

## **Committee Report**

**Item No:** 9E

**Reference:** DC/23/01076

**Case Officer:** Daniel Cameron

**Ward:** Elmswell & Woolpit.

**Ward Member/s:** Cllr Jen Overett, Cllr Sarah Mansel.

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## **RECOMMENDATION – GRANT A VARIATION OF PLANNING PERMISSION**

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### **Description of Development**

Application under S73a for Removal or Variation of a Condition following approval of DC/22/01615 dated 05/08/2022 - Erection of up to 86 dwellings (30 No affordable units) including car parking, open space provision with associated infrastructure and vehicular access. Highways improvements of road widening and cycle/footpath link. Town and Country Planning Act 1990 (as amended) to vary Condition No 9 (Glazing to Dwellings).

### **Location**

Land To The North And West Of, School Road, Elmswell, Suffolk

**Expiry Date:** 03/06/2023

**Application Type:** FUW - Full App Without Compliance of Condition

**Development Type:** Major Small Scale - Dwellings

**Applicant:** Bloor Homes Eastern

**Parish:** Elmswell

**Site Area:** 5.8ha (Developable area is approx. 4.5ha)

**Density of Development:** 19.1 dwellings per hectare (based on developable area)

**Details of Previous Committee / Resolutions and any member site visit:** Outline planning permission (DC/18/02146) was granted on 18th March 2022 following completion of a Section 106 Agreement following the decision of Development Control Committee on 21st January 2021. Reserved matters approval (DC/22/01615) followed on 5<sup>th</sup> August 2022 following the decision of Development Control Committee on 22<sup>nd</sup> June 2022.

**Has a Committee Call In request been received from a Council Member:** No

**Has the application been subject to Pre-Application Advice:** No

## **PART ONE – REASON FOR REFERENCE TO COMMITTEE**

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The application is referred to committee for the following reason:

This is a major development for 15 or more dwellings.

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## **PART TWO – POLICIES AND CONSULTATION SUMMARY**

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### **Summary of Policies**

NPPF National Planning Policy Framework  
NPPG National Planning Practice Guidance

#### Core Strategy Focused Review 2012:

FC01 - Presumption In Favour of Sustainable Development  
FC01\_1 - Mid Suffolk Approach to Delivering Sustainable Development  
FC02 - Provision and Distribution of Housing

#### Core Strategy 2008:

CS01 - Settlement Hierarchy  
CS02 - Development in the Countryside and Countryside Villages  
CS05 - Mid Suffolk's Environment  
CS06 - Services and Infrastructure

#### Mid Suffolk Local Plan 1998:

GP01 - Design and layout of development  
HB14 - Ensuring archaeological remains are not destroyed  
H07 - Restricting housing development unrelated to needs of countryside  
H13 - Design and layout of housing development  
H14 - A range of house types to meet different accommodation needs  
H15 - Development to reflect local characteristics  
H16 - Protecting existing residential amenity  
H17 - Keeping residential development away from pollution  
T09 - Parking Standards  
T10 - Highway Considerations in Development  
CL08 - Protecting wildlife habitats

#### Supplementary Planning Documents:

Suffolk Adopted Parking Standards

#### Emergent Joint Local Plan:

SP01 - Housing Needs  
SP02 - Affordable Housing  
SP03 - The sustainable location of new development  
LP15 - Environmental Protection and Conservation  
LP16 - Biodiversity & Geodiversity  
LP17 - Landscape  
LP19 - The Historic Environment  
LP23 - Sustainable Construction and Design  
LP24 - Design and Residential Amenity

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CLASSIFICATION: Official

LP27 - Flood risk and vulnerability  
LP29 - Safe, Sustainable and Active Transport

### **Neighbourhood Plan Status**

This application site is within a Neighbourhood Plan Area.

The Neighbourhood Plan is currently at:-

Stage 4: Submission of the plan for examination, examination date to be confirmed.

Accordingly, the Neighbourhood Plan has little material weight.

