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## Appeal Decision

Site visit made on 7 July 2025

by **C Walker BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 July 2025

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**Appeal Ref: APP/R3515/W/25/3361535**

**Land at 141 Belvedere Road, Ipswich, Suffolk IP4 4AH**

- 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 David Miles against the decision of Ipswich Borough Council.
  - The application Ref is IP/24/00601/FUL.
  - The development is described as 'proposed dwelling'.
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### Decision

1. The appeal is allowed and planning permission is granted for a proposed dwelling on land at 141 Belvedere Road, Ipswich, IP4 4AH in accordance with the terms of the application, Ref IP/24/00601/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

### Preliminary Matter

2. The Council are no longer defending their second reason for refusal, relating to the effect of the proposal on a European habitat site. This is a matter I return to below.
3. As the appeal site is adjacent to a designated Conservation Area, I have had regard to the statutory duty set out in Section 72 of the Planning (Listed Buildings and Conservations) Act 1990 that requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

### Main Issues

4. The main issues are the effect of the proposed development on:
  - the character and appearance of the area, including the setting of the Cemetery Conservation Area (CA); and
  - the Stour and Orwell Special Protection Area (SPA), a European habitat site.

### Reasons

#### *Character and appearance*

5. The appeal site comprises No.141 Belvedere Road, a two-storey semi-detached, twentieth century dwelling. It has a wider plot than the dwellings to its south and accommodates a domestic single storey garage set between it and No.143, a modern dwelling.
6. This part of Belvedere Road is typically formed by rows of two storey terraces or pairs of semi-detached dwellings. On this side of the road many have distinctive

two storey bay windows under projecting gables with arched brick porches, including the host dwelling and its attached neighbour at No. 139. Materials are generally red brick and render finishes with a mixture of roof tiles. Many of the dwellings have open frontages with the road to accommodate off-street parking, although where they are defined it is generally by low brick walls or fencing. These characteristics give the area a pleasant street scene and suburban character. This is acknowledged within the Colchester Road Sub Area of the North-East Character Area contained in the Ipswich Urban Character Study (2019) which is a tool to guide decision making.

7. An exception to these typical characteristics is the adjacent detached dwelling at No. 143. This is constructed of buff coloured brick and sits in a wide plot, bounded by an established frontage hedgerow at the edge of the suburban fringe, close to where the road sweeps around over the railway line.
8. Along this side of Belvedere Road there is typically minimal spacing between the buildings which are packed together quite densely with only glimpses through to the west towards trees that form the boundary with the adjacent railway line and beyond. This spacing increases slightly towards the northern end of the road, including at the appeal site where glimpses of trees within the rear garden and beyond are visible as a backdrop to the single storey garage.
9. The appeal site lies outside of the Cemeteries Conservation Area (CA), which is located to the west, beyond the railway line. Its significance is derived from its designed and natural features which combine to create a unique and important landscape, and as an important record of social history.
10. As a proposed infill plot between No's 141 and 143, the appeal dwelling would be sited to follow the broadly consistent building line of its neighbours. It would have a similar plot width to the properties to the south and would have design features including a chimney, and two storey bay windows set under a projecting gable, reflecting those features in properties along this side of the road, helping to reinforce the attractive physical characteristics of the local neighbourhood.
11. Mindful of the area's context where many dwellings have on-plot frontage parking, including the terraces opposite and No's 139 and 141, I do not find that the appeal site frontage would be unacceptably car dominated, a requirement of Policy DM22 of the Core Strategy and Policies Development Plan Document Review (2022) (Plan Review). Indeed, the existing access would be retained in situ with the low brick wall either side, thus retaining a feature that helps contribute to its character. Some modest planting would be removed from the frontage, but this is not protected, and in any case, makes a minimal contribution to the street scene.
12. Whilst the appeal dwelling is detached, it would sit adjacent to another detached dwelling, which located adjacent to the railway crossing, naturally terminates the built form on this stretch of the road. As a result of its siting between the two adjacent dwellings, the slightly more generous spacing between buildings at this end of the road would be diminished, but not significantly so. In any event, when viewed from the north and south, particularly from the junction with Moat Farm Close, the row of existing houses do not allow for views through to the west. Moreover, glimpses of the green tree backdrop would still be perceptible between the remaining gaps. Furthermore, the resulting suburban grain would not be

dissimilar to the density of the terrace rows opposite which collectively are substantial in width.

