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# Appeal Decision

Site visit made on 7 March 2023

**by Philip Major BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16 March 2023**

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**Appeal Ref: APP/X3540/W/22/3300310**

**Land off St Andrews Place and Waterhead Lane, Melton, Woodbridge, Suffolk IP12 1QX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr C Dawson (Warburg Dawson Partnership) against the decision of East Suffolk Council.
  - The application Ref: DC/20/1831/OUT, dated 19 May 2020, was refused by notice dated 2 March 2022.
  - The development proposed is residential development of up to 55 dwellings with access off St Andrews Place.
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## Preliminary Matters

1. This application is made in outline, with all matters except access reserved for future consideration. The main access to be considered here would be taken from an existing turning head on St Andrew's Place. The site is identified on drawing No 4465-0105 Revision P02, and the access on drawing No 4465-0110 Revision P01. Other drawings must at this stage be regarded as being illustrative, as is made clear in representations. The proposed off-site highway works shown on drawing No 4465-0104 revision P08 are not within the application land. These works would provide new on-street parking bays along St Andrew's Place and footway enhancements and could be required by condition.
2. The refusal of planning permission was based solely on the perceived inadequacy of the access along St Andrew's Place, and the impact on local traffic conditions. No other matters were identified as being unacceptable. Although some representations made were critical in relation to ecological, flooding and detailed matters of design (such as the potential for overlooking) the Council does not take issue with those matters. Having read the representations I have no reason to take a different view. The appeal turns on the matters of access and traffic impact.
3. A raft of development plan policies have been brought to my attention in this case. However, given that the main matters in dispute between the Appellant and the Council, and in light of my consideration of all the representations made, I consider that the most important policies in this case are Local Plan policy SCLP7.1 and Melton Neighbourhood Plan Policy MEL20.

## **Decision**

4. The appeal is allowed and planning permission is granted for residential development of up to 55 dwellings with access off St Andrews Place at land off St Andrews Place and Waterhead Lane, Melton, Woodbridge, Suffolk IP12 1QX in accordance with the terms of the application, Ref: DC/20/1831/OUT, dated 19 May 2020, and the plans submitted with it, subject to the conditions set out in the attached schedule.

## **Application for Costs**

5. An application for costs was made by Mr C Dawson (Warburg Dawson Partnership) against East Suffolk Council. This application is the subject of a separate decision.

## **Main Issue**

6. The main issue in the appeal is whether the proposed development would provide suitable, safe and convenient access to the development proposed, the impact on local traffic conditions, and whether it would provide adequately for the use of transport other than the private car.

## **Reasons**

7. This appeal site is part of a larger block of land which has been allocated for a mixed use development in the Melton Neighbourhood Plan (MNP) which was made in 2018. This is part of the development plan. Under Policy MEL20 the uses allocated are commercial, residential, and open space (green/community space and lake). The appeal site here broadly relates to the area of land identified in the MNP for residential development, and a portion of the green/community space. Part of the commercial development has already taken place on the south-west part of the allocated land.
8. For reasons which I do not need to address the potential for an access point to be created through land to the south has become difficult. For that reason the primary access for vehicles to the residential development proposed would be along St Andrew's Place. One of the main concerns of both the Council as decision maker on the planning application, and local residents, is that St Andrew's Place cannot readily accept the associated traffic, particularly construction traffic.
9. St Andrew's Place is a typical residential street, and is of moderate width. The fact that not all properties enjoy the benefit of off-street parking leads to some parking on the carriageway and verges. This was evident at my site visit. In order to provide that access to the appeal site can be as trouble-free as possible the Appellant has offered to provide a number of parking laybys along the street to enable carriageway parking to be minimised. Whilst that appears to be a sensible solution there would, of course, be no means of enforcing the use of the laybys without commensurate parking restrictions elsewhere. Hence I am not entirely convinced that the provision of laybys would be a foolproof solution to the potential problem of on street parking impeding traffic flows during construction to a minor degree, but it can only assist. It seems to me that any difficulties would be likely to be of a slight and temporary nature.
10. The approach to the appeal site also includes 2 tight bends in the road. The swept path analyses submitted suggest that a delivery vehicle would be able to

negotiate those bends, but only by using the full width of the carriageway for manoeuvring. Any parked vehicles in those areas, even short term visitors, could potentially impede the passage of large delivery vehicles of the type associated with building sites. This again gives me slight concern that the access proposed to the site during the construction period would not be entirely straightforward given the likely frequency of requirements for large vehicle access. The Highway Authority also has concerns in relation to the construction period and has objected to the proposal on that basis (amongst others).

