



Appeal Decision

Site visit made on 2 October 2025

by Mr D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 November 2025

Appeal Ref: APP/D3505/W/25/3362695

Land Adjacent to Aldham End, Hadleigh Road, Elmsett, Suffolk IP7 6NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Alan Seager against the decision of Babergh District Council.
 - The application Ref is DC/24/05269.
 - The development proposed is described as ERECTION OF TWO DETACHED DWELLINGS (SELF-BUILDS).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application is made in outline with all matters reserved for future approval. Insofar as they provide some indication of potential access, appearance, layout, scale and landscaping, I have considered the submitted plans as indicative only.

Main Issues

3. The main issues are:
 - the effect of the proposal upon the setting and significance of Eley's Cottage as a designated heritage asset;
 - whether or not the proposal is compliant with policies for the location of new housing development;
 - whether or not the proposal could ensure a safe and suitable access; and,
 - the effect of the proposal upon trees.

Reasons

Heritage asset

4. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCAA) requires special regard is had to the desirability of preserving the setting of a listed building or any features of special architectural or historic interest it possesses. Paragraph 202 of the National Planning Policy Framework (2024) (the Framework) highlights designated heritage assets are an irreplaceable resource. Paragraph 212 requires when considering any impacts upon the significance of a designated heritage asset, great weight should be given to the asset's conservation. Harm to significance, including from development within its setting, should require clear and convincing justification (paragraph 213).

5. Eley's Cottage is a timber framed plastered building under a thatched roof with chimney stacks, gabled dormer and attics, understood to be of C17th – C18th origins. Though I note the attributes listed, list descriptions are not a full record of an asset's specialist interest, significance, or that of its setting. Its special architectural and historic interest, and significance, primarily derives from its age, construction using historic building techniques, and its architectural and aesthetic values as a simple traditional rural building reflecting its historic rural origins.
6. Its setting includes its verdant plot, the historic tree and hedgerow lined thoroughfare of Hadleigh Road which it has been appreciated in relation to, nearby land parcels with which there varying degrees of intervisibility, and a limited number of dwellings. I note the evolution of its setting including from development permitted and under construction. As I saw it, the setting contributes to the significance of Eley's Cottage as the remaining generally verdant historic rural surrounds within which it has been and is still viewed, experienced, and associated with, which was reflective of its location away from settlements and its role and function within the historic agrarian landscape over time.
7. The appeal site includes grassland, a tree belt and some hedgerows under larger individual trees. Its sylvan, verdant and largely undeveloped appearance and the space it provides adjacent to the south of the plot of Eley's Cottage from nearby development, positively contributes to the setting and significance of Eley's Cottage, and the way in which it is experienced.
8. The proposal would result in new built development from new dwellings, a new access, hardstandings, parking, lighting, and associated paraphernalia and activity close to the asset. Though noting the construction of the approved scheme opposite and the wide scope for sensitively designed future reserved matters schemes, it would be inevitable the proposal would adversely affect the contribution of the appeal site to the setting and significance of the Eley's Cottage.
9. The appellant points to an apparent lack of consistency between the view taken in this appeal proposal, the Council's approval of the outline permission (OP) for seven plots opposite, and the reserved matters (RM) recently for one of those plots¹. In respect of the OP, it was for significantly more dwellings, on the opposite side of the highway, and the Council also departed from the advice of its heritage specialist. The RM consent was granted in the context of that previous OP. Therefore, their circumstances are not the same as that of the appeal scheme.
10. The contribution of the setting to the significance of Eley's Cottage has been eroded and will continue assuming the remaining plots opposite are built out. However, there is still importance and value to its significance from the appeal site's largely undeveloped form, adjacent to it and on the same side of the highway, now being part of a more limited extent of land reflecting the asset's historically isolated position in the rural landscape. The proposal would much diminish its isolation from development to the south and further erode its historically isolated character. It is not only publicly accessible land, from which this asset is experienced, as listed buildings are safeguarded for their inherent architectural and historic interest irrespective of whether or not public views of a building can be gained.

¹ Ref. DC/25/00077.

11. Trees and hedgerows, much of which appear to be within the appellant's control limit visibility from and intervisibility when in leaf, although even with additional boundary treatments, this would not be the case for all the year and there would be some greater intervisibility in winter months. Based upon what I saw and the evidence before me, I cannot agree the level of harm could be regarded as a very high level of less than substantial harm. Noting that it would still have some isolation to its north and east, and allowing for sensitively designed reserved matters submissions, in my judgement there would be a moderate level of less than substantial harm. The harm would primarily be appreciable from parts of Hadleigh Road and some plots to the west, although there is also some potential for visibility from the appeal site when deciduous trees are not in leaf.
12. For the reasons set out above, the proposal would result in a moderate level of less than substantial harm to the setting and significance of Eley's Cottage. This would conflict with the aims of section 66 of the LBCAA, the relevant provisions of which are set out above. It would conflict with Policy SP09 of the Babergh and Mid Suffolk Joint Local Plan – Part 1 (2023) (the JLP) and Policy EMST11 of the Elmsett Neighbourhood Plan (2019) (ENP) insofar as, in combination, they seek that development supports and contributes to the conservation and enhancement of the historic environment. I have considered the appeal scheme in relation to the Framework and Policy LP19 of the JLP below.

