

**TOWN AND PLANNING ACT 1990 – Section 78 Appeal
By Christchurch Land & Estates (Elmswell South) Limited
Proposed Care Village at School Road, Elmswell**

**(Planning Application Reference No: DC/23/05651)
(Planning Appeal Reference No: APP/W3520/W/25/3364061)**

Closing Submissions on behalf of The Appellant



Ref: PDH/229432.0009

INTRODUCTION

1. When I made my opening submissions to this inquiry I set out in summary the efforts that the principal parties had made to resolve as many of the reasons for refusal as possible. In order to focus on the key outstanding issues. I should also stress that my clients have worked with the council at all times in preparing the scheme and modifying it to reflect any comments or concerns that have been raised, and to respond to such concerns. It is therefore disappointing that when we received the detailed evidence from the Council, particularly the landscape and heritage proofs, there were matters of detail which firstly were not raised with us, as points of concern but which also could have been taken onboard and addressed at the application stage. Secondly, however, they largely ignore the fact that this is an outline planning application and there is every opportunity at the approval of reserved matters stage and through the imposition and subsequent discharge of planning conditions, to refine and alter aspects of the scheme, the council or its experts seek to identify as giving rise to harm.

MATTERS RESOLVED

Flood Risk

2. In terms of the matters that have been resolved between the principal parties I turn first of all to the issue of flood risk and the sequential test. For the reasons that were discussed at the round table session, we considered that this was never a valid objection in the context of this site. There was never an objection from the lead local flood authority as was made clear by the LLFA's own witness. The LLFA simply lodged a holding objection pending receipt of further information from the applicant which was forthcoming prior to the determination of the application.
3. Regardless of how the application was processed, the fact remains that both the principal parties and the LLFA accept that the updated flood risk maps, the evidence that is available to us and the change in Government guidance in relation to surface water flooding, means that this is not an issue for consideration at this appeal. Further, it is accepted that the sequential test does not apply to this site. Whilst members of the public did make several vague comments in terms of flood issues, there is simply no evidence as to what that alleged flooding is. It has been acknowledged that water does in instances of very heavy rainfall, cross parts of the site, which is hardly surprising given the slope of the site down to the water course on the western boundary and the higher surrounding ground. Such flows can be easily managed by an effective drainage scheme secured by agreed conditions. Flood risk is clearly not a consideration and has been fully addressed in all the expert evidence including the updated FRA.

Ecology

4. It is acknowledged that in terms of ecology, this is not an issue for this appeal. Indeed the biodiversity metrics which was undertaken shows that the site will deliver well in excess of the 10% biodiversity net gain requirement, with an expected increase in the order of 300%, based on the illustrative scheme. Indeed, changes can be made to the scheme in terms of landscaping etc. but would still achieve far in excess of the 10% statutory requirement. It is hardly surprising, given the arable nature of the land and the absence of trees and

hedges on the boundaries, that the scheme provides considerable scope for BNG enhancements within the site, which includes the wildflower meadow that is proposed in the southern part of the site, which will remain undeveloped. An agreed condition has been proposed securing a minimum high level of BNG.

Planning Obligation

5. Thirdly, as regards the Section 106 obligation I will deal with this at the end of these submissions when I will seek to explain further the appellant's position with regards to the obligation and the conditions that are proposed to be attached to the grant of a planning permission. In short, however, the terms of the planning obligation are agreed, and the only issue is the outstanding disputed request for the Elmswell - Woolpit Community Footpath contribution. This is a matter for you to consider and decide in light of the regulation 122 tests. The Section 106 obligation contains a blue pencil clause and you are invited to use the discretion afforded to you in relation to that clause and to determine that the Community Footpath Contribution is not CIL compliant. Otherwise, the Section 106 obligation is agreed.

Principal Issues

6. That brings us to the principal issues for determination at this appeal, which you identified at the outset. There are, as you stated, three issues for determination in this appeal. The first is the principle of the development beyond the settlement boundary and whether this is an appropriate location for this development. The second relates to landscape matters and the visual impact of the development within the landscape setting. The third issue is heritage matters, and specifically the impact on the character and setting of three listed buildings, namely the Church of St John, the Almshouses and the Elmswell Hall.
7. Whilst these may be the principal issues to be addressed in the determination of this appeal, there are many other considerations that need to be taken account of in order to address these issues and therefore to reach a decision as to whether to allow the appeal. The factors that need to be considered in the planning balance are set out below and I structure these submissions to take account of these factors:
 - Planning Policy - Principle of Development beyond the settlement boundary
 - Need for the Development
 - Landscape Matters
 - Heritage Matters
 - Benefits of the Scheme and the Planning Balance
 - Technical and Other Matters
 - Section 106 Obligations and Conditions
 - Third Party Representations
 - Conclusion

PLANNING POLICY - PRINCIPLE OF DEVELOPMENT BEYOND THE SETTLEMENT BOUNDARY

8. I wish to address this issue in two ways. Firstly, the reasons why limited weight should be given to the relevant policies that the council seeks to rely on in resisting the appeal proposal on this basis. Secondly looking at the meaning of the policies and giving them their natural and ordinary meaning, to assess whether they are restrictive in the way the council allege, or whether development beyond the village boundary and this scheme specifically, may in fact accord with policy.

Policy Weight

9. It is accepted that the development proposed does lie beyond the current settlement boundary for Elmswell as defined in the Joint Local Plan Part 1 (JLP 1) and the Elmswell Neighbourhood Plan (ENP). The site is therefore classified as countryside and there is a general presumption against development in the countryside, albeit there are exceptions. Whilst it is not disputed that the development would extend beyond the current defined boundary of Elmswell, I would make the following points as regards the weight to be afforded to these policies.
10. The boundaries of Elmswell have not been reviewed, in common with other settlements in the district, for many years (we were told 1998) and therefore the boundaries were meant to be reviewed and revised as necessary as part of the second part of the Joint Local Plan, namely the Part 2 plan (JLP 2). When the JLP 1 was finally adopted in November 2023 it was anticipated that JLP2 plan would quickly follow. You have heard that that has not happened and indeed JLP 2 has been abandoned. Like so many local planning authorities, the Government's policies in relation to additional housing requirements are used as a justification for abandoning the second part of the development plan and all the implications that has for a plan lead system.
11. Whatever the justification for abandoning the JLP 2, the fact remains that at best there will not be a new local plan for mid Suffolk which reviews boundaries and makes formal allocations for development until at least 2029 and even that may be optimistic. You heard that no consultation documents were issued for JLP 2 since adoption of JLP 1 nearly two years ago. Why should we assume therefore that the new plan will be in place by 2029 a date that seem highly optimistic to say the least? Plan preparation and adoption slippage is so commonplace, little reliance can be placed on this date. Even if it could, the issue is irrelevant for the reasons stated below and in particular the critical need for specialist elderly persons accommodation that needs to be addressed now.
12. We would further question whether in fact the council will seek to address the need for specialist elderly persons' accommodation through the new local plan, if it currently believes that its existing policy LP06 is adequate to address need but at the same time confining such development to within settlement boundaries. Whilst Mr Cameron "hoped" that the policy team would address any such need through allocations, he readily accepts that the need to make such allocations would not arise if Policy LP06 was effective in delivering specialist elderly persons accommodation. The reason being of course that in those circumstances there would be no need to allocate sites given that such development within settlement boundaries will be acceptable in principle in any event. Allocations would only be required beyond settlement boundaries and

therefore Mr Cameron's hope that allocations will be made to meet the need, is tantamount to acknowledging that sooner or later (much later if the council has its way) sites beyond settlement boundaries will have to be released to meet this need. The council just gets to kick the issue into the long grass yet again, to repeat Mr Warner's phrase when giving his evidence.