11. That said, I have no reason to doubt that St Andrew's Place would be able to cater for normal day to day traffic associated with the number of dwellings proposed. I recognise that local residents have concerns that the extra traffic would reduce highway safety in the locality, but the configuration of the streets does not encourage anything other than slow and careful driving and I am satisfied that there would be adequate safety post construction with the traffic flows generated.
12. Turning next to the wider road network I have noted the concerns in relation to the impact of the traffic generated from the appeal site on nearby junctions. Traffic from the site under these proposals would join Station Road, and no doubt the majority would then join Wilford Bridge Road, the A 1152. Wilford Bridge Road has relatively heavy traffic flows and there would inevitably be an impact on the Station Road/Wilford Bridge Road junction, with some greater delay for drivers. However, based on the information before me I do not consider that the delay could be described as significant. Similarly, although the extra journeys in motor vehicles would be likely to have an impact on the functioning of the traffic light controlled junction in Melton, it is equally clear that any delays and increased congestion would be relatively modest. I therefore agree with the Appellant that the scheme would not lead to a residual cumulative impact on the road network which would be severe, and would not justify refusing planning permission for that reason, as set out in paragraph 111 of the National Planning Policy Framework (NPPF).
13. The NPPF also seeks to ensure that development gives priority to pedestrians and cyclists, as well as facilitating access to public transport. The off-site works envisaged by the Appellant include improvements to footways to make access on foot to Wilford Bridge Road more convenient. This in turn would enable access to the bus stops nearby, and to Melton railway station. A direct link to the south of the appeal site to Wilford Bridge Road would be shorter but is not currently an option because of land ownership constraints. In any event the walk from the appeal site to the bus stops or Melton Station via St Andrew's Place is easy and takes just a few minutes. The lack of a direct link from the south of the site is not something which I consider should weigh against the development. In my judgement, and subject to appropriate conditions, the proposed scheme would provide sufficient opportunity for residents to travel other than by private vehicle.
14. Taking these various considerations into account I find that the development of the appeal site with access along St Andrew's Place would, in a finely balanced case, be acceptable. It might be that the construction period would bring some minor disruption, but this is unlikely to lead to unsafe highway conditions because of the configuration of the roads and resultant slow speeds. There would not be a severe cumulative residual impact on the road network and

therefore in NPPF terms there are no grounds to refuse planning permission for safety or network reasons. The use of this access would also avoid there being a single access to the wider allocated land, as required by policy.

### **Other Matters**

15. I understand that there would have been an expectation that access to the housing element of the allocated site would have been achieved across land to the south. But there is nothing in the policy which requires that to be so. Similarly there is no requirement for the land to be developed as a whole at the same time. Indeed that could not take place in any event since Riduna Park has been developed in isolation already. I do not accept that the grant of planning permission in this case would fetter the ability to deliver other parts of the allocation or inhibit the incorporation of open space at the appeal site in any wider provision of such space or other community benefits. Such matters would be the subject of future proposals for the remainder of the site, but nothing before me provides substantive evidence to suggest that the overall allocated scheme aspirations would be compromised.
16. A number of matters were raised by the Highway Authority which it suggests should be addressed in the event that its recommendation to refuse planning permission is not accepted. These include real time passenger information for buses and a contribution for a segregated footway from Melton station to the footway on Wilford Bridge Road. These and other matters are dealt with by planning obligation pursuant to S106 of the 1990 Act, and by proposed planning conditions, both of which I deal with below.

### **The Planning Balance**

17. Access to the proposed development would be possible along St Andrew's Place, though in the construction phase I accept that there may be some instances of disruption. But highway safety can be maintained. On balance I find the access proposals to be acceptable and not in conflict with the NPPF or Policy SCLP7.1 of the Local Plan<sup>1</sup> (the policy noted in the reason for refusal issued by the Council). I also find no material conflict with the objectives of Policy MEL20. Off street works would increase opportunity for, and encourage, the use of public transport. There would be no unacceptable impact on local highway conditions. Consequently, subject to necessary and reasonable conditions being imposed, I have concluded that the proposed development can be granted planning permission.