### **Consultations and Representations**

During the course of the application, consultation responses and representations from third parties have been received. These are summarised below.

[Click here to view consultee comments online](#)

### **A: Summary of Consultations**

#### **Parish Council**

##### **Elmswell Parish Council comments received 27<sup>th</sup> March 2023**

Given the technical nature of this application, Councillors decline to comment.

#### **Internal Consultee Responses**

##### **Enforcement Team comments received 7<sup>th</sup> March 2023**

Please be advised that there are no live enforcement cases on this site.

##### **Environmental Health – Noise, Odour and Smoke comments received 16<sup>th</sup> March 2023**

As the existing and proposed condition requires the glazing and ventilation acoustic performance to be at a minimum level, I have no objection to this on the provision that the post-completion/prior to occupation noise inspections to be carried out in agreement with the Local Planning Authority also include a selection of properties that were originally shown as having facades within Zone A.

For the sake of clarity, the post-completion noise inspection shall comprise:

- Confirmation that all noise mitigation submitted under condition 9 has been installed as approved;
- Evidenced results to demonstrate the internal noise levels for daytime and night-time meet the requirements of British Standard 8233.

In the event that the submitted information fails to satisfy the Local Planning Authority that the predicted noise reduction levels have been achieved on any of the properties identified within the schedule, then the restriction on any occupation/s continues to apply until such time as the developer has been able to agree and install additional mitigation measures that have first been agreed in writing with the Local Planning Authority.

In the event that the information submitted to the Local Planning Authority in respect of the post completion noise tests on all those properties identified in the schedule is satisfactory and has been agreed in writing, then the restriction on any occupations across any part of this site is lifted.

## **B: Representations**

At the time of writing this report no letters/emails/online comments have been received. A verbal update shall be provided as necessary.

(Note: All individual representations are counted and considered. Repeated and/or additional communication from a single individual will be counted as one representation.)

## **PLANNING HISTORY**

<b>REF:</b> DC/17/03853	Outline Planning Application for up to 250 dwellings including car parking, open space provision with associated infrastructure and access.	<b>DECISION:</b> WDN 25.04.2018
<b>REF:</b> DC/18/02146	Outline Planning Application (Access to be considered) Erection of up to 86 dwellings including car parking, early years provision, open space provision with associated infrastructure and vehicular access. Highways improvements of road widening and cycle/footpath link.	<b>DECISION:</b> GTD 08.03.2022
<b>REF:</b> DC/22/01511	Application for an Inset Appointment to be the water and waste water undertaker at School Road, Elmswell development.	<b>DECISION:</b> RNO 04.04.2022
<b>REF:</b> DC/22/01615	Application for Approval of Reserved Matters following grant of Outline Approval DC/18/02146 Town and Country Planning Order 2015 - Submission of details for Appearance, Landscaping, Layout and Scale for erection of up to 86 dwellings (30No affordable units) including car parking, open space provision with associated infrastructure and vehicular access. Highways improvements of road widening and cycle/footpath link.	<b>DECISION:</b> GTD 05.08.2022
<b>REF:</b> DC/22/01670	Discharge of Application for DC/18/02146 - Condition 12 (Refuse and Recycling) and Condition 13 (Refuse and Recycling)	<b>DECISION:</b> GTD 05.07.2022
<b>REF:</b> DC/22/01671	Discharge of Conditions Application for DC/18/02146 - Condition 23 (Biodiversity Enhancement and Mitigation)	<b>DECISION:</b> GTD 27.04.2022

