
CLOSING SUBMISSIONS
ON BEHALF OF
MID SUFFOLK DISTRICT COUNCIL

A. INTRODUCTION

1. We operate in a plan led system. The development plan has statutory primacy, and a statutory presumption in its favour.¹ The statutory framework is reinforced by national policy, which tells us that the “*planning system should be genuinely plan-led*”.²
2. That is not to say that we must shut our minds to other material considerations, and that has certainly not been the case here. To the contrary, the Council has throughout this process acknowledged the urgent need for specialist accommodation for the elderly and the significant positive weight that should be given to this benefit. But equally, proper regard must be had to the harms that would arise as a result of the proposals, something which the Appellant has singularly failed to do. The evidence will be explored in more detail below, but it is telling that the Appellant failed to account for the statutory duty under s.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“**Listed Buildings Act 1990**”) at every stage of the planning application and appeal process³ – notwithstanding that their own witness found harm to all three heritage assets. The failures to properly grapple with the heritage and landscape harms (even on their own experts’ evidence) is important for two reasons: (i) it confirms that the Appellant has overlooked or significantly downplayed the harms of the scheme; and (ii) it follows that their planning evidence simply cannot be relied upon.
3. These closings submissions will address the three main issues, followed by a consideration of the overall planning balance which, in the Council’s view, points firmly towards dismissing this appeal.

¹ Section 38(6) Planning and Compulsory Purchase Act 2004.

² NPPF, para 15.

³ The section 66 duty was not acknowledged in the Planning, Design and Access Statement [**CD 2.17**]; their Statement of Case [**CD 1.3**]; nor the Planning PoE [**CD 1.16**].

B. ASSESSMENT OF MAIN ISSUES

I. Countryside location

4. It is common ground that the appeal site lies in the countryside and therefore lies outside the settlement boundary, in breach of policies SP03 and LP06 of the Joint Local Plan (“**JLP**”) and ELM1 of the Elmswell Neighbourhood Plan (“**ENP**”).
5. Given the agreement on the scheme being located in the countryside, the only dispute is regarding the weight that should be afforded to the policy conflict. Mr Cameron has always accepted that the settlement boundary (and therefore the related policies) cannot be afforded full weight.
6. The context to this issue is that the Council’s new development plan was due to come forward in two stages. The JLP Part 1 was adopted in November 2023. This covers: the Council’s vision, objectives and strategic policies as well as non-strategic development management policies. JLP Part 2 was due to cover (among other matters): the settlement hierarchy, site allocations, and a review of settlement boundaries. Part 2 is no longer coming forward, on account of the changes made in the 2024 NPPF, and the Council is instead pursuing a full plan review. The Local Development Scheme envisages that the new local plan will be adopted in April 2029.⁴ The upshot is that the settlement boundaries will not be reviewed, and if necessary revised,⁵ until a later date in time – i.e. around April 2029.
7. The question then is to what extent this delay in the review of settlement boundaries affects the weight afforded to the policies directing development within the settlement boundaries. Mr Warner considered that these policies (and any conflict) could only attract limited weight. However, the Council considers that does not account for at least two factors:
 - (1) That the Inspectors examining JLP were satisfied that in the “*short-medium term... the existing boundaries, applied through policy SP03, will be likely to enable the Districts’ development needs to be met whilst also recognising the intrinsic character of the countryside.*”⁶ Given the plan period (2018-2037), and also that the inspectors’ report was dated September 2023, we are still in the short-medium term

⁴ Mr Cameron PoE, para.3.18 [**CD 1.12**].

⁵ See Policy SP03; as per para.3 of the policy, the boundaries will only be revised if necessary.

⁶ See Policy SP03, para. 08.04; see also Inspectors’ Report p.13, para. 51 and p. 59 [**CD 5.4**].

period when policies should be expected to work to bring forward the required development.

(2) In relation to LP06 specifically, the Inspectors further considered that “*given the evidence on what the market has provided in recent years and existing planning permission for such uses, the needs for such housing are likely to be provided for. As such, and given that existing settlements are likely to be the most sustainable locations, it is appropriate for policy [LP06] to focus these types of development within settlement boundaries*”⁷ (emphasis added). While Mr Warner refutes the inspectors’ findings, on the basis of the Council’s evidence base not being up to date, it is still a relevant consideration when assessing the weight to be given to these policies, given that the Council’s approach was found sound at examination only two years ago.