### **Conditions and Obligation**

18. The Council attached a list of suggested conditions with its appeal statement. Apart from dealing with the necessary matters relating to the submission of reserved matters it would also be reasonable to include conditions requiring highway matters to be addressed before commencement of development and prior to first occupation of any dwelling. This would ensure maximum mitigation for highway impacts, and minimum disruption during the construction phase. The requirement for real time bus information, the provision of cycle storage at Melton station, and the provision of residents travel packs would be reasonable and necessary in order to encourage the use of public transport. Conditions controlling ecological enhancement, mitigation

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<sup>1</sup> Suffolk Coastal Local Plan – adopted September 2020

and the like are reasonable in order to ensure a satisfactory development. For a similar reason a scheme to approve external lighting is necessary. Conditions designed to achieve energy efficiency and good living conditions are reasonable and necessary. Where necessary I have amended conditions in the interests of meeting the required tests, for clarity and for precision and enforceability. It is worth noting that I will not impose conditions which are adequately covered by the requirement for reserved matters submissions.

19. An obligation pursuant to S106 of the 1990 Act has been submitted. This is in the form of an agreement between the Appellant, East Suffolk Council and Suffolk County Council. It deals with a number of matters. It requires the provision of affordable housing in accordance with the terms set out in the obligation; it provides for a habitat mitigation contribution in order to address the proximity of protected sites; it provides for contributions to the provision of a secondary school, and the provision of a pedestrian link at the railway station. I am satisfied that all of these matters meet the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations.

### **Appropriate Assessment**

20. One of the contributions noted above relates to habitat mitigation. This is in relation principally, but not exclusively, to the Deben Estuary Special Protection Area and Ramsar Site. The Council carried out the necessary appropriate assessment and, following consultation with Natural England, concluded that subject to the contribution towards the Suffolk Coast RAMS<sup>2</sup> and other matters (which are included within the suggested conditions) there would not be an adverse impact on the protected European sites. I have reviewed the information and, as decision maker in the appeal, I am required to carry out an appropriate assessment. However, the information before me is clear, and I have no reason to depart from the conclusion drawn by both the Council and Natural England. With appropriate mitigation in place as described the development would not be likely to have an adverse impact on the protected sites.

### **Overall Conclusion**

21. For the reasons given above I conclude that the proposed development would not conflict with the development plan and that the appeal should be allowed.

*Philip Major*

INSPECTOR

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<sup>2</sup> Suffolk Coast Recreational Disturbance Avoidance and Mitigation Strategy

## **SCHEDULE OF CONDITIONS**

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 2) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 3) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 4) Concurrently with the submission of the first reserved matters application, details of secure cycle storage to be provided at Melton Railway Station shall be submitted to and approved in writing by the local planning authority. No residential dwelling hereby approved shall be occupied until the approved secure cycle storage has been provided in its entirety.
- 5) Concurrently with the first reserved matters application, a "lighting design strategy for biodiversity" for the development shall be submitted to and approved in writing by the local planning authority. The strategy shall:
  - a) identify those areas/features on site that are particularly sensitive for biodiversity likely to be impacted by lighting and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
  - b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places. All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be retained thereafter in accordance with the strategy. No other external lighting shall be installed without first seeking permission from the local planning authority.
- 6) Concurrently with the first reserved matters application a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority. No development shall take place (including demolition, ground works, vegetation clearance) until the CEMP (Biodiversity) has been approved. The CEMP (Biodiversity) shall be based on up to date ecological survey information and shall include the following:
  - a) Risk assessment of potentially damaging construction activities;
  - b) Identification of "biodiversity protection zones";
  - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);

- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee works;
- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- h) Use of protective fences, exclusion barriers and warning signs;