<b>REF:</b> DC/22/01741	Application for the discharge of a Section 106 Planning Obligation - Discharge of S106 legal agreement dated 08.03.22 relating to DC/18/02146 - Discharge of S106 obligation under the Third Schedule, Part 9.	<b>DECISION:</b> GTD 22.07.2022
<b>REF:</b> DC/22/01752	Discharge of Conditions Application for DC/18/02146 - Condition 21 (Sustainability)	<b>DECISION:</b> GTD 21.07.2022
<b>REF:</b> DC/22/01848	Discharge of Conditions Application for DC/18/02146 - Condition 14 (Highways Details)	<b>DECISION:</b> GTD 05.08.2022
<b>REF:</b> DC/22/02584	Discharge of Conditions Application for DC/18/02146 - Condition 8 (Construction Management)	<b>DECISION:</b> GTD 05.08.2022
<b>REF:</b> DC/22/02709	Discharge of Conditions Application for DC/18/02146- Condition 16 (Highways Road Widening)	<b>DECISION:</b> GTD 05.07.2022
<b>REF:</b> DC/22/02710	Discharge of Conditions Application for DC/18/02146- Condition 24 (Foul Water Drainage Details)	<b>DECISION:</b> GTD 20.07.2022
<b>REF:</b> DC/22/02711	Discharge of Conditions Application for DC/18/02146 - Condition 7 (Sustainable Drainage Requirements)	<b>DECISION:</b> GTD 20.07.2022
<b>REF:</b> DC/22/02712	Discharge of Conditions Application for DC/18/02146 - Condition 17 (Archaeological Evaluation)	<b>DECISION:</b> GTD 05.07.2022
<b>REF:</b> DC/22/02830	Discharge of Conditions Application for DC/18/02146 - Condition 10 (Highways Mitigation Measures)	<b>DECISION:</b> GTD 05.07.2022
<b>REF:</b> DC/22/02831	Discharge of Conditions Application for DC/18/02146 - Condition 20 (Fire Hydrants)	<b>DECISION:</b> GTD 05.07.2022
<b>REF:</b> DC/22/03446	Application for a Non-Material Amendment relating to DC/18/02146 Condition 2 (Approval of Reserved Matters).	<b>DECISION:</b> GTD 04.08.2022
<b>REF:</b> DC/22/03999	Discharge of Conditions Application for DC/22/01615 - Condition 8 (Dust Control)	<b>DECISION:</b> GTD 07.09.2022
<b>REF:</b> DC/22/04309	Discharge of Conditions Application for DC/18/02146- Condition 4 (Wildlife)	<b>DECISION:</b> GTD 10.11.2022

	Enhancements) and Condition 5 (Wildlife Fencing)	
<b>REF:</b> DC/22/04525	Discharge of Conditions Application for DC/22/01615 - Condition 6 (Further Planting) and Condition 11 (Play Provision)	<b>DECISION:</b> GTD 16.11.2022
<b>REF:</b> DC/22/04527	Discharge of Conditions Application for DC/22/01615 - Condition 4 (Materials)	<b>DECISION:</b> GTD 24.11.2022
<b>REF:</b> DC/22/05425	Application for Consent to Display Advertisements. Erection of 1 x Chevron-Style 'V-Board'; 1 x Sign Facing Rail Line; and 12 x Flagpoles. Advertising "Coming Soon" of the development at School Road, Elmswell.	<b>DECISION:</b> GTD 12.12.2022
<b>REF:</b> DC/22/05875	Discharge of Conditions Application for DC/18/02146 - Condition 15 (Travel Plan)	<b>DECISION:</b> GTD 17.02.2023
<b>REF:</b> DC/22/05895	Discharge of Conditions Application for DC/18/02146 - Condition 18 (Archaeological Written Investigation)	<b>DECISION:</b> GTD 16.12.2022
<b>REF:</b> DC/22/06355	Discharge of Conditions Application for DC/22/01615- Condition 3 (Landscape and Ecological Management Plan)	<b>DECISION:</b> GTD 16.03.2023
<b>REF:</b> DC/23/01958	Discharge of Conditions Application for DC/18/02146 - Condition 19 (Part 3 Archaeological Works)	<b>DECISION:</b> PCO

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## **PART THREE – ASSESSMENT OF APPLICATION**

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### **1.0 The Site and Surroundings**