8. A further relevant consideration in this context is that the need to consider the sustainability of locations proposed for specialist housing is not just a matter prioritised in the local plan, but also expressly recognised in planning policy guidance.⁸ The local plan policies directing development within settlement boundaries therefore serves an important sustainability purpose, entirely consistent with national policy guidance.
9. While there is an undoubted need to provide housing for older people (addressed further below), the Council is confident that an appropriate level of specialist housing is capable of coming forward via the existing Local Plan policies, at least in the short to medium-term – prior to the adoption of a new local plan in 2029.

II. Impact on heritage assets

10. It is common ground that the development would cause ‘less than substantial harm’ to three designated heritage assets: the Grade II* listed Church of St John, the Grade II listed Almshouses, and the Grade II listed Elmswell Hall. There is in fact a considerable amount of agreement between the two experts. The difference in their judgment of where the harms lie within the less than substantial scale is examined below in relation to each of the assets.

⁷ Inspectors’ Report p.13, para. 126 [CD 5.4].

⁸ PPG on Housing for Older and Disabled People, para 13.

Church of St John (“Church”)

11. It is agreed that the significance of the Church is drawn from its architectural and historic interests as a medieval parish church⁹ and that the attributes of its setting which contribute to its significance include (among others): (i) the isolation of the building and its prominence;¹⁰ and (ii) the farmed setting which is provided by the appeal site. When questioned in cross-examination, Mr Copp agreed that however one defines the historic use of the appeal site (which continues to present day), it has always been farmed land – that is either for pastoral or for arable use. The 1841 Tithe Map show that around a quarter of the appeal site (including the immediately adjacent ‘Church field’) was at that time in arable use.¹¹
12. Mr Copp further agreed that the appeal site contributes to the Church’s significance in at least two important ways: (i) the undeveloped landscape reinforces the relative isolation of the building; and (ii) it helps illuminate the Church’s historic development as a medieval parish church, serving a primarily rural community. He agreed that the second aspect would be harmed by the proposed development.
13. He maintained that the relative isolation of the Church would not be impacted in any way by the proposals, but that is a difficult argument to maintain in light of the introduction of built development close to the Church as currently experienced from the north. A consideration of the Appellant’s photomontages¹² demonstrate that the built form will feature in what are otherwise relatively open and unobstructed views from several locations in the north irrespective of screening. This necessarily erodes – at least to an extent – the relative isolation of the church, and therefore causes harm which should be taken into account.
14. Fundamentally, however, it would appear that the difference between the two heritage experts on the level of harm can be explained by the appellant’s reliance on suggested heritage benefits. Mr Copp agreed that in reaching his overall view of a low level of the less than substantial harm, he had accounted for two heritage benefits: (i) reintroduction of hedgerow planting; and (ii) provision of new public views.

⁹ Heritage SOCG, para.12 [CD 1.9].

¹⁰ Heritage SOCG, para.13 [CD 1.9].

¹¹ Mr Copp POE, Appendix A Figure A.1 [CD 1.14].

¹² Mrs Ellinsfield POE, Appendix A, Verified Viewpoints 4 and 5 [CD 1.15].

15. For the reasons given by Mr Murphy, and as explored in cross-examination with Mr Copp, neither benefit stands up to scrutiny.

(1) Hedgerows: The stated benefit is claimed on the basis that it would reinstate the historic smaller field pattern of the type seen on the Tithe Map (but not reproducing the exact boundaries). However, Mr Copp agreed that the former field pattern was seen in the context of an entirely farmed landscape and, by comparison, any new hedgerows would not be related in any way to farmed fields. Indeed, as Mr Murphy explained, to reinstate a historic feature (i.e. the hedgerows) into a landscape which would have no connection to the historic land use (i.e. farmed land) served no ostensible purpose. The hedgerows would be legible along urban built form and non-farmed land – and therefore would have no bearing to the setting which in fact contributed to the significance of the Church. Moreover, as Mr Copp further accepted, the hedgerows will have the added effect of enclosing some of the formerly open views of the Church.¹³

(2) New public views: Two matters were agreed on this issue.

(a) First, the contribution of setting to significance is not dependent on public rights of access.¹⁴ This is because public access might in fact downplay qualitative issues such as the importance of quiet and tranquillity as an attribute of setting. In this case, we know that the relative isolation is an important feature to consider when thinking about the impact of public access very close to the asset.

(b) Second, this is not the type of case in which it is *necessary* to improve public access to, or interpretation of, the asset.¹⁵ This was expressly agreed by Mr Copp in cross-examination. The agreement is unsurprising as he himself identified a large number of publicly accessible locations from which the Church can be experienced in its relatively isolated and prominent setting.¹⁶ Among the publicly accessible views he identifies are the views from PROW Elmswell 14 which runs along the northern boundary of the appeal site. He also

¹³ Mr Copp POE, para. 5.29 [**CD 1.14**].

