The Planning Inspectorate

# Appeal Decision

Site visit made on 28 May 2024

**by G Bayliss BA (Hons) MA MA MRTPI IHBC**

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

**Decision date: 24th July 2024**

**Appeal Ref: APP/D3505/W/23/3324984**
**13 Meadows Way, Hadleigh, Suffolk IP7 5DX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr S De Lara Bell, S & A Properties, against the decision of Babergh District Council.
- The application Ref is DC/23/00014.
- The development proposed is erection of 1 no. dwelling.

## Decision

1. The appeal is allowed, and planning permission is granted for erection of 1 no. dwelling at 13 Meadows Way, Hadleigh, Suffolk IP7 5DX, in accordance with the terms of the application, Ref DC/23/00014, and the plans submitted with it, subject to the conditions in the attached schedule.

## Preliminary Matters

2. Since the planning application was determined, the Council adopted the Babergh and Mid Suffolk Joint Local Plan Part 1 (JLP) in November 2023. The Council's appeal statement indicates that the policies from the Babergh Core Strategy (2014) cited in the Council's decision have been superseded and no longer form part of the development plan. The Council identifies the JLP Policies which they consider are relevant to this appeal. The Council also mentions that following the adoption of the JLP the Council now seeks to secure biodiversity net gain on all new development in line with policy LP16. The appellant has had the opportunity to comment on the implications of the JLP and I have taken those comments into account in coming to my decision.

3. A revised version of the National Planning Policy Framework (the Framework) has also been published since the Council issued its decision. In this instance, the relevant changes only relate to paragraph numbering and do not fundamentally affect the substance of the matters under appeal.

4. In relation to the second reason for refusal, the Council has confirmed that, subsequent to its decision, a Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) payment has been made by the appellant. In relation to this, the Council considers that the appellant has suitably addressed this reason for refusal. However, I have retained this as a main issue in order to carry out my appropriate assessment.

5. I have a statutory duty under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. I have also had

regard to the duty imposed by section 72(1) of the Act which requires that, in the exercise of planning powers, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

## Main Issues

6. The main issues are:

- The effect of the proposed development on the character or appearance of the Hadleigh Conservation Area, and on the setting and significance of nearby listed buildings; and
- The effect of the proposal on the integrity of protected European sites.

## Reasons

*Heritage assets*

7. The Hadleigh Conservation Area (CA) is mainly focussed on the historic core of this small market town which runs alongside the river. Central to this is the linear High Street and several connecting streets which have a notable collection of historic buildings of an interesting mix of ages and styles, including numerous timber-framed buildings. Many of these exhibit origins as domestic, commercial and industrial buildings which add to the overall character of the area. From the evidence before me and my observations, I consider that its significance is mainly drawn from the range of built development within it, and the relationship of the buildings to each other and the spaces around them.

8. The appeal site is located at the rear of High Street within a car park adjacent to the residential area of Meadows Way. The site is accessed via a covered passageway from High Street which connects through to a pedestrian access linking Meadows Way. The parking area is mainly enclosed by the rear boundaries of adjoining properties with some garages. There are numerous nearby historic buildings along High Street, but the appeal site would be to the rear of 112 High Street (No.112) and its covered entry which is a relatively modern two-storey building. The properties on Meadows Way also appear to be relatively modern.

9. Although the appeal site is quite central within the CA and close to many nearby historic buildings, it is a relatively enclosed site which is not readily viewed within the wider CA. Glimpses of it would be possible through the covered entry off the High Street and it would be visible to those passing between Meadows Way and the High Street, as well as users of the car park.

10. The Council has provided list descriptions of listed buildings on the High Street near to the appeal site. These include Nos.106, 108-110, 114, 116 and 120-122. Most of these are two-storey buildings of a typically vernacular, domestic scale, mainly of 17$^{th}$ to 19$^{th}$ century origins, although No.116 is much larger and grander. The rears to the upper elevations of No.116 and No.114 are clearly visible from the appeal site. Nos.108-110, which are listed Grade II*, have a common rear boundary with the parking area and their upper elevations would also be visible. The other listed buildings mentioned are further removed but their upper rear elevations are to some extent visible from the appeal site.

11. From what I have seen and read, the significance of these buildings mainly derives from their age, historic fabric, form and function, and their architectural features. Their special interest and significance, insofar as it relates to this appeal, is experienced from the parking area at the rear of these properties, which includes the appeal site, and the access between Meadows Way and High Street. These are the surroundings in which the listed buildings can be experienced and appreciated, and the views of their rear elevations and curtilages directly contribute to their special interest and significance.

12. In 2021 planning permission was granted for the erection of a dwelling to be attached to the gable of No.13 Meadows Way[1] which has yet to be constructed. The appeal proposal seeks to add a further dwelling onto the gable of this yet to be constructed dwelling. It would be of one and a half storeys and very similar in form and appearance to the permitted dwelling.