13. It is our belief, based on the evidence available, that the council simply will not seek to address this element of Government policy in their new local plan. It isn't flagged as an issue in JLP 1 and it means being willing to identify and promote sites in the face of potential local opposition such as found in Elmswell Parish Council.
14. As stated in my opening, the planning system does not simply deliver much needed specialist elderly persons housing instantaneously. Mr Cameron fully agreed with our suggested timescales for consenting schemes, discharging conditions and build out. Three years or so for a care home and 4-5 years for an integrated retirement scheme of the appeal type, even assuming a permission being granted by the LPA, unlike the appeal scheme. These lead in times are critical in the consideration of these proposals. Granting planning permissions does not address the need that exists. That is simply the first step in the process, delivery times must also be factored in.
15. As you are aware, it will be approximately 2 years since the application was submitted. If, as we hope, the appeal is allowed there is then the process of seeking reserved matters, discharging conditions before we can even start to build. We are unlikely (agreed by Mr Cameron) to deliver this scheme in full before 2029. The Council, if they are seeking to persuade you to defer approving schemes pending adoption of a new local plan, effectively invite you to put an embargo on schemes beyond settlement limits until 2029 at the earliest. Even if applications do come forward post adoption of the local plan, the earliest those schemes may be completed and delivered could be 2034. We should remember that the JLP 1 period base date was 2018 so we have already moved on 7 years from the base date. If this scheme is permitted and is built out in the next 4 years, that still takes us to a point in time, 11 years from the base date and just 6 years from the end of the plan period. Even if schemes come forward in advance of adoption of the new plan they will either have to accord with policy LP06 (such that the new plan is irrelevant anyway) or be in accordance with the emerging local plan (i.e. a proposed allocation) which will have to be at an advanced stage to be afforded weight in the planning balance and which will therefore still be a long wait.
16. Whilst you heard evidence from Mr Warner that care homes, given their form as a single large building with all integral facilities, are often located in settlements, the same cannot be said about extra care housing given the land requirements and the inability to compete with conventional housing schemes for sites that are within settlements, even where they do exist. This evidence, which is absolutely crucial to this appeal, went completely unchallenged. It is perhaps ironic that the one extra care scheme (for social rent and shared ownership) for a 54-unit scheme in Thurston, was approved outside the settlement boundary. Moreover, it received approval primarily because the Thurston Neighbourhood Plan sought positively and proactively to recognise the need for this type of specialist elderly persons accommodation and supported it. This is in stark contrast to the attitude of Elmswell Parish Council.

17. In addition to the extra care scheme at Thurston, Mr Cameron accepted that the Council have granted planning permission for the Bloor site beyond the settlement boundary of Elmswell. He also confirmed to me that housing sites within the neighbouring village of Woolpit had also been granted planning permission beyond the settlement limits. Whilst it is accepted that there may have been various reasons why such permissions were granted, it does not undermine the point that the Council, in exercising a planning balance, have been willing to grant permissions that extend the settlement boundary and the built form of settlements like Elmswell and Woolpit.
18. It is of course essential that when considering the provisions of Section 70(2) of the Town & Country Planning Act 1990 and in particular Section 38(6) of the Planning & Compulsory Purchase Act 2004, whilst consideration of the development plan is to be given primacy in the determination of planning applications, material planning considerations may indicate a contrary decision. It is clear, in this case, that there are a significant number of issues that have to be addressed in the planning balance in terms of the development plan as a whole and whether in the circumstances, notwithstanding any conflict with policy, the material considerations in favour of the grant of planning permission still justify the grant of such a permission. The very reasons why the council chose to grant permission for the Bloor scheme and those other housing schemes in Woolpit.
19. I would invite you to take account of all of the above points in deciding why those policies that seek to restrict development to settlement boundaries should be afforded limited weight or at the very least, less weight in the planning balance. I would also invite you to accept that this scheme is generally in accordance with such plan policies for the reasons I now turn to.

Policy Interpretation

20. You will recall that I went through Mr Cameron's evidence with him and the committee report that he had prepared. It was agreed that there were no issues and no breaches of relevant policies as they related to the key considerations that were addressed in the committee report. To summarise those considerations, they included Highway Considerations (Section 4), Flood Risk and Drainage (Section 5), Design and Layout (Section 7), Residential Amenity (Section 8), Biodiversity (Section 10), Land Contamination, Air Quality and Minerals (Section 11) and Infrastructure (Section 12) insofar as it is accepted that those are justified and CIL compliant. I return to these issues below when looking specifically at the planning balance.
21. Conversely, my witness, Mr Warner, was taken to policies in the local plan that are considered material in relation to landscape and heritage in order to assess the degree of conflict with relevant policies concerning those matters. However, the policy conflicts in relation to those matters are all part of the objections to the scheme in heritage and landscape terms in any event and the conflicts as identified were to limited parts rather than the whole i.e. one part of bullet 5 in policy LP19 (Heritage) which contains 7 separate bullet points. Any consideration of policy compliance as we know must be considered in light of the policies as a whole and not compliance with each and every policy (Mr Warner 3.42 and 3.43 of his proof). I will return to this below.
22. On the issue of policies as they relate to settlement limits and specifically SP03 and LP06 of the JLP1, I put a number of questions and propositions to Mr

Cameron which he agreed and which can be summarised as follows. SP03 is relied on by the Council specifically in relation to the second bullet point. Whilst it is accepted that the scheme does not fall within the categories a) - d), the second part of the policy only raises a presumption against other forms of development not listed in a) – d) outside of a settlement boundary. It is manifestly clear from the wording of the policy which reads “Outside of the settlement boundaries, development will normally only be permitted where” (my emphasis), and then it lists the four exceptions in a) – d). It is abundantly clear, therefore, that the wording of policy SP03 **does not** preclude development beyond settlement boundaries. The policy allows for exceptions to development beyond such boundaries (in addition to a-d) and it is within the discretion of the decision maker to allow for such an exception and still accord with this policy. In exercising that discretion it is of course accepted by all parties that weight must be given to all material planning considerations including of course compliance with other policies, in making the final decision on the acceptability or otherwise of a proposal beyond the settlement limits of villages like Elmswell.

23. It is also to be noted that the heading of the policy is “The Sustainable location of new development”. If the focus of the policy is, as it appears, to confine development to within settlement boundaries as they are most likely to be the most sustainable locations, no issue is taken at all by the council as to the sustainability of Elmswell, to support the scheme, even if the site does immediately adjoin but extend beyond the settlement. Being within a settlement boundary does not equate to sustainability.
24. Turning to policy LP06, Mr Cameron rightly accepted that this policy should also be read in the context of policy of SP03. In short that there is flexibility within the policy to allow for the development for specialist elderly housing needs which may therefore be located outside a settlement boundary. It is our contention that all of the criteria in policy LP06 are met save the locational preference for development to be within settlement boundaries. In terms of the criteria in the policy we maintain that there is good access to services and facilities given the sustainable nature of Elmswell, the lack of any highway objection and the excellent public transport facilities within the village as well as the proposed mini bus. I turn to health services below when dealing with third party objections. The residents will have access to open space designed to meet their needs. There are no issues relating to quality of the design or the specific needs of the occupiers of the scheme as evidenced by the committee report. The issue of landscape/townscape is dealt with below under the landscape heading. The scheme will meet Part M4 (2) Building Regulation Requirements because that is a condition that the council have sought to impose and which is agreed.
25. On any reading of policy SP06, the policy is not a restrictive policy at all. It only states that support will be given for proposals that meet all those criteria including location within a settlement boundary. Even if support isn’t given under the policy that does not equate to and cannot by any ordinary meaning of the words, equate to a policy that resists all schemes that lie outside the development boundary. If you do not support something it does not follow that you oppose it. This is not a case of semantics this is a valid point accepted by Mr Cameron.
26. This brings me finally to the Elmswell Neighbourhood Plan and specifically policy ELMS1. Remember the ENP merely adopts the settlement boundary in the JLP1 and is therefore just as out of date, being based on a historical local plan going back to 1998 (as per Mr Cameron’s evidence) and which has possibly

been breached several times in the intervening years, looking at all the new housing developments in Elmswell including the Bloor site. Again, it is clear from this policy that it comprises three parts and that the third part expressly allows for development beyond settlement boundaries so long as it is in accordance with national or district level strategic policy. You will recall that Mr Cameron agreed that the other elements of the policy are met insofar as the development would be commensurate with the status of Elmswell in the settlement hierarchy. Moreover, that only the “focus of new development” would be within the settlement boundary and that development would not be exclusively within the settlement boundary.