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 7) Concurrently with the first reserved matters application an ecological enhancement strategy, addressing how ecological enhancements will be achieved on site, shall be submitted to and approved in writing by the local planning authority. Ecological enhancement measures shall be delivered and retained in accordance with the approved strategy.
- 8) Concurrently with the first submission of the reserved matters, a tree survey and any tree protection measures shall be submitted to and approved in writing by the local planning authority. Any tree protection measures identified shall be implemented and retained during construction.
- 9) Concurrently with the submission of the reserved matters, details of electric vehicle charging points shall be submitted to and approved in writing by the local planning authority. The electric vehicle charge points shall be installed and made available for use prior to occupation of the dwelling to which they relate and shall thereafter be retained.
- 10) Concurrently with the submission of the reserved matters a noise survey shall be submitted to make recommendations for layout, orientation or other noise mitigation measures to ensure that the new housing does not suffer unreasonable loss of amenity (as a result of potential noise and disturbance from Bye Engineering, Brick Kiln Lane). The survey shall be undertaken by a competent person and shall include periods for daytime as 0700-2300 hours and night-time as 2300-0700 hours. All residential units shall thereafter be designed so as not to exceed the noise criteria based on BS8233 2014 given below:
  - Dwellings indoors in daytime: 35 dB LAeq,16 hours
  - Outdoor living area in day time: 55 dB LAeq,16 hours
  - Inside bedrooms at night-time: 30 dB LAeq,8 hours (45 dB LAm<sub>ax</sub>)
  - Outside bedrooms at night-time: 45 dB LAeq,8 hours (60 dB LAm<sub>ax</sub>).
- 11) Concurrently with the first submission of reserved matters, details of the proposed housing mix shall be submitted to the local planning authority for approval. These details shall include the size of proposed dwelling, the size, location and tenure of affordable dwellings and demonstrate how the development will contribute to meeting the needs of older people including providing at least 50% of the dwellings meeting the requirements for accessible and adaptable dwellings under Part M4(2) or M4(3) of the Building Regulations for accessible and adaptable dwellings

- 12) No development shall take place until details of the estate roads and footpaths, (including layout, levels, gradients, surfacing and means of surface water drainage), have been submitted to and approved in writing by the Local Planning Authority. The details shall be implemented as approved.
- 13) No development shall take place until details of the areas to be provided for storage and presentation of refuse/recycling bins have been submitted to and approved in writing by the Local Planning Authority. These areas shall be provided as approved and retained thereafter for no other purpose.
- 14) No development shall take place until details of the areas to be provided for purposes of loading, unloading, manoeuvring and parking of vehicles and secure covered cycle storage have been submitted to and approved in writing by the local planning authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter and used for no other purpose.
- 15) No development shall take place until details of the proposed off-site highway improvements to St Andrew's Place as indicatively shown on drawing no. 4465- 0104 P08 have been submitted to and approved in writing by the local planning authority. The approved scheme shall be laid out and constructed in its entirety prior to the commencement of deliveries to the site by HGV.
- 16) No development shall take place until a photographic condition survey of the highway fronting and near to the site has been submitted to and approved in writing by the local planning authority.
- 17) No development shall take place until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. Construction of the development shall not be carried out other than in accordance with the approved CMP. The CMP shall include the following matters:
  - a) parking and turning for vehicles of site personnel, operatives and visitors;
  - b) loading and unloading of plant and materials;
  - c) piling techniques (if applicable);
  - d) storage of plant and materials;
  - e) provision and use of wheel washing facilities;
  - f) programme of site and all associated works such as utilities including details of traffic management necessary to undertake these works;
  - g) site working and delivery times;
  - h) a communications plan to inform local residents of the program of works;
  - i) provision of boundary hoarding and lighting;
  - j) details of proposed means of dust suppression;
  - k) details of measures to prevent mud from vehicles leaving the site during construction;



- l) haul routes for construction traffic on the highway network and associated monitoring and review mechanisms;
  - m) details of deliveries times to the site during construction phase.
- 18) No development shall take place (including any demolition, ground works, site clearance) until a method statement for reptile mitigation has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the:
- a) purpose and objectives for the proposed works;
  - b) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
  - c) extent and location of proposed works shown on appropriate scale maps and plans;
  - d) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
  - e) persons responsible for implementing the works;
  - f) initial aftercare and long-term maintenance (where relevant);
  - g) disposal of any wastes arising from works.