¹⁴ Historic England, GPA 3, p.8 [**CD 9.2**].

¹⁵ Historic England, GPA 3, p.14 [**CD 9.2**].

¹⁶ Mr Copp POE, paras. 5.15-5.20 [**CD 1.14**].

accepted that the further views identified by Mr Murphy along PROW Norton 7¹⁷ were also relevant when considering the current, publicly accessible places from where the Church could be appreciated and understood. Further, any new views would be much closer to the Church and would be viewed in the context of built, urban development (necessarily so, if one were walking down the public footpath from the north to the south along the western boundary).

- (c) Overall, as Mr Copp agreed, it follows that if these stated heritage benefits are discounted (i.e. that they are treated as merely neutral factors) – as they should be for the reasons given by Mr Murphy – then the level of overall harm would be higher. Indeed it would very likely follow that the level of harm would then be exactly as Mr Murphy assessed it i.e. a medium level of less than substantial harm.

16. A further factor which is also relevant here, which Mr Copp acknowledged, was the influence of the Grade I listed Church of St Mary. The ability to experience the two Churches together contributes to the appreciation of the listed building, and any development on the appeal site will necessarily impact on these longer distance views into Woolpit. Even recognising that landscaping and planting can be re-arranged to retain a part of this view, there will be an element of built form and/or planting which will either introduce urbanised elements in the foreground and/or screen the longer distance views at least to some extent.

17. Finally, it is important to address the ‘undeveloped’ southern parcel of the appeal site. This has not been ignored by the Council. As Mr Murphy set out in chief, he took that into account when reaching his identified ‘medium’ level of harm – as opposed to a high level of harm which he would otherwise have found had built form been brought closer to the Church. On the other hand, it is not appropriate to simply ignore the built form when considering the impact of the open element of the scheme. That approach – which the appellant adopts by assessing the impacts of each parcel of land in isolation – significantly downplays the impact on how the Church will be experienced moving forward. One cannot ignore the impacts of the new use of the appeal site, including lighting, noise and other such impacts associated with this type of development.¹⁸

¹⁷ Mr Murphy’s VP 12, see Map 2 [CD 1.10].

¹⁸ Mr Murphy PoE, para. 5.12 [CD 1.10].

Further, the undeveloped parcel will necessarily now be legible in the context of built form, whether in the foreground or background.

18. If one considers the *totality* of impacts within the red line boundary, which is the proper approach to assessing heritage harm, then there is clearly a considerable impact on the key attributes of setting which contribute to the significance of the Church for the reasons given by Mr Murphy and as set out above.

Almshouses

19. In terms of the Almshouses, it is common ground that the features of its setting which contribute to its significance include: (i) the association with the Church and Elmswell Hall; and (ii) the contribution the appeal site makes in that it illustrates the historic use of the buildings serving a rural parish.
20. The scheme would introduce built form into the currently undeveloped, farmed land between the Almshouses and Elmswell Hall. Indeed this is the last parcel of agrarian land linking the three assets. This scheme would introduce built form and change the character of the appeal site, thereby eroding the historical connection between the Almshouses and its historical community, as well as the connection with the other heritage assets.
21. In light of the expansion of Elmswell from the 19th century, it is especially important to consider Historic England's guidance on assessing cumulative change. As they advise: *"Where the significance of a heritage asset has been compromised in the past by unsympathetic development affecting its setting, to accord with NPPF policies consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the asset. Negative change could include severing the last link between an asset and its original setting"* (emphasis added).¹⁹ This is precisely such a case where we do see the last link between three heritage assets being severed; and in the case of the Almshouses specifically, the loss of the last parcel of adjacent agrarian land.
22. It is not disputed that in architectural terms, the best appreciation of the Almshouses is in fact from the south. But that does not detract from the harm to the significance of the asset from development to its north, as explained by Mr Murphy. Accounting for the

¹⁹ Historic England, GPA 3, p.8 [CD 9.2].

impacts, including cumulative harm, explains his assessment of this harm amounting to “low-medium”.

