

Elmswell Neighbourhood Plan 2022 - 2037

Independent Examination correspondence document

First published: 6 June 2023

Last updated: 2 August 2023

Introduction

This document will provide a record of all general correspondence between the Examiner (Ann Skippers), the Parish Council (the Qualifying Body or 'QB'), and Mid Suffolk District Council during the examination of the Elmswell Neighbourhood Plan. It will also record the details of any matters raised and the responses to these.

As required, specific documents will also be published on our Elmswell NP webpage: www.midsuffolk.gov.uk/ElmswellNP

Copies of e-mails / letters etc. appearing on the following pages:

- 1. E from Examiner dated 6 June 2023: Examination start, procedures etc.**
- 2. Correspondence relating to a Question of Clarification from Examiner regarding proposed settlement boundary. E-mails dated 10 June, 13 June, 29 June, 10 July, and 18 July 2023**
- 3. E from Examiner dated 22 July 2023: Notice of Significant Change to the Elmswell Neighbourhood Plan**

1. E from Examiner dated 6 June 2023: Examination start, procedures etc.

Dated: 6 June 2023
From: Ann Skippers
To: Paul Bryant (BMSDC),
cc: Ian Poole (Elmswell NP Consultant), Caileigh Gorzelak (BMSDC)
Fwd to: Peter Dow (Parish Clerk, Elmswell PC)
Subject: Commencement of the Examination into the Elmswell NDP
Attach: Examination Note 1

Dear Paul, Ian, All,

I am writing to confirm to you and the Parish Council that the examination of the above NDP has now started. Please note that the email address given to me for the Clerk keeps bouncing back [so] please would you forward [this message] to the Clerk. [\[MSDC note: Request actioned and corrected e-mail address sent to the Examiner\]](#).

I attach the usual examination note which sets out what I trust is useful general information about the procedures for examinations.

I'm able to confirm that a hearing will not be necessary.

If you or the Parish Council have any queries please do not hesitate to get in touch.

I hope to be able to update you about progress very soon, but at the present time I hope to have any queries of clarification or the fact check report (if no queries arise) with you by the end of the month at the very latest.

Thank you for appointing me to undertake this one; I look forward to working on the Plan and visiting the area.

Kind regards
Ann Skippers

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Elmswell Neighbourhood Plan Examination

Examination Note 1

Information Note from the Independent Examiner to the LPA and Qualifying Body

Further to my appointment to undertake the independent examination of the above Neighbourhood Plan, this note aims to set out how I intend to conduct the examination. My role is to determine whether the Plan meets the basic conditions and other legal requirements.

1. Communication

It is important that the examination process is open and transparent to all interested parties. I hope to ensure that the Parish Council feels part of the process. My main point of contact will be the designated local planning authority contact, Paul Bryant.

Any correspondence (other than that relating to contractual matters) should be published on the local planning authority's website and the Parish Council's website in a timely manner.

If anyone else who is not the designated point of contact gets in touch with me direct, for example a local resident or planning consultant, I will refer them to the local planning authority contact in the first instance for assistance.

2. Examination documents

I will access most documents electronically either from the local planning authority's website or on the Parish Council website or any dedicated Neighbourhood Plan website. If I have any trouble finding or accessing any documents, I will let you know so that these can be provided to me.

It would be also helpful, if not already done, if the local planning authority could confirm the adopted development plan and any saved policies. In addition if there are any emerging development plans, details of the stages reached and future programmes would be appreciated. In both cases, please direct me to relevant parts of your website or let me know how I can access the documents that you identify.

3. Late representations

As a general rule of thumb late or additional representations will not be accepted. The only time when I will consider accepting a representation submitted after the consultation period has ended is in those cases where there has been a material change in circumstances since the six week consultation period has ended. For example national planning policy changes or a judgement may be handed down from the Courts. In these circumstances anyone wishing to introduce new evidence should fully justify why and in the case of substantial documents, indicate which parts of the document are relevant and why.

However, if a meeting or hearing is held, there may be further opportunities for comments to be made at my request to assist me in ensuring adequate examination of an issue.