27. As regards the third limb of the policy, this recognises the potential for development outside the settlement boundary, so long as it is in accordance with national or district level strategic policy. Again, there was a substantial degree of consensus that this must embrace not only the identified need to address the requirement for specialist elderly persons accommodation in LP06, but also Government policy in the NPPF. I will turn to Government policy both in the NPPF and the PPG in due course but save to recognise here that the Government identify the ‘critical’ need to address the requirement for elderly persons accommodation. This was fully accepted in evidence by Mr Cameron.
28. In summary, I would contend that this proposal is therefore in accordance with policy ELM1 insofar as it seeks to meet local Plan policy LP06 and government policy in the NPPF (including para 63 of the NPPF) and that it is a fully justified exception to the presumption against development outside the settlement boundary as contained in policy SP03 and LP06 and therefore potentially in conformity with them if it is accepted that this scheme should indeed be treated as an exception to the “normal” presumption rather than treating these policies as a bar to development outside settlement boundaries, which they are clearly not.
29. When taking all of the above issues and policy compliance matters together, there is, in our submission, a clear case for accepting that the basket of planning policies when viewed as a whole, provide policy support for this development, even setting aside the fundamental considerations of need and the benefits that this scheme brings, when weighed in the planning balance. It is then to the fundamental aspect of need for this type of development that I now turn.

NEED FOR THE DEVELOPMENT

30. Government policy is very clear on the need to provide housing for all sections of the community and emphasis is clearly placed on the need to deliver elderly persons accommodation of the types necessary to meet all needs, dependent on age, infirmity and other illnesses or conditions, suitable to meet those needs and requirements. Paragraph 63 of the NPPF is specific about the housing needs of older people when it refers to “(including those who require retirement housing, housing-with-care and care homes)”.
31. The NPPF is supported and amplified by the PPG which provides much more detailed advice on the issue of need under the Heading “Housing for Older and Disabled People”. Mr Warners evidence on this point (all of which went unchallenged) at the inquiry, was that the types of specialist elderly persons accommodation includes, age restricted market housing, retirement living or sheltered housing, extra care housing or housing with care and residential care homes and nursing homes (Iain Warner para 4.16).

32. Moreover, Mr Warner drew attention to the advice in the PPG (para 4.12 of his proof that the government has recognised that “The need to provide housing for older people is critical” a point accepted fully by Mr Cameron (his para 3.16) and that need exists now, not at some future date.
33. Despite this clear policy requirement, few decision makers seem willing to positively engage in the process of identifying such needs and making adequate provision through their local plans. Mid Suffolk District Council is one such authority.
34. Setting aside the concerns with regards to the inadequacies of the local plan and the abandonment of the JLP 2, the LPA still seek to place reliance on policies which will simply not deliver the scale and variety of elderly persons accommodation required. You were taken to the findings in paragraph 216 of the examiners report into the JLP1 and the decision to 1) accept that allocations would if needed come through the JLP 2 (no longer happening) and 2) the plan was delivering the needed elderly persons accommodation. This is, to be blunt, a wholly unsustainable conclusion seemingly based on SHMA figures that bear no credible scrutiny and whatever information was provided by the council to the examiners. The amount of time and the range of evidence typically considered in the context of a Local plan examination on one of many issues, simply does not compare with the detailed scrutiny of this issue in the context of this appeal. The evidence of Mr Warner which again was not challenged at all on this point, is that the policies are clearly not able to deliver the critically needed housing, especially extra care with its land requirements. The figures, even based on the SHMA, show that the plan is not delivering the elderly persons accommodation needed, either extra care or care bed spaces in the amounts and types required and is highly unlikely to ever do so over the plan period
35. The Council nonetheless accept that the level of need is substantial and the delivery situation in relation to that need is inadequate. In the circumstances the delivery of this scheme and the contribution it makes to meeting the need for specialist elderly persons accommodation in the planning balance, must be afforded significant weight. This fact is accepted by the council (Mr Cameron para 5.2 of his proof). In paragraph 4.20 of Mr Cameron’s proof the point is repeated but it is asserted that the this must be seen against the councils trajectory for ensuring that this need is met over the plan period. What trajectory? There is no trajectory let alone one underpinned by evidence of adequate past delivery or backed by pipeline proposals that give any credence to this claim. The council may seek to argue that whether you accept the SHMA figures or the figures that Mr Warner provided, the planning balance remains the same in that significant weight is to be afforded to the issue and we need not take the matter further. If that is the argument that is to be advanced I would urge you to disagree.
36. The sheer scale and complexity of the problem is, as I stated at the outset in opening, not understood by this council or if it is, it is being ignored. It cannot be ignored in the context of this appeal and I would urge you not to allow them to persuade you as they did the local plan examiners, to keep putting this off to another day when they will allegedly get around to dealing with it through the local plan, especially given the delays to the plan and the critical need that exists now.

37. The absence of any questions put to Mr Warner on his figures and the true level of the need that exists we submit, is a reflection of the fact that the council is neither interested in understanding what the scale and nature of the need is because they have no intention of seeking to grapple with the issue and address that need. You can only put in place a solution once you have shown you have understood and accepted the scale and nature of the problem. If you refuse to identify and appreciate the scale and nature of the problem you can never look to address it.

SHMA Approach

38. The council's case is that since the JLP 1 base date of 2018, 249 care bed spaces have been delivered. If the scheme in Stowmarket is approved that will raise the total to 315 but it may take another three years for that to be delivered, so 315 spaces by 2028/29. We are told by Mr Warner (his Table 3.3, P. 16 Appendix 2) that there are three pending applications (including Stowmarket), which even if they are all permitted, will deliver 213 bed space over and above the 249 provided to date, so a total of 462 against the figure identified in the SHMA to 2036 of 1004. Even if all are permitted and built out by 2028/29 that leaves only 7-8 years (out of a 19-year plan period) to deliver the additional 542 spaces.
39. In terms of the pending application in Stowmarket by McCarthy & Stone for the 47 retirement apartments and 14 retirement bungalows, it is agreed that these are not C2 extra care but fall within the category of sheltered housing where the SHMA requirement is 755 units and 73 enhanced sheltered housing. Even if that application is granted permission, it does not address the need for extra care housing which the appeal scheme proposes. Moreover, even granting planning permission for both schemes does not even begin to address the overall requirement for the different types of elderly persons accommodation, albeit this scheme will make a significant and material contribution towards the requirement that exists in Mid Suffolk.
40. This of course only deals with care bed spaces and not extra care dwellings. Surprisingly Mr Cameron does not deal with that aspect of the scheme in his evidence at all as far as the figures in section 5 of his proof are concerned. However, what was quickly established is that only one scheme has been delivered in recent years (within the plan period), namely Thurston and that scheme, as we have seen was permitted outside the settlement limits and delivered 54 units for social rent/ shared ownership and would not therefore be available to people of means wishing to downsize and go into extra care accommodation. The 2017 SHMA figure to 2036 identified a requirement for 176 extra care housing units so this site and Thurston deliver a total of 91 units leaving almost as many again still to be provided. Furthermore, ours is the only pending application and therefore likely at present to be the only source of supply in the period up to 2029, just eight years from the end of the plan period.
41. The Council's reliance on seeking 50% of all new housing developments to provide for M4(2) building regs requirements is naïve to say the least. It is an inadequate response to the needs issue to the point of being meaningless. Whilst M4(2) housing does have a limited role it does not satisfy the definitions of even retirement housing let alone C2 extra care or care home or nursing home bed spaces. These are still conventional forms of housing. Whilst some older people may seek such housing which is capable of being made wheelchair accessible, that is as far as it goes. It won't assist in relation to all those planning

permissions that already exist (which make up the council's much vaunted 10.46 years housing supply already consented) and the 2023-24 AMR shows only 63 such units have so far been secured.

42. Even if every house was required to be M4(2), it still doesn't address the specialist elderly persons accommodation need that exists and which this scheme seeks to address. Moreover, such housing is simply conventional housing in estates together with general family housing and affordable housing. It is not housing designed for the specific needs of people in need of extra care with the support and facilities they require and the community cohesion provided. It also does not assist in the key issues identified by Mr Warner in terms of assisting in downsizing for elderly people in order to release family housing nor does it provide the social and health benefits he has identified. Indeed it may not even be for the elderly persons but younger people with physical disabilities.
43. This scheme is the only proposal of its kind that has come forward within the district during the joint local plan period. It is the only one that might contribute towards the identified need, especially as regards the need identified by Mr Warner in his evidence. There is a landowner willing to make the land available for this purpose, a developer wishing to develop and an end user wishing to acquire the site. Significant weight must be given to the fact that here is a site where there is a desire to construct this type of accommodation. In the event that the appeal is dismissed, there are no other pending applications that might look to help meet the need for extra care accommodation and if the council has its way they will not be permitted in any event unless they are within a settlement. Even if a scheme or schemes did come forward, the level of need that has been identified and accepted by the Council, means that there will be a requirement for a number of other such schemes as well as the appeal site to be permitted, if we are to address the overall requirement that exists.

