

Elmstead Neighbourhood Plan 2013 - 2033 and Neighbourhood Development Order

Notice of Public Hearing

Prepared by

JOHN SLATER BA(Hons), DMS, MRTPI, FRGS.

John Slater Planning Ltd

8th January 2024

The Need for a Public Hearing

1. Following my Initial Comments document, which I sent out on 27th November 2023, I received responses from both Tendring District Council and the Parish Council. I subsequently issued my Additional Comments on 2nd January 2024 where I gave advanced notice that I would be calling for a public hearing.
2. A public hearing will provide me with an opportunity to receive oral evidence on a limited number of questions, which I have set out in this Note. Whilst it is usual for most neighbourhood plan examinations to be conducted via written submissions only, the legislation does allow for the holding of a public hearing.

Issues to be Covered at The Hearing

3. In my Additional Comments note, I set down the issues which, at that stage, I felt I needed to be covered. These are set out in the following paragraphs.
4. I want to fully understand and test the criteria used for establishing the plan's settlement boundaries. In particular I wish to test whether the exclusion of the land owned by Mr Clarkson, to the north of Clacton Road produces "a defensible boundary" reflecting the separation between Elmstead Market settlement and the Lanswood settlement.
5. Similarly I wish to explore the justification for the omission of the barn and the two existing houses, at the south eastern boundary of the Lanswood settlement and whether there is a more logical settlement boundary, if the boundary followed the edge of the adjacent field as per the Regulation 16 submission submitted on behalf of Hills Building Group
6. I then want to look at the policies covering development within the Green Landscape Buffer as set out in Policy ELM2 and in particular whether the suggested revised policy put forward by the Parish Council in its response to my Initial Comments, offers sufficient guidance to decision makers, to help them to determine whether uses, buildings and structures will have "an urbanising effect". Its suggested modification reads as follows:

B. Proposals for development within the Green Landscape Buffer will only be supported where they:

- iv. **protect and reinforce the identified positive features of the landscape in the Green Landscape Buffer but where the use or development of land will comprise no urbanising effects by way of the location and scale of buildings and structures.**

7. In terms of the proposed neighbourhood development order I need to be satisfied that the site is capable of satisfactorily accommodating the quantum of development being sought, both in terms of amenity space for residents and car parking.
8. The hearing will also examine whether all the matters proposed, by either the district council or the parish council, to be covered by conditions and/or legal agreements are appropriate for a neighbourhood development order, having regard to the “basic conditions” as set out in Schedule 4B8(1) (a) and (2) (a-g) of the Town and Country Planning Act 1990.

Arrangements for the Hearing

9. Having liaised with both Tendring District Council and Elmstead Parish Council, I can confirm that the hearing will commence at **10am on Thursday 8th February 2024 in The Community Centre, School Road, Elmstead Market, CO7 7ET**. I am confident that the hearing can be completed in one day.
10. The hearing is open to the public to attend; however, the conduct of a neighbourhood plan hearings, is to be as set out in Schedule 4B to the Town and Country Planning Act 1990 and that specifies the parties who can participate. The legislation specifically provides for oral representations at the hearing to be made by the Qualifying Body, namely Elmstead Parish Council and the Local Planning Authority, Tendring District Council.
11. It is open to me to invite other parties and I would like Tendring District Council to issue invitations to the Lawson Planning Partnership Ltd on behalf of Mr Clarkson and also Phase 2 Planning and Development Ltd on behalf of Hills Building Group to take part in the discussions regarding the settlement boundary covered by Questions 1 and 2 .
12. I have no objections if any party wishes to film or record any part of the proceeding or to use social media. However, to be clear, members of the public will not be allowed to take part in the proceedings.
13. It is for the me, as the Examiner, to decide how the hearing is to be conducted. In particular, I will decide the nature and extent of any follow up questions, and the amount of time for oral representations. The principle to be applied, is that questioning will be done by myself, except where I feel that questioning by other parties should be allowed to ensure the adequate examination of a particular issue, or to ensure that a party has a fair chance to put their case.
14. We will take a short break during the morning session. I will have

an adjournment for lunch at a suitable moment in the proceedings, if I consider that we will need to continue into the afternoon.