- 1.1 The site adjoins the western settlement boundary of Elmswell, a designated Key Service Centre, and borders the rear of existing residential properties on School Avenue. The site is bordered and enclosed on its northern boundary by a railway line which is elevated on a vegetated embankment. A public right of way (FP14) runs the length of the northern boundary, continuing westwards towards Elmswell Park. North, beyond the railway line, is open countryside and a further network of public rights of way. The western boundary at the site's northern end is delineated by Parnell Lane, a tree-lined private drive, beyond which is open countryside comprising large irregular arable fields.
- 1.2 There are seven listed buildings located in close proximity to the site, and which share some inter-visibility: Church of Saint John (Grade II\*), Two monuments 3 metres east of the Chancel to St. John's Church (Grade II), Churchyard Cross (Grade II), Nos. 1-3 Church Road (Almshouses—Grade II), Church Cottage (Grade II), Elmswell Hall (Grade II) and 1 and 2 Hall Cottages (Grade II).

All are located south of the site except Elmswell Hall, which is located north of the railway line and 1 and 2 Hall Cottages which are east of the site fronting Farm Meadow.

- 1.3 The site is not in, adjoining, or within proximity of a Conservation Area, Special Area of Conservation or Special Landscape Area. The site is in Flood Zone 1.

## **2.0 The Proposal**

- 2.1 This application follows on from the previous Outline and Reserved Matters applications on the site and proposes an amendment to allow a different approach to be taken in regards to acoustic insulation on dwellings close to the railway line. This would affect 28 of the 86 dwellings on site. Section 73 of the Town and Country Planning Act 1990 (as amended) allows for applications to be made for planning permission for the development of land without complying with the conditions applied to the previous planning permission.
- 2.2 In this instance, the application seeks to vary condition 9 from DC/22/01615. The condition requires glazing on certain dwellings within the site which are located a certain distance from the railway line to meet an enhanced acoustic standard such that the amenity of the future residents of those dwellings will be adequately protected. Full wording of the condition is as set out below:

### ***ACTION REQUIRED IN ACCORDANCE WITH A SPECIFIC TIMETABLE: GLAZING ON DWELLINGS***

1. *All bedrooms, highlighted as being within zone 1, (detailed in drawing no Figure 2. of the Noise Assessment for a residential development at Land off School Road, Elmswell prepared by 24 Acoustics of Southampton, Technical Report number: R9023-1 Rev 1, date 10th September 2021) shall be constructed with the relevant glazing scheme as specified in section Table 4, having a minimum sound reduction performance of 43 dB Rw.*
2. *All dwellings identified as requiring an acoustic glazing scheme (as above) shall require alternative passive ventilation to meet the minimum overall performance of 54 dB Dn,e,w (Note: any form of ventilation installed must comply with the Noise Insulation Regulations 1975 and Approved Document F [Ventilation regulations])*
3. *All other facades in the development shall be fitted with double glazing with a sound insulation rating of Rw32 or better. (this includes living rooms in zone 1)*
4. *All facades other than bedrooms within zone 1 shall be fitted with standard trickle vents having a minimum overall performance of 32 dB Dn,e,w (this includes living rooms in zone 1)*
5. *Prior to first occupation of any dwellings, a sample of dwellings (the number and location to be first agreed in writing by the Local Planning Authority) shall be independently tested to ensure that the WHO and BS8233 internal values are being met within those dwellings. Prior to first occupation of any of the dwellings, evidence that the agreed sample of dwellings have been independently tested and that the values have been met shall have been submitted to and have been approved in writing by the Local Planning Authority.*

*Reason: To protect the amenity of future occupants.*

- 2.3 The applicants, in reviewing the scheme, and following an updated acoustic report, have suggested that the condition should be amended. Their suggested condition reads as follows with the changes from the original condition above indicated in red for emphasis:

### ***APPLICANT SUGGESTED REVISED CONDITION WORDING OF CONDITION 9***

1. All bedrooms, highlighted as being within zone A, (detailed in drawing no Figure 2. of the Noise Assessment for a residential development at Land off School Road, Elmswell prepared by 24 Acoustics of Southampton, Technical Report number: R9023-1 Rev 4, dated 16th December 2022) shall be constructed with the relevant glazing scheme as specified in section Table 4, having a minimum sound reduction performance of 39 dB Rw.
2. All dwellings identified as requiring an acoustic glazing scheme (as above) shall require alternative passive ventilation to meet the minimum overall performance of 55 dB Dn,e,w (Note: any form of ventilation installed must comply with the Noise Insulation Regulations 1975 and Approved Document F [Ventilation regulations])
3. All other facades in the development shall be fitted with double glazing with a sound insulation rating of Rw32 or better. (this includes living rooms in zone A)
4. All Facades other than bedrooms within zone A shall be fitted with standard trickle vents having a minimum overall performance of 32 dB Dn,e,w (this includes living rooms in zone A)
5. Prior to first occupation of the dwellings within Zone A, a sample of dwellings within Zone A (the number and location of said dwellings shall be submitted to and agreed in writing by the Local Planning Authority) shall be independently tested to ensure that WHO and BS8233 internal values are being met. Evidence that the sample of dwellings has been independently tested and that the values are met shall then be submitted to and approved in writing by the Local Planning Authority.

2.4 The decision for Members of the Development Control Committee is whether or not to approve the suggested changes. Members should note that refusal of the application before them would have no bearing on the existing planning permission on the site, which would continue to run, only on the acoustic performance of insulation measures for the affected properties, which would otherwise remain as per the currently worded condition.

### **3.0 The Principle of Development**

3.1 In this instance, the principle of development is already established via the Outline planning permission and Reserved Matters approval for development of the site. As noted previously, the key question being raised by this application is whether the changed wording for condition 9 is acceptable or not.

3.2 For the avoidance of doubt, all other matters within the development, remain as agreed and set out within the existing planning permission.

### **4.0 Material Considerations**

4.1 Paragraph 56 of the NPPF states:

*Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.*

4.2 From this Officers impose six tests on planning conditions to ensure that they meet this requirement, expressly these are:

1. Conditions must be necessary;
2. Conditions must be relevant to planning;
3. Conditions must be relevant to the application under consideration;
4. Conditions must be enforceable;
5. Conditions must be precise in their wording and intent; and



6. Conditions must be reasonable in all other respects.

- 4.3 In assessing the wording of the existing condition and the proposed condition, Officers consider the above tests would be met. In consultation with the Council's Environmental Health Officers it is noted that they have no issue with the amended technical details suggested by the re-worded condition and add their own caveats such that the Council would have greater security regarding the post completion/prior to occupation checks on the properties affected.
- 4.4 As such, it is considered that, taking the caveats of the Environmental Health Team into account, Officers suggest the following condition wording to Members, with all alterations noted in red for emphasis. For clarification – the wording is the same as suggested by the applicant - apart from the additional two paragraphs at the end.

#### **OFFICER SUGGESTED REVISED CONDITION WORDING OF CONDITION 9**

1. *All bedrooms, highlighted as being within zone A, (detailed in drawing no Figure 2. of the Noise Assessment for a residential development at Land off School Road, Elmswell prepared by 24 Acoustics of Southampton, Technical Report number: R9023-1 Rev 4, dated 16th December 2022) shall be constructed with the relevant glazing scheme as specified in section Table 4, having a minimum sound reduction performance of 39 dB Rw.*
2. *All dwellings identified as requiring an acoustic glazing scheme (as above) shall require alternative passive ventilation to meet the minimum overall performance of 55 dB Dn,e,w (Note: any form of ventilation installed must comply with the Noise Insulation Regulations 1975 and Approved Document F [Ventilation regulations])*
3. *All other facades in the development shall be fitted with double glazing with a sound insulation rating of Rw32 or better. (this includes living rooms in zone A)*
4. *All Facades other than bedrooms within zone A shall be fitted with standard trickle vents having a minimum overall performance of 32 dB Dn,e,w (this includes living rooms in zone A)*
5. *Prior to first occupation of the dwellings within Zone A, a sample of dwellings within Zone A (the number and location of said dwellings shall be submitted to and agreed in writing by the Local Planning Authority, which for the avoidance of doubt shall include dwellings shown to have facades within zone A) shall be independently tested to ensure that WHO and BS8233 internal values for both daytime and night-time are being met or exceeded. Evidence that the sample of dwellings has been independently tested and that the values are met shall then be submitted to and approved in writing by the Local Planning Authority.*