Mr Warner's Evidence of Need

44. I must reiterate yet again that the comprehensive evidence of need that was presented by Mr Warner went completely unchallenged. Therefore, I submit that his evidence must be given the greatest and most material weight in the consideration of this issue of elderly persons housing need, in both the planning balance and in the determination of this appeal.
45. Mr Warner's evidence was to the effect that (even as Mr Cameron appears to accept) the SHMA is outdated and does not represent an accurate assessment of the true level of need for elderly persons accommodation within Mid Suffolk.
46. Specifically, the SHMA is clearly out of date and even when it was updated in 2019 the figures in relation to elderly persons accommodation were not updated. Further, Mr Warner made it clear that the SHMA would at best represent the absolute bare minimum in terms of the true level of need in relation to specialist affordable housing including care bed spaces and extra care dwellings. Even the Council accept that with an increasing ageing population the level of need will continue to rise. That is recognised in the preamble to policy LP06 (see paragraph 13.15 JLP 1) where within the Ipswich Housing Market Area the population aged over 65 is expected to grow by 57.8% over the plan period, so approximately a 3% increase year on year and a 21% increase in the 7 years from the base date to the present date.

47. Mr Warner's evidence was to the effect that the Planning Practice Guidance recognised that there were various tool kits that might be used for assessing the true extent of the level of need. He specifically refers to the tool kit endorsed by 'Housing in Later Life' which he stated adopted a fair and objective approach to the assessment of this need by neither underplaying nor overstating the level of need. Moreover, the document refines the overall requirement of need between social, rent and other forms of affordable housing as well as leasehold and market rent, given the restrictions on occupation according to peoples means and therefore their ability to access certain types of affordable accommodation. In short tenure is just as important as type. This distinction is a perfectly sensible and legitimate point to make insofar as any person wishing to access extra care housing and to downsize in the process, but does not need qualify for affordable housing cannot therefore access that type of housing, such as the scheme at Thurston. Neither the council nor the SHMA make that distinction nor seek to refine the figures in order to understand the nature of the need rather than just the overall numbers.
48. Mr Warner confirmed the provenance of this approach and the tool kit adopted has been established since 2017. Furthermore, it has been found to be an appropriate methodology to use in various appeal decisions as he has highlighted in his evidence. There is, therefore, no reason not to accept the unchallenged evidence of Mr Warner on this point.
49. The upshot of course is, as he took us through his evidence, that the SHMA figures massively underestimate the true extent of the level of need both for care home bed spaces and extra care housing.
50. You will recall that Mr Warner took us through various tables in his Appendix 2 beginning with table 4.11 on page 22 which identifies the requirements for extra care housing for rent and extra care housing for leasehold and even the current requirement based on the 2023 figures is 104.5 extra care housing for rent and 490 for extra care housing required on a leasehold basis. Furthermore, by factoring in the short term increases from 2023 to 2027 those figures will increase by an additional 29 units for extra care for rent and 59 for extra care for leasehold respectively.
51. In relation to care home provision requirements and bed spaces the relevant tables were in 4.15 and 4.16 on page 24. The 2023 requirement is 528.5 for bed spaces for personal care and 241.5 for nursing care. In the short term from 2023 to 2027 those figures increase by an additional 79 bed spaces and 44 bed spaces respectively, such that the totals are 607.5 and 285.5.
52. Taking these figures, it is clear that in relation to extra care dwellings, based on the evidence of Mr Warner, the true figure even to 2027, is a total requirement of 133.5 extra care units for rent and 549 units for leasehold. The combined total is therefore 682.5 units which is massively in excess of the 176 units the SHMA predicted would be required to 2036 let alone 2027.
53. Similarly in relation to care bed spaces the figures equate to a total of 893 bed spaces according to table 4.16, to 2027. Again, this figure is massively in excess of the shortfall that the Council assert exists pursuant to the SHMA figures to 2036.
54. Why is this relevant if all parties accept that the need to provide for specialist elderly persons accommodation is to be given significant weight? The simple

answer is that the Council have not even bothered to commission its own independent expert assessment of elderly persons housing accommodation needs. This is a reflection of the fact that the Council do not, as we have asserted throughout, take this matter sufficiently seriously that they intend to address this need through their local plan. Indeed, if they are to address it then of course they need to understand what the level of need is in order that they can formulate policies going forward to address that need. If the Council do not feel it necessary to even challenge the evidence that is being presented to this inquiry, surely that must indicate that they are simply complacent about the whole issue and frankly do not care as to what the level of need is or whether they are even to begin to seek to address it whether in bringing forward suitable local plan policies or dealing positively with planning applications when they do come forward.

55. In light of the Government's clear advice on this issue and the critical need to provide for elderly persons accommodation and the clear evidence of the massive shortfall in provision to meet that need, we would urge you to place significant if not very significant weight on this issue in the planning balance.

LANDSCAPE MATTERS

56. I turn then to the first substantive issue raised by the Council in relation to the alleged harm arising from the development, namely landscape impact.
57. I would remind you that the comments of the landscape witness for the Council did not reflect the reason for refusal advanced by the Council, namely reason for refusal number 4. Specifically, the absence of any allegation as to the 'irreparable loss of the countryside landscape to the edge of Elmswell'. Furthermore, that the appeal site creates the entrance to the village itself as a transition from a rural area to an urban area and then referencing views of the Church of St John over the landscape.
58. As stated at the outset the appellant sought to work at all times with the Council and its landscape advisor to formulate a scheme that most suitably addressed landscape issues and the impact of the development proposal within the landscape. Many of the criticisms now advanced in evidence on landscape grounds are simply matters of detail, particularly as regards landscape proposals which are a reserved matter and therefore fully within the control of the local planning authority. In addition, changes to the scheme could have been made to address any specific concerns raised which in fact were not raised. These matters can still be addressed through the approval of reserved matters and indeed the imposition and discharge of planning conditions given that this is an outline scheme.
59. You have heard that the appellant's witness, Mrs Ellinsfield, has been involved in the scheme from the outset and had a number of conversations in conjunction with the heritage witness to formulate the scheme proposals and to address specific concerns on a collaborative basis. A comprehensive LVIA was produced by Mrs Ellinsfield and the Council's planning witness takes no issue with regards to the approach adopted or the methodology used. Indeed, the Council's witness confirmed that she herself had not prepared any work of her own to substantiate any of the points that she made to this inquiry and that her evidence was based solely on a critique of the work undertaken by Mrs Ellinsfield. Even where allegations were made as to alleged deficiencies within the LVIA it was accepted that no attempt was made by the Council's witness to

fill in the gaps that are alleged to have existed whether in terms of the assessment of viewpoints, the production of photographic evidence or photo montages.

60. It is accepted that the site has no landscape designations whatsoever, not even at a local level.
61. In terms of the schemes design the appellant team maintains that they have worked within the topography of the site and used that topography to best effect in terms of creating a scheme (albeit indicatively) which maximises the topography and site contours to reduce the impact of the developed form as well as effectively using planting both for screening purposes and for amenity purposes in order to further reduce the landscape impact of the development.
62. It is not the intention, nor should it be the intention, to hide development in the landscape. The scheme has been devised in a way that not only seeks to integrate it within the landscape and to use the topography and landscaping to best effect, but at the same time safeguard important views within the wider area.
63. We accept of course that changes will occur within the landscape. Specifically, changes will occur on site in that the character of the site will change from an open field to built development with associated landscaping. I made the point and stand by the point that development per se cannot be objectionable in these circumstances otherwise no development would ever be permitted on a green field site. We all know, however, that such development is permitted and indeed is often essential in order to meet the development requirements of society.
64. Full consideration has been given to various public viewpoints in order to assess and mitigate the impact of the development proposal from the accepted most important viewpoints. Within the site more than half of the area will remain as open space and used as a wildflower meadow with public access. This we believe will mitigate considerably the impact of the development in landscape and visual impact terms and (associated with heritage) preserve a large degree of the physical separation between the built development and the Church of St John and the Almshouses. The built development is confined to the less elevated slope to the north of the site and focussed primarily to the east of the site nearest the built settlement edge. This area is most closely associated with the existing built form of Elmswell and specifically the Bloor development that was constructed recently. The development is read in the context of built form and not simply as an isolated development in an unaltered open landscape, as the Council seems to assert.
65. The Council's witness does not take issue with the evidence in terms of the photo montages or the likely impact of planting and the extent to which the development may be screened over time. The landscape witnesses seem to be broadly in agreement on the level of impacts on several issues.
66. Having prepared a detailed LVIA, Mrs Ellinsfield gave her assessment of the various landscape character assessments to include national, county and site and immediate surroundings. She also provides an indication of the assessment of impacts as a result of the development at year 1 (post completion) and year 15, supported by photo montages. The Council's witness does not take issue, as stated, with the methodology and nor did she take issue with the evidence in the form of the photo montages and the representations therein.