4. Clarification procedures

I may at any time during the examination seek written clarification of any matters that I consider necessary. This is quite common and should not be regarded as anything out of the ordinary. The usual time for response to any clarification queries is one to two weeks. I must emphasise that this does not mean I will accept new evidence. In the interests of fairness to other parties, I cannot accept any new evidence other than in exceptional circumstances. If the Parish Council is unsure as to whether information it is submitting may constitute new evidence, may I suggest it is sent to the local planning authority contact in the first instance for their advice on this point.

If I find that there are significant issues which may prevent the Plan meeting the basic conditions I will let you know during the course of the examination as soon as I can so that options on how best to proceed can be considered. Whilst this situation can usually be dealt with through an exchange of written correspondence, if it would be helpful to hold a meeting, I will suggest this and be in touch to make suitable arrangements. Any such meeting will be held in public and at the present time, be held virtually.

Any request for clarification and any response should be published on the relevant Council websites.

5. Visit to the Plan area

I expect to be visiting the Plan area during the examination. Visits, where necessary, help me to understand the nature of the Plan and the representations. It will also help me decide if there are any issues to be clarified. I will not need to be accompanied on any visit. If however, I feel it is essential to gain access onto private land then I will be in touch to seek permission to do that and at that point an accompanied site visit may need to be arranged.

If I am 'spotted' during my visit, I would appreciate it if I am not approached, but allowed to continue the visit unheeded.

6. Examination timetable

The main determinants of how long the examination will take are firstly the number and complexity of the policies in the Neighbourhood Plan, the clarity of supporting documentation and evidence and the number and nature of any representations.

It may be there is very little correspondence from me during the examination. I will however endeavour to keep you updated on the progress of the examination. Please do not hesitate to contact me if you wish to know progress and have not heard from me.

7. The need for a hearing

At the present time, I do not envisage there will be a need for a hearing. However, at any time before final report is issued, I may decide to call a hearing if I consider this is necessary to ensure adequate examination of any issue or to allow a person a fair chance to put a case. If a hearing is necessary, I will let you know as soon as I can and be in touch to discuss the procedure and to make suitable arrangements at that time.

The period of notice for hearings is not prescribed, but typically 21 days' notice is given.

8. The 'Fact Check' stage

A confidential draft of my report will be sent to the Parish Council and local planning authority to allow both parties to check whether there are any factual errors such as dates, sequence of events, names and so on. This is not an opportunity for further representations to be made. A period of a week or so is usually set aside for this purpose.

I find it very helpful if the local planning authority collates its own comments with those of the Parish Council into a single response or both separate responses are sent to me at the same time.

I will endeavour to issue my final report shortly after the fact check stage.

9. Procedural questions

I hope this information is helpful. If the Parish Council or local planning authority have any questions relating to the examination process at this stage, please do not hesitate to get in touch and I will do my best to answer any such queries.

Ann Skippers MRTPI
Independent Examiner
5 June 2023

[Ends]

2. Correspondence relating to a Question of Clarification from Examiner regarding proposed settlement boundary. E-mails dated 10 June, 13 June, 29 June, 10 July, and 18 July 2023

Dated: 10 June 2023
From: Ann Skippers
To: Paul Bryant (BMSDC), Ian Poole (Elmswell NP Consultant),
Subject: Question of Clarification on the Elmswell NDP

Dear Paul and Ian,

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

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

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

Thank you for your assistance, best wishes

Ann Skippers
Independent Examiner

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Dated: 13 June 2023
From: Ian Poole (Elmswell NP Consultant),
To: Ann Skippers, Paul Bryant (BMSDC),
cc: Caileigh Gorzelak (BMSDC)
Subject: [Response] to Question of Clarification on the Elmswell NDP
Attached: Screenshot [\[MSDC Note: This screenshot is reproduced at the end of this e-mail\]](#)

Dear Ann / Paul

To shed further light on this situation, the Parish Council and District Council have been in discussion with the County Education Department concerning the potential for education uses on this land. As currently proposed in the emerging Joint Local Plan Modifications, the site would be outside the Settlement Boundary. Policy SP03 refers. Looking at the JLP Modifications, it is not clear how proposals for education purposes would be dealt with outside the Settlement Boundary. Modified Policy LP34 (to become LP31) "Health and Education Provision" deals with sites that are safeguarded for such uses and, in terms of potentially identifying new sites, merely states "The Councils will respond positively to and support appropriate and well-designed applications regarding the creation of new health and/or education facilities, and extensions to existing facilities."