Elmswell Hall (or “Hall”)

23. In terms of Elmswell Hall, it is common ground that the features of its setting which contribute to its significance include: (i) the historical association with the Church and the Almshouses (although there is disagreement about the extent of contribution made by the Church); and (ii) the historical functional link between the Hall and the appeal site because of the common leaseholder revealing that the site was historically farmed by the occupier of the Hall. It would appear that the functional/ownership link in fact continues to present day.
24. This scheme will cause harm in that it would bring an end to the “remnant” historic landholding²⁰ and alter the land use and character, as well as introduce built form on the historically farmed fields. As Mr Copp also identifies, notwithstanding the expansion of Elmswell which was unsympathetic to the Hall, this scheme would be detrimental in that it would alter the approach to the building along Parnell Lane by having development on both sides.²¹ In this respect, as with the Almshouses, it is necessary to give due consideration to the cumulative change and the harm caused by severing the last link between an asset and its setting.
25. The further element of harm arises due to the implications on the historic connection between the Hall and the Church. It is known that Sir Robert Gardiner who likely constructed the Hall in its listed form not only established the Almshouses but was also buried in the Church. Notwithstanding the Dissolution, the siting of the Almshouses adjacent to the Church and indeed his chosen place of burial demonstrate that religion continued to play an important role,²² connecting these assets to each other.
26. This contribution made by the Church to the Hall is downplayed by Mr Copp, and this is evident from the failure to assess within his proof the visual interrelationship between the two assets. Unlike Mr Murphy’s VP11,²³ he does not carry out any assessment of the impact of the development from within Elmswell Hall. At the same time, however, the

²⁰ Mr Copp POE, para. 5.64 [**CD 1.14**].

²¹ Mr Copp POE, para. 5.68 [**CD 1.14**].

²² Mr Copp POE, para. 5.49 [**CD 1.14**].

²³ Mr Murphy’s VP 12, see Map 2 [**CD 1.10**].

Appellant has said that they have sought to retain a designed view between the Church and the Hall in between the new buildings, which rather suggests that this is an important historical connection (and not just about visual amenity). There was an inherent contradiction in this aspect of the appellant's case.

27. When properly assessed, by taking into account the contribution made by the Church as well as the loss of the remnant historic landholding, the level of harm to Elmswell Hall is credibly identified as "low-medium" by Mr Murphy.

Overall

28. Taking a step back, it is important to recognise the connections between the three heritage assets in this case. It is also right to emphasise the agrarian (or farmed) nature of the appeal site, which has remained unchanged for hundreds of years. The detail of the field pattern has changed with the loss of hedgerows, but the fundamental character of the appeal site as farmed land has not altered.
29. In its current undeveloped agrarian state, the appeal site provides an important rural setting to all three heritage assets, which has historically contributed – and continues to contribute – to the ability to appreciate and understand their significance. The proposed development would permanently alter that setting and erode appreciation of the functional and historic relationship of the heritage assets with each other as well as with their rural surroundings.
30. As a final note on heritage impacts, the Council is mindful of Historic England's finding of a high level of less than substantial harm to the significance of the Church. The Council, nor its witness, is able to offer any explanation for the difference. What is clear, however, is that Mr Murphy's evidence falls squarely between the high harm as judged by Historic England and the low harm judged by Mr Copp. Mr Murphy's evidence was clearly set out, offered a comprehensive assessment, and is to be preferred for the reasons already set out.

III. Impact on character and appearance

31. The Council's case, drawing on the evidence of Mrs Howell, is that the proposals would cause significant adverse effects on both the local landscape character and visual amenity. As with heritage, there is a large degree of common ground between the

experts, and the sections below therefore seek to address the main differences between the two parties.

Landscape effects

32. Both experts agreed that the appeal site and its local context exhibit some of the key characteristics of the relevant landscape character area (“**LCA**”), the Ancient Plateau Claylands LCA. These include: the undulating landscape; dispersed settlement pattern; arable farmland land cover; frequently open views with some confinement by hedges and trees; and the pairing of a medieval church and manorial hall in valley side locations close to a water supply.²⁴
33. It is obvious, that by introducing built form onto the appeal site, the development will adversely impact on these features. The site would lose the undeveloped landscape; there would be a change in the arable land use; there would be new built form, including the much larger built form of the care home; there would need to be at least some change to the sloping topography; and there would now be built form between the existing church and manorial complex. These matters were not really disputed. The difference between the experts came down to the question of magnitude, which in turn feeds into the overall significance of effect.²⁵
34. As for the impact on the site and immediate setting:
- (1) Both experts judged this to be moderate adverse at completion.
 - (2) Mrs Ellinsfield downgraded the significance at year 15 to minor adverse, a conclusion with which Mrs Howell disagreed. It was apparent from the LVIA and cross-examination that the only reason for this variation is because Mrs Ellinsfield judges there to be benefits associated with the mitigation planting. She further confirmed that in her view there were no negative impacts associated with the planting. However, as Mrs Howell explained, while there may be separate ecological or community benefits from planting, in landscape and visual terms the planting itself would cause harm in terms of loss of openness and screening of some views. Further, any alleged benefit of reinstating historic hedgerows cannot assist, in the

²⁴ See LCA at [**CD 8.5**]; see also Appellant’s LVIA para.4.4 [**CD 2.18**].

