

**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)**

Opening Submissions on behalf of The Appellant



Ref: PDH/229432.0009

INTRODUCTION

1. This inquiry has been convened to consider the merits of the above proposal which was refused planning permission by Mid Suffolk District Council (the Council) on 29 October 2024.
2. When planning permission was refused the Council sought to rely on six separate reasons for refusal. As is often the case, in the intervening period work has been carried out to seek to resolve several of the issues that formed the basis of this refusal. The upshot is that in light of the efforts made by all parties, the reasons for refusal have been reduced from six to three, namely reasons 1,3 and 4.
3. Reason for refusal number 2 relating to the risk of surface water flooding and the potential need for the application of a sequential test to the development has been resolved. Whilst the Inspector still wishes to hear on this issue and will have received evidence from the Appellant's consultants, this issue is not a point of dispute between the principal parties nor indeed on flood risk grounds as between the Appellant and the lead local flood authority (LLFA).
4. The absence of a signed Section 106 Agreement was included for no other reason than that parties had not progressed the drafting of a Section 106 notwithstanding the Appellant had made it quite clear that it would agree to all reasonable obligations that might be sought and which were accepted to be compliant with the CIL Regulations. The terms of that Section 106 have been agreed subject to any outstanding final detailed drafting points and a completed deed will be delivered following the close of the inquiry. Reason for refusal no. 5 has therefore also been overcome.
5. Reason for refusal number 6 relates to biodiversity net gain issues and should never have formed a reason for refusal. The Council accept that it was included in error. The Council have no objections to the scheme in biodiversity terms and indeed this was always intended to be addressed by conditions as is apparent from the officer report. It is unclear as to why this reason was ever included but, as indicated, it was a mistake and the Council have confirmed that it does not pursue this reason for refusal.

ISSUES FOR THE INQUIRY

6. The consequence of the above is that the outstanding issues can be summarised as:

LIMITS TO DEVELOPMENT

7. Compliance with development plan policies insofar as the development is located outside the current settlement limits of Elmswell on land that is therefore designated as countryside. The Appellants case with regard to that issue will in turn focus on the following matters:
 - i. Whether and to what extent the justification for this proposal and in particular the need for specialist elderly accommodation with care as proposed, outweighs the objection in principle due to development beyond the settlement boundary.
 - ii. The relative weight to be afforded to the policies that seek to confine development (including specialist accommodation for the elderly) to within settlement boundaries in light of the Council's decision to abandon a key component of the Joint Local Plan, namely part 2 of the plan which was

intended to review settlement boundaries and make specific allocations for development going forward in the plan period (2018-2037).

- iii. Thirdly the accepted (but in our view not fully understood) nature of the scale and complexity of the problem in terms of elderly persons accommodation requirements in the district. A requirement which will only increase as time goes by due to an aging population.
- iv. Fourthly whether and to what extent the policies of the Council's Joint Local Plan Part 1 satisfactorily deals with the need that exists for specialist elderly persons accommodation in the absence of a Part 2 or replacement Plan that makes suitable allocations for this type of development. This assumes that the Council will even grasp the nettle and make such allocations. The Part 1 JLP does not indicate that Part 2 would seek to address specialist elderly persons accommodation needs.
- v. Finally, as regards this issue, consideration needs to be given to all the other benefits of the scheme when weighed in the planning balance in order to determine whether those benefits justify the grant of planning permission as material considerations, when weighed against any objection in principle to development beyond the settlement boundary

HERITAGE

- 8. The second main consideration for this appeal will be heritage matters. The Council has objected specifically to alleged heritage impact arising from the development's impact on the character and setting of three listed buildings. It is to be noted that Historic England only objected in the context of the listed Grade II* Church of St John. The Council's Heritage Consultant, however, goes further and maintains that there will be adverse impacts on the setting of the Grade II Alms Houses and the similarly listed Grade II Elmswell Hall.
- 9. You will have seen from the evidence that all parties agree that the impact on the setting of the heritage assets is less than substantial. The only point of dispute between the parties is where, within the degree of less than substantial harm, the actual level of harm lies.
- 10. Two simple points emerge from this issue, firstly it is accepted that when dealing with harm to heritage assets consideration needs to be given to the statutory requirements of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and also the balancing exercise which all parties accept must be undertaken in accordance with paragraph 215 of the NPPF.

LANDSCAPE

- 11. The third and final issue for consideration between the parties is landscape and the alleged adverse impacts of the development proposal on the landscape of the site and the surroundings. It should be stressed at the outset that there are no formal designations relating to this site. It has no landscape status in national or even local terms.
- 12. The Appellant has made every effort, working in conjunction with the Council, to devise a scheme (albeit illustrative only) which makes use of the topography of the site in order to minimise its impact in the landscape. Indeed, the Council's own consultant described the work as "commendable" and that the consultants had looked to work

with the topography of the site to minimise its impact but that it would not “mitigate all impacts”.