67. Essentially the witnesses have a difference of opinion on the assessment of the level of effect on the ancient plateau claylands and the impact on the same as a result of development on the site and its immediate setting.
68. At a national level the experts seem agreed as regards the negligible impacts post completion. At the county level the parties are agreed that the impact on the rolling valley farmlands and furze are none to negligible. The disputed area as you will see from Mrs Howell's table 1 is in relation to the ancient plateau claylands. There she provides a higher magnitude of change at the date of completion and 15 years post completion. Mrs Ellinsfield assesses the impact at completion as minor adverse and the overall effect at year 15 post completion as negligible adverse. Mrs Howell assesses them as moderate adverse in both instances. She explains the difference on the basis of her assessment of the alterations to the open land to the south (rather than the built development) and in particular concerns regarding a clump of tree planting in the vicinity of the Church and the introduction of hedgerows as well as the changes to the arable land to wildflower meadow with public access that supposedly has a more urbanising effect.
69. In terms of access routes, I would re-emphasise that these are primarily matters sought by the County Council and to date supported also by the District Council. Particularly the metalled footpath cycle way running behind the Church and Almshouses. Our position in relation to these matters is that the council has full control of the planting of any part of the site including the land to the south. We do not accept that replacing arable land with a wildflower meadow would be harmful in terms of visual impact. Indeed, we would maintain that this would be beneficial. Moreover, it was clear from the heritage evidence that the nature and use of the site has changed over the years in any event. It will continue to change with rotation for planting so that use for arable, pasture and re-wilding is something that we will encounter on the site regardless.
70. In terms of the various viewpoints shown in table 2 of Mrs Howell's evidence and the differences highlighted by her in that table, we again maintain that the impacts identified by the council have been exaggerated. It is of course a matter for your judgement as to what the level of impacts will be but also whether in the circumstances permission should be granted. What is clear is that there will be a transformation on the site which is inescapable. Therefore, anybody walking along Parnell Lane or footpath 14 to the north of the site will of course notice a change to the sites character and appearance. However, it is clear that they will see that change in the context of development on higher ground including the Bloor site as well as Elmswell Hall and the farm buildings and the railway line. In addition, the site will be seen against the backdrop of a ribbon development along School Road.
71. In terms of the viewpoints identified in the Elmswell Neighbourhood Plan and in particular important viewpoint 4 from School Road, again there will be a change to the immediate site but there will still be clear views across the site to the open landscape to the west. In addition, the open space to the south of the site retains open views of the steeply rising ground to the Church and the Church will still be clearly visible on its high ridge, as will the Almshouses set in the context of the steeply sloping open land in the foreground and a large degree of open land separation from the development.

72. Reference was made in the context of the ancient plateau claylands about the manorial connections that are typically found in Suffolk. This is not a key characteristic identified in the landscape character assessment. Mrs Ellinsfield made clear that any intervisibility or connection is a heritage matter and not a landscape issue to be assessed in the context of the developments impact in the landscape itself. Whilst heritage assets may themselves contribute to the landscape character, a historic association between what is now a farmstead and heritage assets over 500m away is not a landscape issue save unless there was a clear visual linkage. Mr Murphy agreed that the Hall and its orientation was not designed to view the church. We maintain that such intervisibility is a heritage issue and in any event is retained. It is clear from all the photographic evidence and the montages that due to the topography of the site and the height of both Elmswell Hall and the Church, there will be intervisibility over the development between the two heritage assets. Furthermore, as you heard consideration has been given to maintaining that intervisibility as part of the scheme and through the scheme, taking advantage of the main access road. Mr Copp deals with this point and I return to it below in the context of the heritage considerations. However, to note that Mr Copp identified this more as a place making issue in terms of the development being able to see through to both the Church and to the Hall. We further maintain that from a landscape perspective, the character and setting of the Hall has fundamentally changed in any event. Again, this is a matter I will turn to below in the context of heritage matters.
73. In summary we acknowledge that the immediate environment of the site will of course change and will have to change if permission is to be granted and development is to take place on the site. That change will largely be localised and will have to be set in the current visual context of the Bloor development, ribbon development along School Road and the elevated railway line to the north. Moreover, opportunities have been taken to address the topography of the site and to utilise that to minimise the impact and heights of the buildings when set in the landscape. Even the councils expert described this as a commendable approach.
74. Effective planting and screening which will serve a multiple range of purposes including amenity, heritage and ecology as well as screening will greatly soften the developments appearance and reduce its impact over time as shown in the photo montages. The development will not be perceived as an isolated development but will be read physically as part of the settlement albeit now extending the edge of the settlement in this location.
75. I briefly turn to the issue of levels as that was raised by the landscape witness. The final levels have not been agreed and a levels condition is now being proposed at our suggestion should the Council be concerned to control levels of buildings within the site. Any change in levels to accommodate the buildings will of course be read as part of the built development anyway. Insofar as the built part of the site's appearance will change as a result of the development then any change in levels will be seen in that context, not as a separate issue beyond the site or in the context of any changes to the wider landscape beyond the site itself.
76. In short, we consider that the landscape impacts have been exaggerated. The existing character and appearance of the landscape in this area is largely safeguarded. The effect of built development in the immediate locality and the proposals for retention of the southern part of the site as open space free of development, together with associated landscaping and use of topographical

features to reduce the development's impact, will we submit make the development acceptable in landscape terms. The harm that exists we would maintain is more than outweighed by the many significant benefits of the scheme.

HERITAGE MATTERS

Historic England

77. By way of introduction, I would like first of all to deal with the objection from Historic England. As we have been told Historic England submitted a three page objection to the application alleging that the harm to the setting of the Listed Grade II* star Church of St John, was less than substantial but would be in the higher range of that assessment.
78. You asked questions of Mr Murphy as to the difference between his assessment and that of Historic England. He attributed the possible difference to the work he had undertaken involving a more detailed and considered analysis of the issues. Frankly we would agree with that view.
79. We have no understanding of what Historic England's officer did in relation to the proposal in terms of whether the site was ever visited in the context of the application.
80. We have not one but three experts who have given opinions as to the level of harm in heritage terms. Mr Copp, the Council's own heritage consultant and now Mr Murphy who gives evidence on behalf of the Council. Whilst they themselves disagree (thereby highlighting the subjective nature of the issue), nonetheless they are all agreed that the level of harm is not high within the range of less than substantial.
81. As Mr Copp has indicated he has been involved at the outset with the scheme and has visited the site at least five times. Detailed assessments have been undertaken, photographs compiled, and thoughtful consideration given to each asset identified. We would maintain this is far more thorough and far more reliable basis on which to make an informed judgement than the letter from Historic England, whether based on a site visit or not.
82. Moreover, detailed evidence has been presented by the witnesses to this inquiry. The witnesses have been subject to cross examination and testing of their evidence not only by the advocates but by yourself in terms of seeking to understand the basis of their findings and conclusions. That evidence must therefore be afforded far more weight in the planning balance than the letter from Historic England.
83. Historic England does not object to any issues relating to the character or setting of the Grade II Almshouses or Elmswell Hall. Whilst they would not be a statutory consultee on the impact of the setting of Grade II buildings, they could have commented at the same time as to the impact on those buildings. They certainly make no reference to any interconnection between the buildings which forms a key part of the Council's case. Again this could of course be in part due to the absence of a more thorough assessment of the assets and their surroundings or a site visit or both, we do not know but it seems to emphasise the lack of a comprehensive response.