²⁵ Both experts have used the methodology in LVIA App A, p.9 [**CD 2.18**].

abstract, if the former land use is irreversibly lost. Moreover, the new highly visible roofscape will remain, as will the other adversarial changes on site.

35. As for the impact on the LCA:

- (1) The experts disagreed on magnitude both at completion and 15 years. The alleged benefits of the planting, which the Council disputes, accounts for some of the discrepancy.
- (2) The key issue here appears to be that Mrs Ellinsfield placed a much greater emphasis on the fact that this site is only a tiny parcel within the wider LCA. But that is only one aspect of how one should judge magnitude. If that were the determinative parameter, almost no individual scheme would ever be judged to be harmful to wider LCAs. Instead, as with Mrs Ellinsfield methodology, one must consider other factors such as permanence of impact and the nature of the changes.²⁶ When all of those factors are considered in the round, it is evident why Mrs Howell comes to her assessment of moderate adverse impacts.
- (3) It is also relevant to note that on a common sense application of relevant technical guidance, and Mrs Ellinsfield's own methodology, if the Inspector did judge magnitude to be higher (i.e. in line with Mrs Howell's assessment), then it follows that the overall finding of significance would also be higher. While Mrs Ellinsfield had at no stage taken issue with Mrs Howell's methodology (which in fact adopted that in the LVIA), she refused to accept that a higher magnitude would very likely lead to a higher overall finding in terms of significance. The Council notes that there is in fact no methodological dispute; Mrs Howell is right (methodologically at least) to reach her overall assessment of moderate adverse; and Mrs Ellinsfield's refusal to engage on some of these issues is indicative of the Appellant's broader desire to downplay the harmful effects in this case.

36. A final possible factor that also appears to account for the discrepancy in the experts' assessments is the extent to which they have accounted for the church-manorial hall complex in this case. While Mrs Ellinsfield accepted that this pairing was "*part of the recognised character*",²⁷ her evidence on the extent to which this had been factored into the assessment of magnitude was far from clear. The written evidence does not grapple

²⁶ LVIA App A, p.9 [CD 2.18].

²⁷ In cross-examination.

with the point directly, and it was clear that Mrs Ellinsfield considered this to be a matter for the heritage expert alone. In response to cross-examination, Mrs Ellinsfield said “we don’t linger on heritage assets...that would be undue consideration... it’s for heritage statement”. However, that is not an answer because:

- (1) Cultural heritage is a relevant consideration, as per longstanding Landscape Institute guidance;²⁸
- (2) It is all the more relevant in a case such as this where the cultural heritage assets are agreed to be a recognised part of the settlement pattern and character and are found in such immediate proximity to the site in question; and
- (3) The key relevant policy in this regard itself recognises, in the opening words of the supporting text, that: “*The landscape and the historic environment have a strong inter-relationship, as the character of the landscape is influenced by its historic environment, as well as traditional villages and historic townscapes.*”²⁹

37. The omission in this regard is material.

Visual effects

38. The development will further result in significant adverse visual impacts, particularly on users of public rights of way in the vicinity of the appeal site. There is a large degree of common ground on the impact on visual receptors in this case. There are two key areas of disagreement.

39. First, in relation to users of PROW Elmswell 14, represented by VP2 and VP3. As explained by Mrs Howell, her assessment of magnitude (and therefore significance) is based on the loss of openness, reduced appreciation of the sloping topography, loss of visual connection between the Church and the Hall; and the built form of the buildings particularly the scale of the care home facility which would compete with both the Church and the Almshouses in terms of scale and mass.³⁰ The visual screening would not assist because the built form would still be apparent and it would also have the same effect on loss of openness and the other features that are presently valued when travelling through the agricultural landscape along this PROW. The photomontage at

²⁸ Landscape Institute, Technical Guidance Note 02/21, p.7 [CD 8.5].

²⁹ Policy LP17, para. 15.19.

³⁰ As explained in examination in chief.

Verified Viewpoint 4 reveals the extent of the detrimental impact.³¹ Mrs Ellinsfield's evidence to the contrary³² that "*the legibility of the care home ...built form... is not going to fundamentally different to what exists*" because "*there is already built form in the view*" seriously underplays the impacts on recreational users of this PROW.