The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

- 19) No development shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The scheme of investigation shall include an assessment of significance and research questions; and:
- a) The programme and methodology of site investigation and recording;
  - b) The programme for post investigation assessment;
  - c) Provision for analysis of the site investigation and recording;
  - d) Provision for publication and dissemination of the analysis and records of the site investigation;
  - e) Provision for archive deposition of the analysis and records of the site investigation;
  - f) Nomination of a competent person or persons/organisation to undertake the works set out within the written scheme of investigation.

The site investigation shall be completed prior to development, or in such other phased arrangement, as agreed and approved in writing by the local planning authority.

- 20) No development shall take place until a management plan has been submitted to, and approved in writing, by the local planning authority detailing the mechanism for maintenance of all open and communal space within the site. The management of that land shall thereafter be carried out in accordance with the approved details.

- 21) No development shall take place until a detailed sustainability and energy statement has been submitted to and approved in writing by the local planning authority. The statement shall detail how the dwellings hereby permitted achieve best practice sustainability standards with regard to water, materials, energy, ecology and adaptation to climate change. Development shall be undertaken in accordance with the approved statement.
- 22) No dwelling shall be occupied until the carriageways and footways serving that dwelling have been constructed to at least binder course level or better in accordance with the approved details.
- 23) Not less than 3 months prior to the first occupation of any dwelling, the contents of a Residents Travel Pack (RTP) shall be submitted to and approved in writing by the local planning authority and shall include walking, cycling and bus maps, latest relevant bus and rail timetable information, car sharing information, personalised travel planning and a multimodal travel voucher. Within one month of the first occupation of any dwelling, the occupiers of that dwelling shall be provided with the RTP.
- 24) All HGV delivery traffic movements to and from the site over the duration of the construction period shall be subject to a Deliveries Management Plan (DMP) which shall be submitted to and approved by the local planning authority a minimum of 56 days before any deliveries of materials commence. The DMP shall specify approved delivery routes. As part of the DMP the site operator shall maintain a register of complaints and record of actions taken to deal with such complaints at the site office as specified in the DMP throughout the period of construction.
- 25) Development must be undertaken in accordance with the ecological avoidance, mitigation, compensation and enhancement measures identified within the Ecological Impact Assessment (EcIA) (Huckle Ecology, July 2020) as submitted with the planning application.
- 26) No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation shall be provided to the local planning authority.
- 27) A landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to any occupation of the development. The content of the LEMP shall include the following:
  - a) Description and evaluation of features to be managed;
  - b) Ecological trends and constraints on site that might influence management;
  - c) Aims and objectives of management;
  - d) Appropriate management options for achieving aims and objectives;

- e) Prescriptions for management actions;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- g) Details of the body or organisation responsible for implementation of the plan;
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan shall be implemented in accordance with the approved details.

- 28) No building shall be occupied until the site investigation and post investigation assessment has been completed, submitted to and approved in writing by the Local Planning Authority, in accordance with the programme set out in the written scheme of investigation approved under Condition 19 and the provision made for analysis, publication and dissemination of results and archive deposition.
  - 29) The mitigation measures identified in section 5.4 of the Air Quality Report referenced 15533-SRL-RP-YQ-01-S2-P1 in relation to construction dust shall be adhered to at all times during the construction phase.
  - 30) Prior to first occupation of the development hereby permitted, details of all measures that have been completed as stated in the sustainability and energy statement (approved under Condition 21), shall be submitted to and approved in writing by the local planning authority.
  - 31) Prior to first occupation of the development hereby permitted, evidence of energy performance and water efficiency standards shall be submitted to, and approved in writing by, the local planning authority. The dwellings within the hereby permitted development should achieve the optional technical standard in terms of water efficiency of 110 litres/person/day, as measured in accordance with a methodology approved by Building Regulations Approved Document G. Exceptions should only apply where they are expressed in the Building Regulations or where applicants can demonstrate that it is not viable or feasible to meet the standards.
  - 32) Prior to the first occupation of the development the local bus stops shall be improved to provide two (2) number real time passenger information screens (mounted on suitable agreed sockets) in the approximate location of East Suffolk House/The Station in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The bus infrastructure improvements shall be provided in accordance with the approved scheme.
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