13. Moreover, due to the intervening railway line and the established landscaping belt that runs alongside it, views of the CA from the street scene of Belvedere Road are limited. As such, the placement of a new two storey dwelling here would not erode important open space, views of or adversely affect the setting of the CA.
14. Consequently, I do not find that the development would have a demonstrably harmful effect on the character and appearance of the area, nor would it adversely affect the setting of the CA. It follows that I have identified no conflict with Policy DM17 of the Plan Review which requires small scale infill development to protect the setting of existing buildings and the character and appearance of the area. I also find that the proposal accords with Policies DM12 and DM13 of the Plan Review which expect well designed development with layouts and designs that provide an attractive public realm, respect and promote the special character and local distinctiveness of Ipswich by protecting and enhancing significant views considered important including those set out in Ipswich Urban Character Studies as well as the setting of heritage assets.

#### *Effect on SPA*

15. The Council's decision notice raised concern about the effect of the development on the SPA. Since their decision, it has been confirmed that an appropriate financial contribution to fund the Suffolk Recreation Avoidance Mitigation Strategy (RAMS) has been received. The Council no longer contest their second reason for refusal, albeit it is not before me how this has been secured, a matter I shall return to.

#### *Habitat screening*

16. The appeal site lies within the 13km zone of influence of the Stour and Orwell Special Protection Area (SPA). This European site provides habitat for important ground-nesting bird species. It has been established that additional residential development within the zone of influence would likely result in harm to the protected area through additional recreational disturbance. The proposal would create a net gain of dwellings and in combination with other developments permitted in the area, there would be a likely significant effect on the SPA.

#### *Appropriate Assessment*

17. The conservation objectives for this European Marine site are to ensure that the integrity of the SPA is maintained or restored as appropriate and ensure the site contributes to achieving the aims of the Wild Bird Directive by maintaining or restoring: the extent, distribution, structure and function of its qualifying features, supporting the processes on which the habitats rely and the populations of the qualifying bird features.
18. The SPA supports important numbers of breeding Avocet *Recurvirostra avosetta* in the summer months, while in winter it holds major concentrations of waterbirds, especially geese, ducks and waders.
19. Impact pathways from developments relate to additional recreational pressures and threats to a number of wild birds.

20. Policy DM8 of the Local Plan requires proposals to demonstrate that adequate measures are put in place to avoid or mitigate any potential adverse effects on the SPA. Those measures could include bespoke mitigation or will be based on strategic mitigation as established through the RAMS, which is set out within the Supplementary Planning Document (2019) (SPD) of the same name.
21. The RAMS involves a traffic style financial contribution per dwelling that is pooled towards a range of measures including monitoring, investigation and research programmes, habitat creation and educational material to help avoid bird disturbance.
22. The appropriate tariff payment has already been made direct to the Council. Whilst there is no planning obligation to require the monies are spent on the RAMS or within a particular timeframe, this approach has been embedded within the SPD as an acceptable one and I am satisfied that the Council, as a trusted, responsible public body, will ensure the funds are used for the purposes intended. Indeed, I note they have confirmed that based on receipt of the monies there would be no likely significant effects from the development on the designated site.
23. Natural England has been consulted as part of this Appropriate Assessment and is content that the measures secured by the submitted direct payment, which align with the Council's adopted strategy, would mitigate the adverse effects associated with the proposed development and thereby relieve pressure on the SPA. As competent authority, I am satisfied that the financial contribution would secure and ensure the delivery of mitigation sufficient to address the harm likely to be caused by the development. I therefore find that the proposal would not have an adverse effect on the integrity of the SPA. It follows that the proposal would not conflict with Policy DM8.