Policy SP03 (as proposed to be modified) states “Settlement boundaries are defined on the Policies Map. These boundaries were established in earlier Local Plans and Core Strategies and have not been reviewed as part of the Plan but are carried forward without change at the present time. The principle of development is established within settlement boundaries in accordance with the relevant policies of this Plan. Outside of the settlement boundaries, development will normally only be permitted where the site is allocated for development, or in a made Neighbourhood Plan, or is specifically permitted by other relevant policies of this Plan, or it is in accordance with paragraph 80 of the NPPF (2021).”

It is clearly not a role of the Examiner to determine how the Local Plan policy would be delivered and it is also clear that there is no certainty that the education uses would be delivered during the Plan period, hence no allocation for that use.

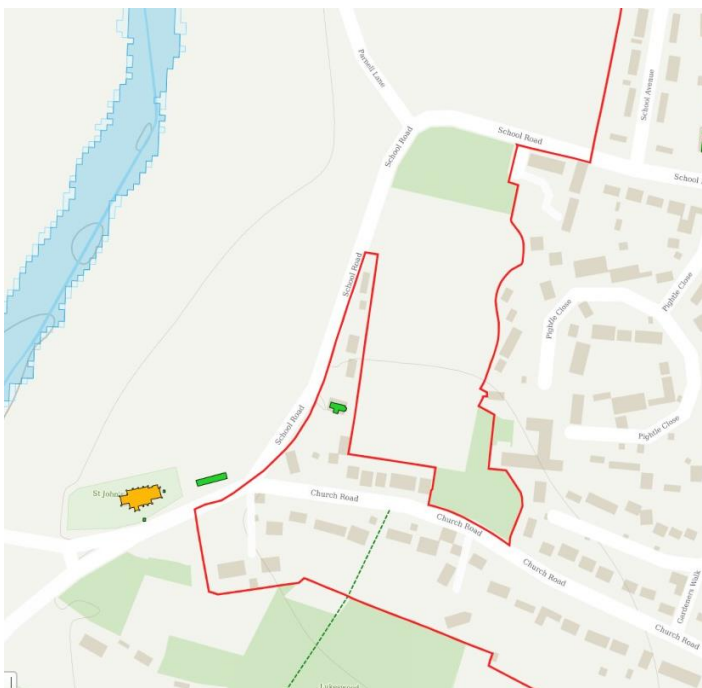
The District Council own some/all of the land. They (as landowner) consulted residents recently on a proposal to build 50 “eco-homes” on the land which met with much local opposition. Under the proposed JLP modifications the proposal would be contrary to Policy SP03.

Perhaps Paul and MSDC could confirm which policy in the Modified JLP would allow education uses outside the settlement boundary? If it would be “specifically permitted by other relevant policies” then the Settlement Boundary should follow that of the 1998 Local Plan (the proposed course of action for the JLP) as illustrated on the attached screenshot. It probably would be the safer course of action anyway given that inclusion in the Settlement Boundary would give an “in principle” presumption in favour of residential development which would rule out any hope of education use.

Kind regards

Ian Poole
Places4People Planning Consultancy Ltd
(Elmswell NP Consultant)

Screenshot:



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Dated: 29 June 2023
From: Paul Bryant (BMSDC),
To: Ann Skippers,
cc: Ian Poole (Elmswell NP Consultant), Peter Dow (Clerk to Elmswell Parish Council),
Caileigh Gorzelak and Robert Hobbs (BMSDC)
Subject: Response to Question of Clarification on the Elmswell NDP

