵

The NPPF sets out three criteria for green spaces.³⁶ These are that the green space should be in reasonably close proximity to the community it serves, be demonstrably special to the local community and hold a particular local significance and be local in character and not be an extensive tract of land. Further guidance about LGSs is given in PPG.

I saw the proposed areas on my site visit.

1. Open space south and west of Hanover Court. This is an irregularly shaped area which includes the Maze community space.
2. Allotments, Church Hill. These are the allotments which I saw are well used.
3. Cemetery, Church Hill. This proposed LGS adjoins the Allotments and 'fills' in the area excluded from the allotments designation. The area includes a green burial ground.
4. Lukeswood, Church Road. This is an area of community woodland and includes an access way to the area between houses on Church Road. It is valued for its tranquility and tree planting.
5. Amenity open spaces, Pightle Close. This is an area of open space at the centre of this housing estate and is important both in terms of the amenity it provides and its visual contribution to local character.

³³ NPPF para 101

³⁴ Ibid

³⁵ Ibid

³⁶ Ibid para 102

6. Crown Mill play area. This is a more informal open space with a children's play area. It is located in the heart of the village near services and facilities. It includes the village sign, a notice board and a seat.
7. Hall Lane play area. This is an open space and play area within a recent development. It provides an important recreational and amenity opportunity.
8. Playing Field off Thedwastre Close. This is an open space used for recreational purposes.
9. Town Field, off Spong Lane. This is an area valued for its amenity and wildlife accessed via a public footpath about 350 metres from the centre of the village but still in close proximity to the community it serves.

In my view, all of the proposed LGSs meet the criteria in the NPPF satisfactorily. The proposed LGSs are demonstrably important to the local community, are capable of enduring beyond the Plan period, meet the criteria in paragraph 102 of the NPPF and their designation is consistent with the local planning of sustainable development and investment in sufficient homes, jobs and other essential services given other policies in the development plan and this Plan.

Turning now to the wording of the policy, it simply designates the LGSs. Often a policy of this nature will indicate how development proposals will be managed. The NPPF is clear that policies for managing development within a Local Green Space should be consistent with those for Green Belts.³⁷ As such I do not consider it essential that the policy includes text on how development in the LGSs will be managed.

The policy meets the basic conditions and no modifications are recommended except to ensure that LGS 8, Playing Field off Thedwastre Close, is shown on the Policies Map in full; the access should be included.

- **Amend the Policies Map to show the access strip to LGS 8, Playing Field off Thedwastre Close to align with the maps in Appendix 1 and the Assessment document**

Sports and Recreation Facilities

Policy ELM 4 – Open Space, Sport and Recreation Facilities

This policy supports the provision and improvement of amenity, sport or recreation open space or facilities subject to other development plan policies. This is a sensible cross-reference given some areas are designated as LGSs for example.

³⁷ NPPF para 103

The loss of such spaces and facilities is prevented unless they are surplus to requirements or they will be replaced by equivalent or better provision in a suitable location.

New development is required to provide such areas as appropriate.

Finally, the policy requires associated buildings such as clubhouses or pavilions to be of a high standard of design. It also refers to internal layout which is not usually covered by planning control. Therefore this element is removed.

A representation points out that the playing fields south of Grove Lane are not identified on the Proposals Map. This is indeed the case. I note that the policy does not only protect those facilities identified on the Proposals Map, but also protects any others. Whilst this might be seen to be an omission, and could be considered in a future review of the Plan, this policy would apply to the playing fields.

With this modification, the policy will take account of national policy and guidance, is a local expression of CS Policy CS 6 and will help to achieve sustainable development.

- **Delete “...and internal layout” from the penultimate paragraph of the policy**

Employment and Business Sites

Policy ELM 5 – Employment Sites

Recognising the importance of employment, this policy seeks to retain existing employment and other business uses. The policy supports new employment uses subject to acceptable impacts on landscape character, residential amenity and highway impacts. All are appropriate considerations.

Non-employment uses on existing employment sites, where there would be an adverse impact on employment generation, will only be supported by the policy if certain criteria are met. These include appropriate marketing of the premises, whether any environmental benefits would be gained, community benefits, whether it would be for a related use or if other sustainability benefits would outweigh the loss. Reading the policy as a whole, the criteria are appropriate.

The Plan explains that a number of businesses operate at the Station Road Industrial Estate and the Grove Lane Industrial Estate.

The policy meets the basic conditions. In particular it reflects the NPPF’s support for economic growth and productivity³⁸ and its stance on enabling the sustainable growth and expansion of all types of businesses in rural areas.³⁹

³⁸ NPPF para 81

³⁹ Ibid para 84

The policy is a local expression of CSFR Policy FC 3 which indicates that a range of good quality sites will be made available for employment uses in some of the Key Service Centres through policies to protect existing employment sites, new allocations and support for improvements to existing sites.

Policies Map

The maps are generally clearly presented throughout the document. A change has been recommended to the Policies Maps elsewhere in this report.