### **Other Matters**

24. An interested party has raised a number of concerns including highway safety, inadequate provision of parking, insufficient rear access for cycles, a lack of a bin presentation area and perceived adverse effects on living conditions. However, these are all matters that were adequately considered by the Council and no harm was identified. Without substantial evidence to the contrary, I do not find differently on these matters than the Council.
25. The application is described as a self-build dwelling. Both parties agree that this could be secured by condition, with the Council providing an amended draft. However, I am not satisfied that a condition requiring occupation of the dwelling by the person who built it would pass the enforceability test set out in paragraph 57 of the National Planning Policy Framework (the Framework). Therefore, I have not imposed this condition. No other means of securing this, such as a s106 agreement is before me.
26. In the absence of being able to secure this, it would attract limited weight as a benefit. Moreover, the consequence would be that the dwelling would effectively default to a market dwelling that would be subject to mandatory biodiversity net gain, unless it meets any other exception. In that scenario, it would be subject to the statutory pre-commencement biodiversity gain condition ('the condition') as set out in Schedule 7A to the Town and Country Planning Act 1990 (as amended). 'The condition' sets out that development cannot begin until the Biodiversity Gain

Plan (BGP) has been approved. It would be for the Council to consider the BGP, and whether or not the measures are acceptable and secured.

27. The Council confirm that it cannot demonstrate the necessary five-year housing land supply. Ordinarily this would warrant the application of paragraph 11(d) of the Framework. However, in this case as I have found no harm and no conflict with the development plan policies, it is not necessary for me to apply this because the appeal scheme is acceptable anyway.

### **Conditions**

28. In addition to the suggested self-build condition above, the Council have suggested a number of other conditions. I have considered these in relation to the necessary tests, made changes to some, included additional conditions and not imposed all suggested for the reasons set out.
29. In addition to the standard time condition (No.1), I have imposed a condition requiring that the development is carried out in accordance with the approved plans (No. 2) for the avoidance of doubt and in the interests of certainty.
30. To protect nesting birds, a condition is necessary (No. 3) to ensure site clearance is undertaken at an appropriate time. Precautionary measures to protect wildlife during the construction period have also been identified as necessary and reasonable. I have therefore imposed a condition (No. 4) to secure this.
31. A condition that requires minimum energy and maximum water standards are met prior to first occupation is also suggested. The appellant disputes its necessity indicating these requirements are a repetition of building regulations. However, these are optional standards that Policy DM1 of the Plan Review seeks to mandate. The condition (No. 5) is therefore reasonable and necessary.
32. In the interests of highway safety, a condition (No. 6) is necessary to ensure that the parking and turning space is in place prior to first occupation. For the same reasons, along with promoting sustainable modes of travel, a condition (No. 7) is necessary requiring implementation of the cycle and bin store.
33. Insufficient details are provided with regards to external facing materials, boundary treatments and biodiversity enhancements. A condition (No. 8) is therefore necessary in the interests of the character and appearance of the area, to protect the living conditions of neighbours and to secure biodiversity enhancements.
34. Noise mitigation associated with the adjacent railway line and highway is also required to protect the living conditions of occupiers. Therefore, a condition (No. 9) is necessary to ensure measures are agreed and in place prior to first occupation. For the same reasons a condition to ensure the glazing in the first-floor side windows is obscured is necessary (No. 10) and to control the noise associated with the proposed air source heat pump (No. 11).
35. A demolition and construction management strategy condition is suggested to include details of access and parking arrangements for contractor and delivery vehicles, as well as measures for avoiding mud entering the highway. However, I find this disproportionate for a scheme of just one dwelling. As a small site there would unlikely be anywhere within the site for contractors to park and the Highways Authority have powers that cover mud deposits on the road if needed. The condition would not be reasonable and therefore I have not imposed it.

36. The Council request the removal of permitted development rights in relation to certain classes of development. I am mindful that paragraph 55 of the Framework clearly states that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification for doing so. I have not been shown that there is a clear justification for removing these rights in order to protect the living conditions of neighbours. It is therefore unnecessary, and I have not imposed it.