Agenda

15. The agenda will be as follows:

- a. **Opening remarks-** by myself as Examiner
- b. **Opening statement** by Elmstead Parish Council – I would like to offer the opportunity to the Parish Council to introduce and set out its overall approach to the neighbourhood plan and the Neighbourhood Development Order. I would suggest that 10 minutes should be sufficient.
- c. **Discussion based on my individual questions:** These will look at the questions which I have attached to this note.
- d. **Examiners Closing Remarks**

Site visits

16. I carried out an unaccompanied site visit to Elmstead at the end of November. Unless anything arises at the hearing that dictate otherwise, I do not consider that it is necessary for me to arrange an accompanied site visit.

Publicity

17. Please can this note be placed on the appropriate district and parish council's respective websites. I would also ask that the District Council, prepares a notice, to give publicity to the hearing, within the village, for example, by placing posters on parish council notice boards or through press releases or social media, advertising that the hearing will be taking place and that the public can attend (but not participate in the proceedings). I have appended a sample notice at the end of the note.

John Slater BA (Hons), DMS, MRTPI, FRGS

John Slater Planning Ltd

Independent Examiner to the Elmstead Neighbourhood Plan and Neighbourhood Development Order

8th January 2024

Questions to be Discussed at the Hearing

1. What criteria was used for establishing the plan's settlement boundaries? Does the exclusion of the land owned by Mr Clarkson, creating a gap between the Elmstead Market and the Lanswood settlements, constitute "a defensible boundary" between the two settlements or is the character and appearance of that frontage essentially a continuation of the built up of the north side of Clacton Road?
2. In terms of policy making what is the justification for the omission of the barn and the two existing houses, at the south eastern boundary of the Lanswood settlement? Would a more logical settlement boundary be created if the settlement boundary followed the edge of the adjacent field, which would then effectively "round off the settlement"?
3. Does the suggested revised policy put forward by the Parish Council in its response to my Initial Comments relating to development within the Green Landscape Buffer and covered by Policy ELM2, offer sufficient guidance to decision makers, to enable a decision to be made as to whether uses, buildings and structures will have "an urbanising effect". The suggested modification to Policy ELM2 reads as follows:

B. Proposals for development within the Green Landscape Buffer will only be supported where they:

iv. protect and reinforce the identified positive features of the landscape in the Green Landscape Buffer but where the use or development of land will comprise no urbanising effects by way of the location and scale of buildings and structures.
4. The proposed neighbourhood development order is proposing to grant planning permission for up to 9 affordable housing units within a building with an internal floor area up to 650sq m. Is the area within the red line of the proposed order large enough to provide adequate car parking and amenity areas for that level of development?
5. Are all the matters proposed, by either the draft Order, or as requested by Tendring District Council, to be covered by conditions and/or legal agreements appropriate for a neighbourhood development order, having regard to the "basic conditions" as set out in Schedule 4B8(1) (a) and (2) (a-g) of the Town and Country Planning Act 1990?

Sample Notice

TENDRING DISTRICT COUNCIL

NOTICE OF PUBLIC HEARING

ELMSTEAD NEIGHBOURHOOD PLAN AND NEIGHBOURHOOD DEVELOPMENT ORDER

Tendring District Council hereby gives notice of a public hearing relating to the Elmstead Neighbourhood Plan submitted for examination under Regulation 17 of the Neighbourhood Planning (General) Regulations 2012 (as amended) and the accompanying Elmstead Parish Council Neighbourhood Development Order submitted for examination under Regulation 24 of the aforementioned regulations.

A copy of the submitted neighbourhood plan is available via the following link:

[Insert link to submitted version of the neighbourhood plan](#)

A copy of the submitted neighbourhood development order is available via the following link

[Insert link to submitted version of the neighbourhood development order](#)

The independent examiner of the Elmstead Parish Neighbourhood Plan and accompanying Neighbourhood Development Order, John Slater BA, DMS, MRTPI, FRGS, having read the plan, supporting documents and representations, has considered it is necessary to call a Hearing under the provisions of Schedule 4B of the Town and Country Planning Act 1990, as amended by the Localism Act 2011.

The Hearing will commence at **10.00 am on 8th February 2024 at:**

The Community Centre, School Road, Elmstead Market, CO7 7ET

It should be noted that any member of the public may attend the hearing, however, only specific persons, at the examiners discretion, may make oral representation, in accordance with Paragraph 9(3) of Schedule 4B to the Town and Country Planning Act 1990 (as amended).

Further updates regarding the examination of the Elmstead Parish Neighbourhood Plan and Neighbourhood Development Order, including in respect of the hearing, will be available via the following link:

[Insert link to TDC's Elmstead NP webpage](#)