40. Second, in relation to users of PROW Norton 7, represented by VP9. There is no photomontage to assess the impacts. However, it is evident that given VP9's elevated position on a slope, the current long views out across the site would be impacted by the roofline of built form and heavy tree planting around the buildings – both of which would detract from the prominence of the Church.
41. Ultimately, these are matters that the Inspector will no doubt have judged for herself on the site visit. However, it is important to emphasise that when considering visual impacts (particularly recreational users), one must necessarily account for the real-world kinetic experience of residents and visitors traversing this historic agricultural landscape around the settlement of Elmswell.

Important Views in the ENP

42. The significant adverse visual impacts take on a particular significance in this case. The ENP was relatively recently adopted in November 2023, and as part of its evidence base, an assessment of Important Views was undertaken which fed into the adopted plan. The ENP seeks to protect these Important Views and directs that any proposed development should not have a detrimental visual impact on the key features of the protected views. Contrary to that policy protection, the development in this case would negatively harm the important views and thereby undermines the democratic will of the local community, as expressed through the neighbourhood plan process.
43. It is perhaps obvious that the most significant impact will be felt at Important View 4, represented by photomontage at Verified Viewpoint 5.³³ This is the view from the north of School Lane looking south-west towards Woolpit and beyond. It has been designated on the following basis: "*An outstandingly important view that demonstrates the prominence of*

³¹ Mrs Ellinsfield POE, Appendix A, Verified Viewpoint 4 [**CD 1.15**].

³² Given in cross examination.

³³ Mrs Ellinsfield POE, Appendix A, Verified Viewpoint 4 [**CD 1.15**].

the church looking out across the valley. Development in the foreground and in the distance could have a significant detrimental impact on this view.”

44. Notwithstanding the apparent intrusion evident from the photomontage – both in terms of introducing development in the foreground and the closing off of some of the valley views – Mrs Ellinsfield refused to accept that there would be any effect on this Important View. As for the screening of long-distance views, she maintained that the planting could be left out at reserved matters, but that would simply mean that more built form would be legible. Moreover, it was inherently contradictory to her earlier evidence that the illustrative proposals could be used to judge the “realistic impacts” of this scheme.³⁴ One expects that visualisations prepared for a public inquiry can be relied on to carry out a reasonable assessment, but in this case the Appellant sought to row back on a few occasions from their own photomontages which is unusual.³⁵ Her evidence was not credible on the impact on this viewpoint, given that the Church would no longer be the focal point across the valley.

Overall

45. Overall, and for the reasons given above, Mrs Howell’s evidence is to be preferred as presenting a fair assessment of the impacts of the scheme on local landscape and visual amenity, as well as on the Important Views designated in the ENP. Indeed, the fact that in her consultation responses she ‘commended’ the approach the Appellant had taken underscores that she has at all times sought to provide a fair assessment of the impacts of the scheme.³⁶ Notwithstanding this commendable approach, as she made clear in each of her responses, this scheme would bring about adverse landscape and visual effects.
46. Contrary to some of the points made by the Appellant during the evidence, the landscape or indeed the heritage objections are not some arid technical points. These concerns go to the very heart of what local residents value about their village, as expressed not just in the neighbourhood plan but also through third party

³⁴ Accepted in cross-examination.

³⁵ In terms of suggesting that the landscaping features shown could be removed or altered. It is not disputed that these are issues for reserved matters, but it is unhelpful if the Appellant rows back from their own visualisations which all parties had used as the basis to judge the realistic impact of the proposals.

³⁶ See the pre-application response and consultation responses at [CD 1.11].

representations to the public inquiry. The Appellant is wrong to dismiss or downplay the genuine concerns of residents in this regard.