Elmswell Hall

84. All the parties agree that the heritage assets to be considered are the Church of St John, the Almshouses and Elmswell Hall. I deal firstly with Elmswell Hall and the assessment of Mr Copp that the impact will be very low in the range of less than substantial harm. We maintain that Elmswell Hall has been transformed beyond all recognition. Whilst it may be a matter of historic interest that the Hall was once a medieval manor, which was moated and may have had its own private chapel, it bears no such appearance today. The archaeological remains have largely disappeared and in any event no archaeological objections were raised to the proposal. Elmswell Hall has become, as the evidence clearly demonstrates, a late 19th century farmhouse. That is how it is read visually and historically to the viewer. It is seen in the context of modern farm buildings surrounding the Hall. The Bloor development immediately to the east is dominant in the foreground as well as the elevated railway that separates it from the appeal site.
85. There has been much discussion about the manorial connection between Elmswell Hall and the Church of St John. Whatever historic connections existed those connections have long gone. As stated, Elmswell Hall is simply a working farm with the appearance of a late 19th century building with a very modern recent addition of a garden room to the front. There is no ownership connection between the Hall and the Church and the Almshouses and there is certainly no ownership and functional connection between the Hall and these assets anymore.
86. It is for this reason that I say whatever the historic connection between the Hall and the church, that no longer exists and is a matter of interest to experts and not something that would be perceived or appreciated by members of the public.
87. Notwithstanding the above, you have heard that consideration has been given to the intervisibility between the Hall and the Church of St John. As Mr Copp indicated this is primarily a place making exercise rather than due to any consideration of the need to preserve that intervisibility in heritage terms. It is manifestly clear from all of the photographs that the topography of the site is such that the development will sit lower than the surrounding development and will certainly sit well below the ridgeline on which the Church of St John stands. Intervisibility will therefore be maintained not only over the development but through the development through the design and planting in order to ensure a direct line of sight between the two assets, insofar as that is considered worthy of preserving whether from a heritage or place making point of view.
88. It is for all of the above reasons that we maintain that the assessment of Mr Copp that the harm in heritage terms to Elmswell Hall sits at the very low range of less than substantial.

Almshouses

89. I turn next to the Almshouses and this I believe can be dealt with briefly. Mr Murphy accepted that the appreciation of the Almshouses is directly from the frontage on Church Road. It is the frontage that has the historic and architectural interest and where the Almshouses are appreciated. The frontage contains both the sun dial and the inscription.
90. When looking at the Almshouses from the north along School Road, they are only readily appreciated given their scale at a point very close to the junction between School Road and Church Road. Even as we walk along School Road looking towards the rear of the Almshouses, they will still be readily appreciated from shorter distances across the land that is retained as open space within the scheme. In longer distances where the development is to be situated the Almshouses are barely perceptible and essentially is confined to visibility of the roof and the four chimneys. The evidence of Mr Copp is to the effect that there is no appreciation of the architectural or historic interest in the Almshouses from these distances.
91. The Almshouses will remain as a pairing with the Church and will still be visible across the retained open space from the north. Any views from further afield including footpaths will be retained for the same reason as those retained for the Church of St John, given the very high sloping ground on which the Almshouses are located, well above that of the appeal proposal and the rooflines of the proposed buildings. Again, it is for this reason that Mr Copp assesses the impacts as very low in heritage terms.

Church of Saint John

92. That brings us finally to the impact on the setting of the Church of St John. Clearly this is an important building. The proposals do not of course impact in any way on the fabric of the building or its appreciation from many viewpoints in and around Elmswell. We have already seen from the photographic evidence that the entrance to Elmswell from the A14 has changed dramatically with a lot of modern unsympathetic development. As you enter Elmswell it is apparent that you have entered the village by the time you reach the Church. Views of the Church from Church Road will not be affected by the appeal proposal. Even just to the southwest of the Church looking past it towards Elmswell, the dominant feature is the much steeper rising ground which is retained as open space and the open landscape to the west of that. Even in those views there is visibility of built assets in the distance including the Bloor development against which the scheme will be set as well as Elmswell Hall and the associated farm buildings.
93. The pairing of the Church and the Almshouses will be unaffected when seen from Church Road. Also, the Church is appreciated in the context of the development that has taken place in recent years, including that at the junction of School Road and Church Road.
94. The closer views of the rear of the church from the north along School Road will likewise be retained as unaffected given the retention of the open land and its steeply sloping nature. The Church will still be seen even from longer distance views from the north as a result of its elevated position and height. The difference is that from certain viewpoints the appeal scheme will be visible in the foreground or, from long distance views at a considerable distance but nonetheless perceived within the landscape that includes a lot of built

development. The Church from these views, as shown clearly by the photographic evidence, is seen in the context of all the other development in Elmswell including that around the junction of School Road and Church Road and the ribbon development along School Road, the Bloor development and the farm buildings and the Hall which together form the farmstead.

95. In summary, the open setting to the Church on its elevated position from the north is retained. Views from the immediate surroundings of the Church on Church Road are unaffected. Long distance views of the Church are also retained including visibility of the sloping open ground immediately to the north of the Church and the visibility, to the extent that it is seen as particularly relevant of the church of Sant John with the church spire of Sant Mary's in the very far distance in Woolpit. The perception of separation from the village is therefore also retained. The difference is that in certain viewpoints the development will also be seen when nearing the Church of St John but that is in the context of all the other development that is readily perceptible within those views. The Church of St John does not sit in splendid isolation. It is for these reasons that Mr Copp assesses the impact on the setting of the Church of St John as being low.
96. I turn then to the consideration of the impact on heritage assets and how that is to be dealt with.
97. Firstly, your attention has been drawn to the statutory duty contained within Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. It is agreed by all parties that this duty is placed on decision makers including yourself. You have to have special regard to the desirability of preserving or enhancing a listed building and in doing so the Courts have ruled that if harm does arise (and that harm includes the setting of the listed building) that raises a presumption against the development proposed. In evidence Mr Murphy agreed that that presumption is of course rebuttable otherwise any harm to any listed building would prevent development which caused any harm no matter what the degree, from occurring and we know that is not the case. The weight to be attached to any presumption and the weight of evidence required to rebut that presumption will be dependent on the level of harm to the listed building. Mr Murphy also agreed with me therefore that no matter how you look at this, it is a balancing exercise in assessing both the degree of harm caused to the heritage asset and the benefits of the scheme when weighed against that level of harm.
98. That in turn brings us to paragraph 215 of the NPPF and the balancing exercise to be undertaken. As we know, in a case where the level of harm is deemed to be less than substantial (as agreed here by all parties including Historic England) then we have to consider that harm in the balance when weighed against the public benefits of the scheme. I will return to those benefits and the balancing exercise later in these closing submissions. At this point I would merely observe that in light of our assessment of the impact of the setting of the heritage assets we consider the impact to be very low and that the benefits of the scheme are very significant overall and are more than sufficient to outweigh such harm. Even on Mr Murphy's assessment of the level of harm, we would still maintain that the proposals and the benefits they give rise to, more than outweigh the limited harm to the setting of the heritage assets. Finally on this point we would maintain that there are clear benefits to the scheme, not only in terms of the mitigation provided by the retained open space, but also opportunities to create a far better setting to the Church of St John and the associated Almshouses.

99. It is our position as expressed in the evidence that it would be beneficial to replace the large open arable field with a wildflower meadow thereby creating a more pastoral landscape and setting to the Church and Almshouses.
100. We also consider that reinstatement of hedgerows both on the boundaries and within the site, subject to Council approval, would be beneficial to the overall character and setting of these assets. This is of course a matter of detail and it is for the Council to agree it or not as the case may be.
101. We also consider that public access to the land and therefore a much closer understanding and appreciation of the Church from the north, as well as the Almshouses, would be beneficial. While we accept that public access is not essential in order to appreciate and enhance the character or setting of a listed building, it is nonetheless one factor to be taken into account in the Historic England Guidance on the Setting of Heritage Assets. Clearly such public access will not have an adverse effect on the fabric of the buildings themselves.
102. Our proposals are essentially for access on an informal basis on mown pathways. You have heard that it is the wish of the County Council to create a metalled 3m wide footpath cycleway and rights to create that were secured when planning permission was granted for the Bloor development. The County Council have also asked for the footpath link from footpath 14 to the north of the site all the way down to the western boundary to Church Road.
103. The driving force in terms of more formalised routes across the site is therefore the County Highway Authority and their aspirations to create greater connectivity between Elmswell and Woolpit and the desire to place that burden financially on developers. If that aspiration materialises then the footpath cycleway route will be delivered regardless of whether the appeal scheme is allowed and it seems from evidence produced after the obligations round table session that there is a commitment to fund and build that footpath cycleway as discussed below.

BENEFITS OF THE SCHEME

104. There appears to be broad consensus between the two planning witnesses regarding the benefits of the appeal scheme and the weight to be afforded to those benefits. Where there are differences, I highlight those below.
105. It should be stressed that in dealing with the benefits as we see them, this is not meant to disregard the other factors that are incorporated within the scheme including the efforts to design a sensitively conceived scheme that responds well to both the landscape, the built form of the existing settlement and heritage assets. This of course includes the retention and safeguarding of a substantial part of the site as open space that will be publicly accessible.