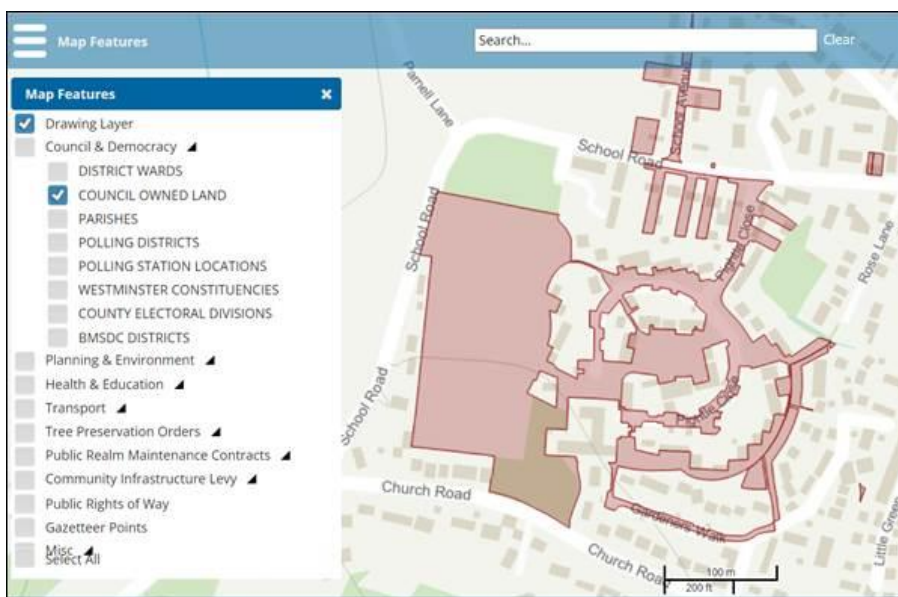
Dear Ann, (All)

Your e-mail dated 10 June and Ian's reply, sent obo the parish council and dated 13 June, refer. For convenience these are reproduced copied below. Please also accept our apologies for the lateness of this response obo District Council.

Your question was: ***Has this site (LA064) now got planning permission or if not, why has this previously proposed allocation been included in the boundary but others such as LA066 seemingly have not?***

Our records show that in the last 5 years no planning permission(s) have been granted and that none are pending for any form of built development on the LA064 (Land North of Church Road) site. [Source: application search function at: <https://planning.baberghmidsuffolk.gov.uk/online-applications/>]

We also confirm that the District Council own most of the land in question. The full extent of this ownership is shown in the screen shot below which is sourced from our [interactive-mapping-service](#) webpage.



From their response, because there is uncertainty over the future use of this land, and because it would ensure that a consistent approach is applied that will distinguishing between land with and land without planning permission, we see that the parish council have proposed that the settlement boundary at this part of the village be re-drawn to now exclude the LA064 site. We would ask that, if you are minded to recommend this modification, that a further amendment be made so that the housing scheme that is currently being built out to the north off and adjacent to School Road / Parnell Lane (the site shaded grey and which you would have seen on your site visit) is re-incorporated into the settlement boundary as was proposed in the submission draft plan.

For illustrative purposes only in this response, our sketch map below shows how we would interpret this, with the red dashed line representing the start and finish points of the new settlement boundary line.



Any other discussions about the future of this [the LA064] site is and should be a matter best dealt with outside of this neighbourhood plan examination process.

We will update our Examination Correspondence Document so that others can follow this question for clarification, and we await your next instruction.

Kind regards

Paul Bryant
Neighbourhood Planning Officer | BMSDC

Dated: 10 July 2023
From: Ann Skippers
To: Paul Bryant (BMSDC),
cc: Ian Poole (Elmswell NP Consultant), Peter Dow (Clerk to Elmswell Parish Council),
Caileigh Gorzelak and Robert Hobbs (BMSDC)
Subject: Response to Question of Clarification on the Elmswell NDP

Dear Paul, Ian, All

Thank you for your response to my query.

It would appear that in the interests of consistency re planning permissions or not, the land (known as LA064) could be removed from the proposed settlement boundary as there is no extant

permission. However, having considered this, I feel to recommend a modification to this effect would be a significant change given there are reps on this site and I believe that although MSDC own most of the land, there is also be another landowner to consider. This would therefore necessitate a further round of consultation.