13. The appeal proposal would represent a continuation of the linear form of development extending from No.13 and as it would largely replicate the proposed dwelling alongside there is little to suggest that its design, form or appearance would be unacceptable in relation to the surrounding buildings on Meadows Way. To my mind it would integrate with this built context and read as an acceptable extension of those buildings. Furthermore, it would assist in defining a built frontage to the walkway through to Meadows Way.

14. The Council, however, is concerned that the proposed development would be too close to the listed buildings on High Street, intruding on their settings and limiting views of them, and that this in turn would harm the character and appearance of the CA. I recognise that the proposed development would, to some extent, restrict views of the rear elevations and curtilages of those listed buildings. However, I have not been provided with any compelling evidence to suggest that the appeal site, currently serving as part of the car park, is part of an open historic space intended to provide views of the rears of these listed buildings. Nor have I been made aware of any historic maps or documentation to provide evidence of the historic use or layout of the site which may have assisted in this regard. Therefore, it has not been clearly demonstrated that the appeal site has any intrinsic value to the significance of these listed buildings other than allowing some views of them.

15. The proposed dwelling would extend the range of buildings closer to the listed buildings and would limit some of the longer-range views which are currently possible from across the car park and walkway. However, whilst some of these views would be restricted, the listed buildings would still be readily seen from other vantage points in the car park. There is nothing before me to suggest that individual or collective views of these buildings would be eradicated completely by the proposal or that their settings would be degraded in a way which would affect their significance or cause harm to the character or appearance of the wider CA.

16. The proposed dwelling would have a closer visual relationship with No.112. However, I have already noted that this is a relatively modern building, and the form and design of the proposal would assimilate well in this regard. There would still be an acceptable degree of separation from No.112 and other properties on High Street so that the proposed built form would not make the area appear cramped or over-developed. A previous appeal may have been

[1] DC/19/03003

dismissed on this site[2] but it appears to me, based on the submitted details, that this building would have extended much closer to No.112 than the appeal proposal before me. It would have been far too close with no adequate separation gap to allow for the visually different forms. There are, therefore, material differences between the previous appeal scheme and the present appeal proposal.

17. For these reasons, I conclude that the proposal would cause no harm to the character or appearance of the Hadleigh Conservation Area and would have no harmful effect on the setting and significance of nearby listed buildings. I therefore find no conflict with JLP Policies LP19 and LP24 which state that development proposals should conserve heritage assets in accordance with the statutory tests and their significance, including the contribution made by their setting.

*Integrity of protected European sites*

18. The appeal site lies within the Zone of Influence of the Stour and Orwell Estuaries Special Protection Area (the SPA), which is also a Ramsar Site. These are European sites protected under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations).

19. The SPA and Ramsar sites comprise extensive mudflats, low cliffs, saltmarsh, small areas of vegetated shingle, areas of low-lying grazing marsh and several freshwater pools. In summer, they support important numbers of breeding birds, and in winter they hold major concentrations of waterbirds, especially geese, ducks and waders. They also contain important collections of several nationally scarce plants and invertebrates.

20. The conservation objectives of the SPA and Ramsar sites aim to ensure that the integrity of the sites are maintained or restored. These include maintaining or restoring the extent, distribution, structure, function and supporting processes of the habitats; and the population and distribution of each of the qualifying features within the sites. There is a threat to their integrity from public access and disturbance, including from recreational activities such as walking, dog walking and water sports.

21. It is likely that the occupants of the proposed dwelling could visit the SPA and Ramsar sites, resulting in increased recreational activity that could disturb the protected habitats and birds within the sites. Therefore, the development, alone and in combination with other development, would be likely to have significant adverse effects on the integrity and conservation objectives of the sites.

22. The Suffolk Coast European Sites RAMS identifies and costs the measures necessary to mitigate recreational and leisure impacts and confirms how they will be funded from residential development. The parties have agreed a financial sum in accordance with the strategy and the Council has confirmed that this has been collected by them under Section 111 of the Local Government Act. This would be put towards a programme of strategic mitigation measures. The Council has confirmed that the payment suitably addresses this reason for refusal. Natural England has been consulted on this matter but has not responded. The section 111 Agreement and related

[2] DC/22/01152, Appeal Ref.APP/D3505/W/22/3303772

payments is in accordance with the published mitigation scheme, is accepted by the Council as appropriate to provide the required mitigation, and I have found no reason to disagree.

23. To conclude, I am satisfied that the agreed sum has been received by the Council for the purposes of contributing to the strategic mitigation measures described above. I therefore find there would be no adverse effect from the proposed development on the integrity of the SPA and Ramsar sites as designated European sites. Consequently, the proposal would be consistent with the Framework, which requires adequate mitigation if significant harm to sites protected under the Habitats Regulations cannot be avoided.

24. For the reasons set out above, I conclude that the proposed development would not have an adverse effect on the integrity of protected European sites. It would therefore comply with JLP Policy SP09 which requires that any adverse effects of a development will be avoided from increased recreational pressure and is compliant with the RAMS requirements.