### **Conclusion**

37. For the reasons given above, the scheme would accord with the development plan as a whole and the Framework. Thus, having regard to all other matters raised, I conclude that the appeal should be allowed.

*C Walker*

INSPECTOR

### **Schedule of Conditions**

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with drawing numbers:  
4506-01 (Promap - Site Location Plan)  
4506-05 Rev B (Proposed Site Plan)  
4506-03 Rev A (Proposed Plans and Elevations)  
4506-06 (Shed Plans and Elevations)
3. Any tree, scrub or other vegetation clearance should not be carried out during the breeding bird season, which runs from 1st March to 31st August inclusive unless a nesting bird survey undertaken by a suitably experienced and qualified ecologist has been submitted to and approved in writing by the Local Planning Authority. The clearance should then proceed in accordance with the approved details.
4. During the construction period, the following precautionary measures shall be adhered to:
  - Any potential nesting habitat (including discarded building materials, wood piles, leaf litter piles) should be removed from site by hand, outside the typical hibernation period (November to March) or under the supervision of an ecologist;
  - Vegetation above 300mm above ground level should not be cleared until Spring/Summer when temperatures are above 6°C for at least 6 consecutive days to avoid the disturbance of hibernating hedgehogs and when amphibians and reptiles are all active;
  - If external lighting is to be used, lights should be set on short timers to avoid disturbing nocturnal animals using the site and the immediate surrounding area.
  - Any holes or excavations which could act as pitfall traps should be covered or have ramps or slopes allowing small mammals to exit;
  - Any debris piles should be dismantled by hand and the materials kept in skips until moved off site or disposed of; and
  - Any debris and materials arising from the proposed construction should be stored in skips and/or on pallets to prevent creating refuge sites for reptiles or amphibians.
5. The dwelling hereby approved shall be constructed so that a minimum energy/CO2 standard of 19% over Target Emission Rate (TER) of the 2013 Edition of the 2010 Building Regulations (Part L) and a maximum water standard of 110 litres per person per day (or in the case that the achievement of these standards are demonstrated not to be feasible or viable a lesser standard level as may be agreed in writing with the Local Planning Authority) are met. Prior to first occupation of the dwelling hereby approved, details of compliance with the aforementioned requirements shall be submitted to and approved in writing by the Local Planning Authority.

6. Prior to first occupation of the dwelling hereby approved, the parking and turning area shown on drawing no. 4506-05 Rev B shall be provided in permeable block paving and thereafter be retained for the lifetime of the development and used for no other purpose.
7. Prior to first occupation of the dwelling hereby approved, the cycle store, bin store and bin presentation area, shown on Drawing No. 4506-05 Rev B, shall be provided and thereafter shall be retained and used for no other purposes.
8. No development above slab level shall be commenced until the following details have been submitted to and been approved in writing with the Local Planning Authority. The development shall be implemented in accordance with the approved details and development shall be carried out in its entirety before the development is first occupied: -
  - i. external facing and roofing materials
  - ii. biodiversity enhancements
  - iii. boundary treatments (including gaps to promote ecological movement).
9. Prior to first occupation of the dwelling hereby approved, final details of noise mitigation, that builds on the recommendations set out in Sound Acoustics Ltd Noise Assessment dated 20<sup>th</sup> June 2024, shall be submitted to and approved in writing by the Local Planning Authority. The mitigation measures shall be installed on site prior to first occupation and shall thereafter be retained.
10. The first-floor windows in the north and south (side) facing elevations shall be obscure-glazed, and non-opening unless the parts of the windows which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. Details of the type/level of obscure glazing shall be submitted to and approved in writing by the Local Planning Authority prior to its installation and once installed the obscure glazing shall be retained thereafter.
11. The air source heat pump hereby approved shall comply with the Microgeneration Installation Standard (MCS) 020 Planning Standards or equivalent and the volume of the air source heat pump's outdoor compressor unit (including any housing) shall not exceed 0.6 cubic metres. Furthermore, it shall be used solely for heating purposes and shall be removed as soon as reasonably practicable when no longer needed.

**End of Schedule**