Appendix 1

This appendix contains detailed maps of the LGSs.

8.0 Conclusions and recommendations

I am satisfied that the Elmswell Neighbourhood Development Plan, subject to the modifications I have recommended, meets the basic conditions and the other statutory requirements outlined earlier in this report.

I am therefore pleased to recommend to Mid Suffolk District Council that, subject to the modifications proposed in this report, the Elmswell Neighbourhood Development Plan can proceed to a referendum.

Following on from that, I am required to consider whether the referendum area should be extended beyond the Neighbourhood Plan area. I see no reason to alter or extend the Plan area for the purpose of holding a referendum and no representations have been made that would lead me to reach a different conclusion.

I therefore consider that the Elmswell Neighbourhood Development Plan should proceed to a referendum based on the Elmswell Neighbourhood Plan area as approved by Mid Suffolk District Council on 14 January 2014.

Ann Skippers MRTPI
Ann Skippers Planning
31 August 2023

Appendix 1 List of key documents specific to this examination

Elmswell Neighbourhood Plan 2022 – 2037 Submission Plan January 2023

Basic Conditions Statement January 2023 (Places4People Planning Consultancy)

Consultation Statement January 2023 (Places4People Planning Consultancy)

Strategic Environmental Assessment Screening Determination October 2022 (MSDC)

Strategic Environmental Assessment Screening Opinion Final Report August 2022 (LUC)

Habitats Regulations Screening Determination October 2022 (MSDC)

HRA Report Final Report August 2022 (LUC)

Appraisal of Important Views January 2023 (Places4People Planning Consultancy)

Local Green Space Appraisal January 2023

Saved Policies of the Mid Suffolk Local Plan adopted September 1998

Mid Suffolk Local Plan First Alteration Affordable Housing adopted July 2006
Core Strategy adopted September 2008

Core Strategy Focused Review adopted December 2012

Babergh and Mid Suffolk Joint Local Plan Pre-Submission (Reg 19) document November 2020

Babergh and Mid Suffolk Joint Local Plan – Part 1 Modifications Schedule March 2023

BDC Draft Five-Year Housing Land Supply Position Statement 2022 December 2022
(BDC/Lichfields)

List ends

Appendix 2 Notice of significant change

Elmswell Neighbourhood Plan Examination Notice of Significant Change from the Examiner

I have completed my initial review of the Neighbourhood Plan (the Plan), and I am writing to set out the current position.

I raised a question of clarification with the Parish Council (PC) and Mid Suffolk District Council (MSDC) via email on 10 June 2023. This is replicated in full below:

Dear Paul and Ian,

I am making good progress with the examination of the **Elmswell** NDP. One query has arisen on which I would be grateful for your kind assistance.

In relation to the settlement boundary defined in Policy ELM 1, my understanding is that the boundary is based on the 1998 Local Plan but has been updated to include any sites which have been built out since then and sites with planning permission; I hope my understanding is right?

The representation from Pegasus Group indicates that land north of Church Road has been included in the settlement boundary and that this site was a proposed allocation in the JLP (LA064). Of course all the proposed site allocations have now been removed from the latest version of the JLP. Has this site (LA064) now got planning permission or if not, why has this previously proposed allocation been included in the boundary but others such as LA066 seemingly have not? It seems as if the other proposed allocations in the JLP and now included in the revised settlement boundary have now got permission anyway?

Thank you for your assistance, best wishes

In summary, the PC has responded to indicate that they now consider the settlement boundary should be changed to exclude this land.

In my view, this would constitute a significant change to the submitted Plan.

Part 12 of the *Neighbourhood Planning Independent Examiner Referral Service Guidance to service users and Examiners* deals with changes to the Plan. Paragraph 2.12.6 indicates that "Examiners will not generally refer back to parties on these detailed revisions. But where the modification may necessitate a change which in the opinion of an examiner would be significant, there is a reasonable expectation that a description of the intended modification will be publicised on the local planning authority's website, seeking comments, prior to recommending the change."

In accordance with guidance to examiners in the *NPIERS Guidance to service users and Examiners*, I therefore seek comments from interested parties on this proposed modification to the Plan. I request that this note be placed on MSDC's website and that **comments on the significant changes are sought from interested parties for a period of two weeks** as specified on MSDC's website.

Only comments on the proposed significant change are sought. All parties are reassured that any previous representations made at the submission stage are carried forward and there is no need to repeat them or resubmit them.

Notice of Significant Change

The significant change that I intend to recommend (based on the Parish Council's request) is:

1. Alteration of the Settlement Boundary to exclude land north of Church Road (the site previously known as LA064).

For the avoidance of any doubt, the site currently being built out to the north off and adjacent to School Road / Parnell Lane (the site shaded grey on the Policies Map) would remain in the settlement boundary as is proposed in the submission version of the draft Plan.

Please note that this Notice is a public document and any comments received will also be in the public domain. This note should be placed on the Councils' websites as appropriate.

With many thanks,

Ann Skippers MRTPI
Independent Examiner
22 July 2023