Social Benefits

106. The witnesses have agreed that this element attracts the most weight in the planning balance. Mr Cameron at paragraph 5.2 of his proof acknowledges that the following items attract significant and positive weight.
- Specialist elderly housing to meet an identified need set out in the SHMA and JLP1.

- Provision of the additional Almshouses and affordable housing within the scheme
- Mr Cameron later acknowledged the claim made by Mr Warner that significant weight should also be attached to the health and social welfare benefits arising from a scheme of this type. Such benefits were not disputed by the Council when Mr Warner gave evidence.

107. Mr Warner went on to consider in more detail the benefits of the scheme in section 5 of his proof of evidence (again unchallenged). These are summarised at paragraph 1.16 of his proof of evidence and include the additional matters of freeing up family housing and community access to onsite facilities. Some of the communal facilities will of course be confined to the residents of the scheme such as the bee hives and the community orchard where the intention is to create a communal environment with shared experiences and interests. The community building on the other hand would be made available to the wider public if there is any desire to utilise it. All of these benefits need to be considered in the overall planning balance.

Economic Benefits

108. Clearly there will be economic benefits arising from the scheme as identified in the evidence of both witnesses. There will be benefits arising from the job creation in terms of the construction of the scheme and there will be longer term benefits as regards jobs created within the development and clearly those will be long term jobs supported throughout the lifetime of the development. The parties agree that the economic benefits of the scheme should be afforded moderate weight in the planning balance. There is also the spending power of residents to the local economy to be considered.

Environmental Benefits

109. Here we diverge in terms of the overall assessment albeit it is not clear whether in light of securing a guaranteed minimum amount of biodiversity net gain, Mr Cameron was prepared to adjust his overall assessment from limited to moderate. It is our view that moderate weight should be afforded to the environmental benefits arising from the scheme. It is not essential for the community living on this site to directly benefit from the environment so long as environmental benefits are achieved. This point has been discussed in some detail at the inquiry and we have sought to confirm that there is every expectation that a very large increase in biodiversity net gain will be achieved. However, given the uncertainties regarding the final form of the development there has to be certainty that any condition imposed can be complied with. It is for that reason that the appellant is willing to commit to achieving not less than a 100% increase in biodiversity net gain in connection with this scheme. This is to be secured by an agreed condition.

110. We would hope, if a scheme similar to that which is shown on the illustrative plans, is delivered with the agreement of the Council then the 300% biodiversity net gain figure can be achieved. This level of over provision cannot be ignored as a positive gain from the site and given at the very least moderate weight in the planning balance. It should also be stressed, as we made clear at the appeal that planting is about many factors not just environmental factors but also for

screening purposes, landscaping and amenity as well as potentially mitigating lost heritage character. We should also not ignore the fact that the land to the south of the site between the built development and the Church will be secured as open space with public access and the ability of the public to use and enjoy that open space and the connectivity that the councils aspire to, can be secured. Whilst there is dispute as to the funding of the footpath cycleway link by the development which I turn to below, that in itself does not preclude the County Council from delivering that link should it wish to do so. But in any event the appellant seeks to secure informal mown paths to facilitate public use and enjoyment of that open space land.

111. We consider that the benefits outlined above are together very substantial and should carry sufficient weight in the planning balance under Section 38(6) of the Planning and Compulsory Purchase Act 2004. We certainly submit to the inspector that these considerations far outweigh any alleged conflict with the local plan in terms of location beyond the settlement limits.

112. Further, based on what is said above on the issues of landscape and heritage, we consider that all of the Council's objections, when taken together (and having regard to a true interpretation of the policies and an assessment of the degree of compliance with them taken as a whole) do not outweigh these very significant benefits.

TECHNICAL AND OTHER MATTERS

113. As you will recall I went through with Mr Cameron various matters I had identified in the officer report. It is agreed that technical issues are addressed in relation to the appeal scheme and any policies applicable to those technical matters are complied with. This has already been set out above when dealing with policy but to reiterate and in summary this includes highway considerations, flood risk and drainage, design and layout, residential amenity, biodiversity, land contamination, air quality and minerals and infrastructure matters. No environmental health concerns were raised with the scheme.

114. There are in short no technical objections to the scheme nor any outstanding matters that might influence or impair in any way the delivery of the scheme if granted planning permission.

115. A number of other issues were raised by the Council both by Mr Cameron and his landscape witness even though the matters do not relate to landscape. The first is the suitability of the site for a scheme of this type given the topography and the relative infirmity of some of the residents.

116. It is quite clear from reading the DAS (CD2.17 P 35) that pedestrian accessibility had been considered at application stage. It was confirmed that all slopes or accesses to buildings etc would be no greater than 1 in 20. Furthermore, when the Council's consultant raised this issue in her consultation response on the application, a technical note was prepared (ID.4) which has been submitted to the inquiry which reaffirms the point and demonstrates this by reference to a levels drawing. The committee report makes it clear that there are no issues with regards to the layout and design of the scheme. No evidence was produced to challenge the appellant's position that the site can be suitably developed for the purpose intended and within any constraints that the slope of

the site may present. This is therefore an irrelevant issue and we are surprised that the Council had still sought to raise it in the context of the current appeal. No evidence was offered to counter anything that the appellant has said in this regard.

117. The next point was an issue raised by Mr Cameron in terms of the ability of some of the more infirm residents to walk into Elmswell. It should be stressed at the outset that it has always been accepted that Elmswell is a sustainable settlement. It is a large village with a range of services and has good public transport links including a railway station. The fact that numerous new housing schemes have been granted planning permission over recent years, including the Bloor site in 2022, simply demonstrates the sustainability of the location and the council's acknowledgement of that fact.

118. In terms of the ability of residents to walk into the village, that has never been identified as a concern with the scheme. There are no highway objections to the proposal and there has never been a request for any financial contributions to upgrade footways or passing places along the footway routes into the village centre.

119. Furthermore, as we assert, the majority of the people within the care home will have severe mobility issues and are not likely to walk beyond the immediate grounds of the development. Whilst residents of the extra care bungalows are expected to have greater mobility, again their ability to walk into the village will be dependent on individual circumstances. Those who can walk will and those who can't, won't. There are other options and that would include the minibus that is provided to assist residents in gaining access to shops and services as well as going on social trips and the like. In short there is no substance to this point.

Soil Quality

120. This issue is something of a red herring. It was raised by the landscape consultant and was seemingly referenced as a factual matter in RfR no. 3. The Council never made a point of the soil quality of the site and do not do so now. Nonetheless, arising from the notes prior to the CMC and following the CMC our clients have commissioned a soil quality appraisal which is appended to the evidence of Mr Warner. Again, no part of its conclusions were questioned during the course of the inquiry. It is therefore not a relevant consideration in the determination of this appeal.

THIRD PARTY REPRESENTATIONS

121. We have heard from a number of residents including the Parish Council voicing their concerns about the development. I think it is fair to say that we can summarise those broadly in terms of concern about preserving valued viewpoints and landscape concern, impact on heritage issues particularly in relation to the Church, traffic issues generally including suitability of roads, on street parking and congestion (probably the biggest concern raised) and lack of capacity within the local doctors surgery at Woolpit.

122. I do not need to comment further in relation to heritage and landscape matters given that they have been fully addressed in the preceding text. Residents nor the parish raised any matters that have not been fully explored with the expert witnesses at the inquiry.

123. As regards highway matters, whilst invariably local residents express concerns about traffic and congestion, there is no highway objection to this scheme. Whatever frustrations local residents feel on this issue in terms of narrowness of roads, on-street parking traffic levels and congestion caused particularly by closure of the railway crossing when trains are passing through, that is a current situation and is not going to be exacerbated to any degree by the appeal scheme. The simple fact is that the appeal proposal would not constitute development as described in paragraph 116 of the NPPF.
124. I refer you to all the highway information submitted with the application and the Transport Assessment. Traffic generation from a scheme such as this is likely to be relatively low. The occupants of the care bed spaces are very unlikely to have cars. Any staff employed at the site will be employed in three shifts and therefore what traffic is associated with staff movements will be dispersed over a 24-hour period. Even the more active residents of the extra care bungalows, who may have cars, are unlikely to generate significant movements. Whilst there will be visitors to the care home, the level of visitor numbers over any period, particularly during the working week is likely to be so limited as to not constitute a material impact. These are the general conclusions relating to highways which resulted in no objection.
125. In terms of GP capacity no evidence has been brought forward that the GP practice(s) in question have a closed patient list and are not taking on further patients. Moreover, from experience where there is a shortage in capacity, the local care boards are not reluctant to come forward to ask for financial contributions towards expanding GP provision in the local area to meet any additional demand. No such request has been made in respect of this appeal scheme. Had there been an issue in terms of capacity we would have fully expected such a request to be made.
126. I would also refer you to the evidence of Mr Warner that despite the aging population of the development, the actual impacts in terms of health and medical attendance is reduced given the onsite support and provision particularly of course within the care home. Health outcomes from these integrated care communities are better according to the evidence of Mr Warner than in the wider community. These benefits are all set out clearly under the heading 'Health and Wellbeing Benefits' on page 22 of Mr Warner's proof of evidence.