13. It is the Appellant’s case that it is not the intention to mitigate every impact because new development is unlikely to ever mitigate all potential impacts. Built development on a greenfield site will create permanent change. If such change is unacceptable per se then no such development would ever be permitted and a great deal of development that the country needs, including housing would not be provided. This is irrelevant to the consideration of this appeal. The development will not be invisible, it is not intended to be invisible, it is intended to integrate in an effective way with the landscape that exists, respecting within objective and reasonable assessments, the environment in which it is located. Planning is about people and balancing the development we need as a society with safeguarding material and genuine interests, not abstract concepts that are appreciated by experts but which are likely to pass over the heads of members of the public.
14. It is the Appellant’s case that the character of Elmswell has changed significantly over the years. We are working within the context of those changes. Some of those changes have been made with both the agreement of the Council and indeed with the active participation of the Council, particularly in relation to connectivity between Elmswell and Woolpit as you will hear and the desire to create changes to the area that improve connectivity and highway safety even though they may have some adverse impacts on the wider landscape and indeed the heritage assets that have been discussed. Those changes are particularly noticeable along School Road.

APPELLANTS CASE

15. The case presented by the Appellant will be that there is an overwhelming need for this type of accommodation which is fully supported by Government policy and which the Council are forced to accept does exist. This Council, in common with many others, however, has only paid lip service to the need to make provision for such accommodation. They have failed to proactively promote specific development through their local plans to enable such development to occur. When applications do come forward, such as the appeal proposal, their reaction is to resist such development on the basis of policies that do not either anticipate or allow for the need for development of this type and certainly not on the scale required. They defend settlement boundaries that have not been reviewed and now won’t be reviewed for at least another 4 years and possibly longer.
16. We must remember that the base date for the JLP was 2018 and therefore even if the new Local Plan is adopted in 2029, that represents a period of 11 years out of the 19 years of the JLP plan period. Then we need to factor in the lead in times for new development to receive permission (possibly reserved matters), discharge of conditions and build out. It is entirely realistic to factor in another 5 years for a scheme of this type from the date of application to the date of delivery of a built scheme. Indeed, as a result of the refusal and this appeal we are most likely looking at least 6 years from the date of the outline application (6th December 2020) to completion of the scheme.
17. The scheme seeks to create more than just a living space but a community of people at similar stages of their life who face similar challenges whether in terms of health, mobility or mental health of social well-being and social inclusion. A community where they can create friendships and support networks as well as having professional support on site. A community that seeks to create a tranquil landscaped setting with community facilities that will bring residents together. Such proposals do require fairly

large areas of land to provide such a loose and landscaped environment in which community support facilities are also provided. Our position is that this objective will prove to be very difficult to provide in an urban setting particularly where such sites as do exist are in direct competition with conventional market housing led schemes.

18. Without releasing land adjoining but beyond settlement limits the Council will never begin to address fully the need for specialist elderly accommodation within its district. The main issue is that having abandoned its Part 2 Joint Local Plan the Council simply ask us to await the new Local Plan that might be adopted in 2029 and might allocate land for specialist elderly housing accommodation. This of course assumes a willingness on the part of the Council to address the need for specialist elderly persons accommodation through the Local Plan. No evidence exists of any such willingness.
19. Furthermore, the benefits of this scheme are overwhelming in terms of social, economic and environmental considerations. Those considerations more than outweigh any objections to this scheme. Moreover, Elmswell is a large settlement with excellent public transport links and services accessible to the residents of this scheme. Indeed, this was recognised by the Council when they granted planning permission in March 2022 for the scheme which has now been developed by Bloor Homes immediately adjoining the appeal site. The Appellant will contend that the objections to this scheme are essentially objections in principle and based on somewhat spurious historic links and an exaggerated claims as to the quality of the landscape which the Appellant maintains will be safeguarded in any event, including in particular a high degree of separation between the appeal scheme and the Church of St John and the Alms Houses.
20. Moreover, and this seems to have been overlooked by the Council and its witnesses, this is an outline scheme which can be amended in detail to reflect any changes that the Council would have wished to have seen in order to make the appeal proposal more acceptable. This is a perfect example of a local authority that does not work with an applicant in order to address any specific concerns that might be overcome even if there was still an objection in principle to the development. The actual details of the scheme can be controlled with the imposition of conditions or changes to submissions that the Council could have invited at any stage to address any specific concerns that now form the basis of much of the evidence of the Council's landscape and heritage witnesses. There is still scope in this appeal to control the final form of the development at reserved matters stage and through the use of conditions.
21. In short the Appellant will contend that these objections are more than outweighed by the huge benefits that are to be derived from the appeal scheme in meeting need and in providing a community for people in need of care and support. The scheme is ideally situated adjoining a large settlement like Elmswell with excellent public transport links, a variety of facilities, and supported by its own minibuss service as well as on site facilities. It is to be noted also that there are no technical objections to the scheme including highways. It is for those reasons that the Appellant will be inviting the Inspector to allow this appeal and grant planning permission for the proposal.

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Dated: 4th September 2025