*In the event that the submitted information fails to satisfy the Local Planning Authority that the predicted noise reduction levels have been achieved on any of the properties identified within the schedule, then the restriction on any occupations/s continues to apply until such time as the developer has been able to agree and install additional mitigation measures that have first been agreed in writing with the Local Planning Authority.*

*In the event that the information submitted to the Local Planning Authority in respect of the post completion noise tests on all those properties identified in the schedule is satisfactory and has been agreed in writing then the restriction on any occupations across any part of this site is lifted.*

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## **PART FOUR – CONCLUSION**

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### **5.0 Planning Balance and Conclusion**

- 5.1 The application seeks to amend condition 9 of the reserved matters approval DC/22/01615 relating to the site at School Road, Elmswell.
- 5.2 The condition would not be removed completely, rather, updated to reflect a more recent acoustic assessment which has been reviewed by Officers and more specifically by Officers from the Council's Environmental Health Team. They note that the minimum standard of insulation still applies and would ensure that noise insulation on the affected properties would still meet the requirements of the relevant British Standard as well as the requirements of the World Health Organisation. Post completion testing gives security that, should the installed measures not meet the required standards, then safeguards are in place to ensure that remedial action can also be taken.
- 5.3 In reviewing the new wording of condition 9, it is considered that the tests set out within the NPPF would be met. Therefore, it is the recommendation of Officers to grant planning permission subject to the other conditions originally imposed, updated to reflect any discharge that may have occurred in the intervening time. Those that would require amendment in order to reflect the discharged details are noted below with the recommendation set out below.
- 5.5 Members should also note that a Section 106 Agreement was secured against the Outline planning permission (DC/18/02146). It secures the following:
- Affordable housing.
  - Bus stop improvements.
  - Early years education contributions equating to £1,824.28 per dwelling.
  - Junction and highway improvements at School Road and Church Road.
  - Provision of open space and transfer to nominated body for maintenance.
  - Land to provide a pre-school facility.
  - Primary education contribution equating to £4,618.55 per dwelling.
  - £20,000 for the upgrading of PF14 to a bridleway.
  - Secondary school transport contribution equating to £980.18 per dwelling.

There is no requirement for a fresh legal agreement in this instance as the application before Members relates to a variation to the Reserved Matters. The development is also liable for CIL and lies within a high CIL rate zone.

### **RECOMMENDATION**

**That the Chief Planning Officer be authorised to GRANT Planning Permission subject to conditions as summarised below and those as may be deemed necessary by the Chief Planning Officer:**

- Condition on scope of reserved matters approval.
- Approved plans and documents.
- Landscaping and ecological management plan to be as approved under discharge of condition application DC/22/06355.

- External facing and roofing materials to be as approved under discharge of condition application DC/22/04527.
- Works to be undertaken in line with tree protection measures outlined within arboricultural report.
- Further planting onsite to be as approved under discharge of condition application DC/22/04525.
- No burning on site.
- Dust control measures to be implemented as approved under discharge of condition application DC/22/03999.
- Condition 9 to be updated as set out in this report.
- Landscaping to be implemented in accordance with specific schedule.
- Play provision to be provided as approved under discharge of condition application DC/22/04527
- Parking provision with EVCP provision to be provided to each dwelling prior to its first occupation.
- Cycle storage to be provided to each dwelling prior to its first occupation.
- Bin storage and presentation to be provided to each dwelling prior to its first occupation.