Therefore, I am writing to ask how the PC and MSDC would like me to proceed? I feel that what I hoped was a simple query has turned into a more complex issue. FYI I am content to leave the land in question within the proposed revised SB and this would perhaps seem to be the most straightforward option given no one has objected to this; in fact there is some support.

I'm keen to progress the examination as soon as possible and so your early attention this week to this would be much appreciated.

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Dated: 18 July 2023
From: Paul Bryant (BMSDC),
To: Ann Skippers
cc: Ian Poole (Elmswell NP Consultant), Peter Dow (Clerk to Elmswell Parish Council),
Caileigh Gorzelak and Robert Hobbs (BMSDC)
Subject: Re: Response to Question of Clarification on the Elmswell NDP

Dear Ann, (All)

Your settlement boundary query and our responses to date refer. In your most recent e-mail (10 July), you explain your thinking, set out the options, and ask both the PC and MSDC how they would like you to proceed.

The Local Planning Authority's position on this is neutral. We had no objection to the settlement boundary as presented in the submission draft Plan, or to the PC's proposal to amend the boundary to exclude the former LA064 site, subject of course to re-instatement of the boundary line around the School Road / Parnell Lane development.

The PC's position re the settlement boundary has changed and we repeat below their latest correspondence with us:

"On reflection, the Parish Council is concerned that the submitted NP Settlement Boundary opens this area up to housing development, something which the District Council will be aware is not supported locally.

There is a strong desire within the Parish Council to support new education facilities on the site and, as [we] read the NPPF and Local Plan, [we] believe that such a development would reasonably be expected to be supported outside the Settlement Boundary where it is closely related to the village."

Both parties also accept that any modification to the settlement boundary at this late stage would necessitate further consultation.

If this is the only way forward, we will be happy to be guided by you on the scope of that consultation and facilitate it on your behalf. For their part, we would ask for the PCs help in providing you / us

with two settlement boundary inset maps: one showing the boundary as submitted, and one showing the boundary as proposed to be amended but taking into account the comment about the School Lane / Parnell Lane site.

Kind regards,

Paul Bryant
Neighbourhood Planning Officer | BMSDC

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3. E from Examiner dated 22 July 2023: Notice of Significant Change to the Elmswell Neighbourhood Plan

Dated: 22 July 2023
From: Ann Skippers
To: Paul Bryant (BMSDC),
Cc: Ian Poole (Elmswell NP Consultant), Peter Dow (Clerk to Elmswell Parish Council),
Subject: Re: Response to Qstn of Clarification on the Elmswell NDP
Attached: Notice of Significant Changes from the Examiner [MSDC Note: This 'Notice' is reproduced at the end of this e-mail]

Dear All,

Further to your helpful email [email dated 18 July], please find attached the formal notice of significant change. The amendment to the settlement boundary is significant in my view and therefore requires a short period of further focused consultation for two weeks.

I note MSDC has asked for assistance with an amended plan showing the proposed change; I agree a plan would be desirable if not essential. It would be very helpful to me to have sight of it before the consultation starts just so there are no surprises further down the road. Please could this be arranged?

As soon as the amended plan is available and sent to me, and I have responded positively, the consultation period, which will be organised by MSDC, can start at MSDC's convenience. Please ensure that, as is the established practice, it is clear we are only seeking comments on the change and that any reps already made will be rolled forward.

The PC can make a representation in support (presumably) of the change if they wish to do so but are not obliged to. The PC can also make any comments on any reps we receive on this short consultation - again only if they want to.

As soon as this is concluded and hopefully, we can deal with these matters fairly swiftly, I will move to complete the report quickly.

If anyone has any queries, please don't hesitate to get in touch,

Ann Skippers, Independent Examiner

Elmswell Neighbourhood Plan Examination

Notice of Significant Change from the Examiner

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

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

Dear Paul and Ian,

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

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

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

Thank you for your assistance, best wishes

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

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

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

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

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

Notice of Significant Change

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

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

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

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

With many thanks,

Ann Skippers MRTPI
Independent Examiner
22 July 2023