C. NEED

47. The need for specialist housing for older people is not a main issue but is addressed more fully than other material considerations given the nature of the proposals. The Council recognises the critical need for older people, as set out in the PPG. Both the NPPF and the PPG recognise that there is a full spectrum of older persons' accommodation that is relevant to meeting the needs of older persons.³⁷ While LP06 is naturally the focus of this inquiry, there are other policies that assist in meeting the full range of needs of older people, including those who may not want or need specialist accommodation and wish to live in their own homes.³⁸
48. Turning specifically to specialist accommodation, the Council's evidence has been based on the SHMA.³⁹ Based on that evidence base, the Mid Suffolk requirement is for 1670 people up to 2036, requiring an additional 1004 registered care accommodation spaces.⁴⁰ It is noted that the Appellant's case is that the SHMA underestimates the need; the Council does not have any evidence to the contrary. It fully accepts that by virtue of when the SHMA was produced, there is likely to be a higher need for such accommodation. The question of need will be assessed as part of the new local plan, which is the appropriate point in time to review its evidence base. In the interim period however, regardless of the figures used, Mr Cameron accepted that significant need should be attributed to this need.
49. In terms of delivery, the Council relies on 'H50'⁴¹ (the updating document to the local plan examination on, among other matters, older persons' housing that had been completed, granted permission or were in the pipeline as of October 2021) and the schemes currently in the pipeline.⁴² Notwithstanding this delivery, it remains the case that there is a significant need for such housing and Mr Cameron has accepted that throughout this case.

³⁷ See for e.g. NPPF Annex 2 Glossary on "older people"; PPG paras. 003, 008, 012.

³⁸ See PPG para. 012; Policy LP24; Mr Cameron PoE, para. 4.18 [**CD 1.12**].

³⁹ [**CD 7.1, 7.2**].

⁴⁰ Mr Cameron PoE, para. 4.14 [**CD 1.12**].

⁴¹ [**CD 5.6**].

⁴² Mr Cameron PoE, paras. 4.15-4.16 [**CD 1.12**].

50. The final point on need is that the Appellant states that it affects the weight to be given to LP06. Mr Cameron agreed that full weight could not be afforded to LP06. For the reasons given above (i.e. the findings of the inspectors' examining the JLP), the Council maintains that significant weight can be given to this policy which was found sound relatively recently, in late 2023. Moreover, it is relevant here that unlike market housing, there are no mandatory 'targets', and national policy does not *mandate* that the needs of all individual groups must be met *in full*.

D. PLANNING ASSESSMENT

I. Conflict with the development plan

51. The statutory starting point is to assess whether the scheme complies with the development plan taken as a whole. This requires a consideration of compliance with the most important policies for the determination of the appeal, a list which is agreed between the two planning experts.⁴³

52. That there is conflict with JLP policies SP03, LP06 and ENP Policy ELM1 has always been common ground. A series of questions were put to Mr Cameron in cross-examination about LP06, about how the policy did not actually prevent specialist housing from coming forward outside the settlement boundary. Mr Cameron rightly recognised that no policy is absolute, because there might be other material considerations which support such schemes. That was also the approach taken by Mr Warner, when he was questioned, who confirmed that the starting point is the policy breach (common ground in this case), followed then by a consideration of other relevant factors.

53. When cross-examined, Mr Warner further conceded that there is also conflict with LP17 in light of the landscape and visual harms – even on Mrs Ellinsfield's evidence. The Council submits that the same analysis should apply to Policy LP24 which also requires new development to respond to and "safeguard" the existing character/context, which is not the case even on Mrs Ellinsfield's finding of localised harm.

54. While Mr Warner maintained that JLP policy LP19 is not breached, that is not correct in the Council's submissions. Given that even Mr Copp found harm to the significance of three heritage assets, there is a breach with paragraph 4 of LP19, which requires that "*All designated and non-designated heritage assets must be preserved, enhanced or*

⁴³ Mr Cameron PoE, paras. 3.23, 3.30 [**CD 1.12**].

conserved in accordance with statutory tests³¹ and their significance, including consideration of any contribution made to that significance by their setting.”

55. Finally, it is evident on Mrs Howell’s evidence that there is also a breach of ELM2, given the clear detrimental impacts on (at the very least) Important View 4.

56. Considering these policies in the round, Mr Cameron explained that there is a conflict with the development plan taken as a whole.⁴⁴ While Mr Warner reached the opposite conclusion, his assessment should be treated with caution because it was necessarily incomplete. As he accepted in cross-examination, he wrongly failed to account for the breach of LP17, notwithstanding that his own expert found that the proposals would not “conserve and enhance” landscape character development.

II. Other material considerations

57. Do material considerations justify the departure from the development plan on this occasion? The answer, unequivocally, is no.

58. These matters are considered below. But before doing so, the Council notes that Mr Warner’s brief references to the ‘tilted balance’ can be ignored. He accepted when questioned that this was not a serious part of the Appellant’s case: he had not carried out any assessment of the ‘basket of policies’ relevant to determining the question of ‘out-of-date’; and this was not a point that had ever been raised before.⁴⁵

Economic benefits

59. Both planning experts are agreed that the economic benefits of the scheme attract moderate positive weight. This includes benefits associated with the construction phase, job creation associated with the scheme, and some economic spend from future residents.⁴⁶

Social benefits

60. The social benefits should attract significant weight, as set out by Mr Cameron. The principal benefit is of course the delivery of specialist housing to meet an identified need, with further benefits from the provision of affordable housing and additional

⁴⁴ Mr Cameron PoE, para. 6.4 [CD 1.12].