**Other Matters**

25. I have given very careful consideration to the representations made by other interested parties. In addition to matters already considered, these include concerns regarding a loss of parking and access for nearby residents and businesses, highway safety, a potential for antisocial behaviour, and a detrimental effect on living conditions.

26. Both parties agree that the parking area is in the ownership of the appellant and is used privately for parking and access for nearby premises. In this regard, there is little to suggest that the appellant is compelled to maintain the level of existing parking or access, and despite the change to this provision, neither the Council nor the Highways Authority have raised objections. I have found no reason to disagree. In addition, the Highways Authority has raised no objections with regard to highway access, subject to appropriate conditions.

27. Whilst it has been suggested that the proposed development would lead to an increase in antisocial behaviour because the car park would become more enclosed, the new dwelling would add to the overlooking of that area by the surrounding residents. In the absence of any substantive evidence to the contrary, this natural surveillance, the use of the area by people parking their cars and the potential to install additional security and surveillance, suggests to me that the appeal proposal would not lead to an unacceptable rise in antisocial behaviour.

28. The Council has considered that there would be no significant adverse impact on the residential amenity of the occupiers of neighbouring properties, and I have no substantive evidence before me that would indicate that I should take an opposing view. The same is true for other issues raised including implications for local wildlife, boundary issues, disruption from building work, noise, pollution and placing a strain on community facilities. None of these matters raised outweigh or alter my conclusions on the main issues.

**Conditions**

29. I have considered the conditions put forward by the Council and have amended the wording where necessary in the interests of clarity and to accord with the advice in the Framework and Planning Practice Guidance. In addition to the

standard time limit condition, a condition requiring the development to be carried out in accordance with the approved plans is necessary in the interests of certainty. The Council has suggested a condition to secure biodiversity mitigation measures which is now a requirement for all new development in line with JLP Policy LP16.

30. Conditions are necessary to ensure the safe manoeuvring and parking of vehicles, the provision of electric vehicle charging and to secure cycle storage to promote active travel. The condition regarding refuse/recycling storage is necessary to achieve good refuse management. Whilst it is not necessary for these to be pre-commencement conditions, they require the approval of details and for these works to be carried out before the development is occupied. I have added a condition regarding facing materials and boundary treatments in the interests of protecting the character and appearance of the area.

31. A condition in relation to contamination is required to ensure that risks to future users of the land and neighbouring land are minimised, and that the land is fit for purpose. Conditions to limit the times of construction and to prevent the burning of materials on site have been added to protect nearby residential amenity.

**Conclusion**

32. The proposal would accord with the development plan as a whole and material considerations do not lead me to decide otherwise. For these reasons, and having regard to all other matters raised, I conclude that the appeal should be allowed.

*G Bayliss*

INSPECTOR

## Schedule of conditions

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans:

- Site location plan Ref.4038-04B
- Topographical survey and proposed dwelling Ref.4038-24
- Proposed dwelling Ref.4038-25

3) The development hereby permitted shall not be occupied until a Biodiversity Enhancement Strategy has been implemented in full, details of which shall first have been submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:
a) Purpose and conservation objectives for the proposed measures;
b) detailed designs to achieve stated objectives;
c) locations of proposed measures by appropriate maps and plans;
d) persons responsible for implementing the measures;
e) details of initial aftercare and long-term maintenance

The works shall be retained in that manner thereafter.

4) The development hereby permitted shall not be occupied until the area(s) within the site shown on drawing Ref. 4038-24 for the purposes of manoeuvring and parking of vehicles have been provided and thereafter the area(s) shall be retained, maintained, and used for no other purposes.

5) The development hereby permitted shall not be occupied until a scheme of electric vehicle charging infrastructure has been carried out in its entirety, details of which shall first have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be retained thereafter and used for no other purpose.

6) The development hereby permitted shall not be occupied until provision is made for secure, covered, and lit cycle storage, details of which shall first have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety and shall be retained thereafter and used for no other purpose.

7) The development hereby permitted shall not be occupied until areas are provided for the storage and presentation of refuse and recycling bins, in accordance with a scheme that has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety and shall be retained thereafter for no other purpose.

8) The external materials of the development, including boundary details, hereby permitted shall be a reasonable match to those used on the adjoining buildings.

9) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority to agree on what further steps are necessary with regards to the unexpected ground conditions. This includes whether an investigation is carried out by a competent person to determine whether remediation of the land and validation of the post remediation ground conditions is required. The agreed procedures will be implemented in their entirety and agreed with the local planning authority until signed off as completed.

10) Operations related to the construction phases of the development hereby permitted (including site clearance and demolition) shall only be carried out between the hours of 07.30 and 18.00hrs Mondays to Fridays and between the hours of 08.00 and 13.00hrs on Saturday. There shall be no working and/or use operated on Sundays and Bank Holidays. There shall be no deliveries to the development/use arranged for outside of these approved hours.

11) No burning shall take place on site at any stage during the site clearance, demolition or construction phases of the project.