SECTION 106 AND CONDITIONS

Section 106

127. You will note that the terms of the Section 106 Obligation have been agreed by all parties. The Section 106 Obligation seeks to deal with age restrictions for both the care home and the extra care bungalows. The Almshouses will be separately managed by the Trust that owns and operates the existing Almshouses under the terms of their charitable aims and objectives.
128. 35% of the extra care bungalows will be social housing (in accordance with council policies) in the form of either affordable rent or if there is no interest in that product, then shared ownership or discounted market. Ultimately the Council can seek instead a financial contribution for provision of affordable housing elsewhere. The primary focus, however, is on onsite affordable housing

provision. The scheme will deliver a mix of tenures but the evidence of Mr Warner you will recall is that the greatest need is actually in the private leasehold sector not the social housing sector.

129. The obligation also secures the provision and maintenance of open space within the development area as well as the provision of communal facilities for the benefit of the residents and in the case of the clubhouse, the wider community as well. The minibus will be available to residents and where practicable transporting staff to and from work.
130. Explanation was provided as to why Almshouses are being provided and these are to be transferred without any consideration at some considerable cost to the development and therefore of significant benefit to the Sir Robert Gardiner Charitable Trust and to the community that it serves within Elmswell.
131. Various contributions are sought by the County Council. In relation to the footpath link to the west of the site between footpath 14 and Church Road, I would comment as follows. Firstly, my clients raised no objection with allowing that footpath to be created whether it is required directly in connection with the scheme or not. Furthermore, we are content to pay the £5,000 contribution to ensure that the legal processes are carried out for that route to be dedicated as a public right of way.
132. For the reasons already explained, we consider that the community path contribution which amounts to £850 per dwelling or each care bed home space, thereby totally £90,100 is not justified and is not CIL compliant.
133. We have now been presented with a plan that shows the extent of the link and details of the section of link behind Elmswell church. There is clearly no policy basis that explains the amount sought with a rational explanation of costs and how the costs have been apportioned to meet the cost. We are told that they charged an amount to a development (DC/18/04247/OUT – Land Off Bury Road, The Street, Woolpit in Woolpit) and as the developer agreed to pay it they have been charging that amount ever since. That is not a valid basis for explaining the amount being charged.
134. If family housing is being charged these sums why are elderly infirm occupiers of care beds being asked to contribute the same sum as a house especially when in all likelihood they will never be in a position to use the sections still to be built? Where has this sum been charged to care homes? No evidence has been produced to show that it has and more importantly there is no document that states who will be charged and the justification for it. Whilst the occupiers of the extra care bungalows are likely to be more mobile, again there is no justification for this charge given their relative infirmity and the likely occupancy rates compared to general housing.
135. The County Council has said this has been a long-standing proposal and indeed it is from the evidence we received late yesterday afternoon. The scheme clearly doesn't relate to any development that forms part of the appeal site. As I stated this is blatant opportunism on the part of the County Council to get as many developers regardless of the linkage to the proposed community path, to pay into a pot so as to avoid the County Council having to fund this. This obligation does not pass any of the Regulation 122 tests and it certainly isn't necessary to make the development acceptable.

136. In addition to the above we received information yesterday that indicates that Mid Suffolk's cabinet have approved (CD11.11) CIL funding to the tune of £3,099,930.16 to meet the total cost of the route, namely £3,498,425.00. The balance of only £398,494.84 has been secured by section 106 obligations. The funding is therefore provided via CIL receipts and the county officer openly stated that this development is not subject to CIL so they were using Section 106 to get, what in effect they could not otherwise get from a scheme of this type through a CIL. It must say a lot that neither care homes nor extra care housing is subject to CIL because it is not considered appropriate to charge them, yet Suffolk County Council will use any means to seek money and not just money of course for the route, but the delivery of a large section of the route as well.

137. To compound the issue further, not only do the County Council want to force the development to pay the full amount of the contribution but they also want the development to fund a quite significant section of a footpath cycleway link at the back of the Church in order to avoid having to construct that themselves with the money they have already secured. In short the development is to be double charged. It is to that issue that I turn to now when dealing with conditions.

Planning Conditions

138. This brings me finally to the planning conditions and again these have essentially been agreed, the only issue that we take issue with, subject to incorporating the various amendments we discussed at the round table session on conditions, is proposed condition 27. This condition is simply not justified and does not satisfy the tests for the imposition of conditions which are set out in paragraph 57 of the NPPF. In short, conditions should be shown to be necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. This condition is neither necessary nor does it relate to the development for which permission is sought. It is also not a reasonable condition to impose on any planning permission for this scheme.

139. As stated, the commitment to provide this route is a commitment of the County Council and the County Council secured the land for this particular section of the footpath cycleway in terms of dedication at least, as part of the Bloor section 106. The information supplied yesterday indicates they have already started the process for triggering the dedication of the land by the landowner. It was therefore a pre commitment and totally unrelated to the appeal scheme. The need for it therefore cannot be attributed to the appeal scheme given that pre commitment.

140. It is clear from the Bloor planning obligation that the land was to be dedicated to the County Council if they called for it to be dedicated, in order for the County Council to construct this section of the footpath cycleway. Again, here is a classic example of Suffolk County Council being opportunistic and simply seeing a chance of getting a developer, regardless of the justification, to pay for their proposed route and not only that to build part of it as well. It is as if using in part the planning obligation and the condition, no one would therefore make a connection that the community footpath being funded and the section of footway cycleway required to be delivered are not part and parcel of the same project.

141. For the reasons I have set out in relation to the planning obligation on the community path contribution, there is no justification whatsoever that asking elderly and mostly infirm residents in a care home to build a cycleway link as part of a much wider link between Elmswell and Woolpit. Even more mobile residents within the extra care bungalows are highly unlikely to ever cycle or walk to Woolpit and those that might do not justify the imposition of this condition particularly when, as stated, they are also being asked to pay a substantial financial contribution for the same link.

142. The indicative scheme does recognise the link and indeed so does the DAS but only on the basis of the County Council's commitment to deliver it as it was anticipated at the time. Whilst the County Council say well we asked for this from the outset, at no stage did the appellant ever agree to it and the reasons why have clearly been set out both at the round table session and within these submissions. This condition does not satisfy several of the 6 tests including necessary and reasonable and should certainly not be imposed on the grant of any planning permission.

CONCLUSION

143. For all of the reasons set out in these submissions which are unfortunately longer than I would have wished, given the complexity of some of the issues raised, we would urge you to allow this appeal and to grant planning permission. We do so on the basis that you grant permission subject to the conditions that have been agreed with the amendments discussed but not imposing condition number 27.

144. We further invite you to conclude that the obligations within the Section 106 meet all of the relevant tests but that you rely on the blue pencil clause to strike out, in its entirety, the obligation relating to the community path contribution for the reasons set out in these submissions.

145. I conclude by reminding you of the accepted critical need for this type of elderly persons accommodation. There are no other extra care proposals in the district. If this appeal is not allowed how will this need be addressed? We know we don't satisfy all the need, no one scheme can, but we are a material step in the right direction. Even if other operators are contemplating bringing forward schemes what message do they get if, as we submit, these schemes for integrated care villages need a land take that will not be found within settlements and won't compete with general housing schemes in any event. The message will be that in Mid Suffolk they will be refused and is it worth the time, effort and investment? The answer is probably no it isn't. If we are to deliver on government policy in this key area we need to act now and we need permissions now and in Mid Suffolk that need is every bit as critical as government advice states.

Paul Hunt
Partner
Howes Percival LLP

Dated: 12th September 2025