⁴⁵ That is not in the Statement of Case [CD 1.3] nor the SoCG [CD 1.5].

⁴⁶ Mr Cameron PoE, para. 5.3 [CD 1.12]; see also Mr Warner PoE, para. 7.14 [CD 1.16].

almshouses.⁴⁷ As part of his consideration, Mr Cameron acknowledged that the benefits of specialist housing also inherently include the wider health and social benefits as well as the freeing up of some market housing.

Environmental benefits

61. Mr Cameron explained why the environmental benefits only attract limited weight in his view.⁴⁸ However, he fairly accepted when questioned that he would consider giving greater weight to the BNG benefits if this were secured by way of condition to provide a much higher level of BNG over and above the statutory requirement.

Harms

Heritage

62. Mr Warner accepted when cross-examined that his consideration of heritage harm, if followed, would amount to an error of law. His failure to account for section 66 LBA 1990 and NPPF paragraph 212 are significant omissions which entirely discredit his assessment of this case. His reasoning – which is accepted to be legally deficient – necessarily infects his overall planning balance too.

63. The correct legal approach is as evidenced in Mr Cameron’s assessment. As Mr Warner acknowledged in cross-examination, the following matters must weigh into any heritage assessment (including under NPPF paragraph 215):

(1) By virtue of section 66, “special regard” must be had to the desirability of preserving listed buildings or their setting. As per case law, this means that any finding of harm to the setting of a listed building must be given “considerable importance and weight”.⁴⁹ This is different from other material considerations where weight is a matter exclusively for planning judgment because Parliament has prescribed the level of weight which must be given to heritage harm.

⁴⁷ Mr Cameron PoE, para. 5.2 [CD 1.12].

⁴⁸ Mr Cameron PoE, para. 5.4 [CD 1.12].

⁴⁹ *Barnwell Manor Wind Energy Ltd v East Northamptonshire DC* [2014] EWCA Civ 137, paras. 22-23, 26 [CD 6.2J].

(2) As per NPPF paragraph 212, “great weight” should be given to the heritage asset’s conservation – irrespective of the level of harm. This essentially mirrors the statutory imperative.

(3) As is further clarified by NPPF paragraph 212, “*the more important the asset, the greater the weight should be*”. This is particularly important here given the acknowledged harm by both parties to the Grade II* listed Church. As is well known, Grade II* listed buildings only account for around 5.8% of all listed buildings, signifying their status as “*particularly important buildings of more than special interest*”.

64. While none of these matters was considered by Mr Warner, they must, as a matter of law, be considered in the heritage balance. Applying the proper considerations, including the statutory weight, it is Mr Cameron’s clear evidence that the public benefits of the scheme (taken together) do not outweigh the identified harm to the three heritage assets.⁵⁰

Landscape

65. For the reasons given by Mr Cameron, this harm is attributed moderate weight in the planning balance.⁵¹

Development plan conflict

66. The conflict with the countryside protection policies, and the development plan as a whole, itself causes further harm by undermining the public confidence in a plan led system.

Overall balance

67. Assessing these matters in the round, it was Mr Cameron’s clear evidence that the significant benefits of the scheme are plainly outweighed by its harmful impacts. By contrast, the Appellant appears to have submitted this scheme and pursued this appeal without any sufficient regard of its harmful impacts. Omissions such as the failure to acknowledge the section 66 statutory duty fundamentally underscores the Appellant’s

⁵⁰ Mr Cameron PoE, para. 4.28 [CD 1.12].

⁵¹ Mr Cameron PoE, para. 4.33 [CD 1.12].

approach of at best overlooking or at worse downplaying the adverse effects of the proposals.

68. The Council readily accepts the urgent need for older persons housing. This is a factor which officers have at the forefront of their minds when considering applications of this kind. This urgent need does not however foreclose the need to properly scrutinise the impacts of such development, nor does it automatically justify such schemes coming forward at any location and irrespective of their impact.

69. In the context of this scheme, the Council's case is that the benefits are plainly outweighed by the harmful impacts. The Council accordingly invites the Inspector to dismiss this appeal.

RUCHI PAREKH
CORNERSTONE BARRISTERS
12 SEPTEMBER 2025