Location

13. To seek to direct development to sustainable locations, Policy SP03 of the JLP seeks to direct most development to within settlement boundaries. It does, however, make some allowances, for development outside those boundaries in certain circumstances (a) – d)). The appeal site is within the countryside, not allocated for development (a)), and it is not put to me the proposal could be considered in accordance with previous paragraph 80 (now 84) of the Framework (d)). New housing may also be permitted if in accordance with the ENP (b)) or if in accordance with relevant policies of the JLP listed in Table 5 (c)).
14. In terms of policies in Table 5 under criterion c), it appears the only policy that is of relevance is Policy LP01, which makes provision for windfall 'infill' housing outside settlement boundaries, subject to compliance with all three of its criteria. Given the spacing, position and setback of neighbouring dwellings either side of it, I do not find the appellant's case persuasive the scheme can reasonably be regarded as 'infill' as defined as infilling 'in an otherwise built-up highway frontage'. Nevertheless, were I to accept it is, it must still meet all three criteria.
15. In-light of my findings for the first main issue, the appeal scheme would not meet the first criterion, to not be detrimental to heritage assets. Therefore, it cannot comply with Policy LP01 taken as whole and be an exception under it. Though not now determinative, in respect of the second criterion, while the appeal site is not all that separates the settlements, it would result in development of one of the two main open land parcels along the highway between them, resulting in coalescence, in conflict with the second criterion. Therefore, the scheme would not fall within criterion c) of Policy SP03.
16. In respect of SP03b), the proposal conflicts with Policy EMST11 in respect of the effect upon designated heritage assets. Policy EMST2 provides for around 60 dwellings, in locations within which the appeal site does not specifically fall, so

conflicts with it. Policy EMST1 seeks to accommodate development reflecting its designation as a hinterland village in line with the now superseded Policy CS11. It states the focus will be within defined built-up area boundaries, unless it is satisfactorily demonstrated that there is an identified local need for the proposal that cannot be satisfactorily located within defined boundaries. It has not been demonstrated the scheme cannot be satisfactorily located within those boundaries. Therefore, the proposal is not in accordance with the ENP read as a whole, and could not fall within criterion b).

17. Insofar as it references superseded Policy (CS11) Policy EMST1 may be regarded as out of date. However, the substantive evidence is that SP03 has similar requirements to CS11 in respect of directing development towards settlements. It seems to me that Policy EMST2 by seeking to restrict development to the three criteria, does seek to prevent housing in the countryside, whereas the Framework has not out of principle prevented such development, so does not appear to be fully consistent with the Framework and reduces the weight given to the conflict.
18. The appellant informs me that like many villages in the area Elmsett does not have a regular public transport service and refers me to the proximity to village services and facilities. Noting the distance, lack of street lighting and footways on routes to services and facilities, such as the public house, primary school, village hall and convenience store, the site seems further from them than most dwellings in the village, and walking may not be regarded as particularly attractive or convenient. Though if future residents cannot, or are not confident enough to cycle, then any journeys to them by private vehicle would be quite short.
19. Nevertheless, for the reasons set out above the proposal does not accord with policies for the location of new housing development. It conflicts with Policies SP03 and LP01 of the JLP and Policies EMST1 and EMST2, the relevant provisions of which I have set out above.

Access

20. Being in outline with all matters reserved, the proposal seeks to agree the detail of the access at the reserved matters stage. However, Policy LP29 of the JLP expects proposals for all developments, demonstrate safe and suitable access for all. This indicates it is expected there be sufficient information to be reasonably satisfied a safe and suitable access could be achieved at the reserved matters stage. The Highway Authority (HA) view is that it has not been demonstrated the proposal could secure a safe and suitable access with splays in accordance with the signed speed limit on land controlled by the appellant and in the highway, and clarification is sought as to the presence of a ditch.
21. I am also aware that Article 5(3) of the 2015 Order² states that where access is a reserved matter, the application for outline planning permission must state the area or areas where access points to the development proposed will be situated. In accordance with this one of the appellant's plans indicates the position of an access point, and a seemingly alternative location is referred to, to avoid tree removals³. In the absence of a speed survey, the HA states the proposal is likely to require visibility splays of around 2.4m x 59m in each direction.

² The Town and Country Planning (Development Management Procedure) (England) Order 2015.

³ Paragraph 45 of the Appellant's Appeal Statement.

22. The highway in the vicinity has good straight alignment in both directions and other accesses have been permitted opposite. However, noting the appellant's frontage, the absence of any splays indicated on a plan, and confirmation of the highway boundary, I have significant concerns as to the ability to provide safe suitable splays for an access on land within the appellant's control and the highway. Pre-commencement reserved matters conditions could be imposed. However, the absence of meaningful detail means I cannot be satisfied there is any prospect of compliance with such conditions being achieved, and they would meet the Planning Practice Guidance and Framework test of being reasonable.
23. Therefore, for the reasons set out, I cannot be certain the appeal scheme could secure a safe and suitable access. This would conflict with the relevant provisions of Policy LP29 which I have set out above. It would also conflict with Framework paragraphs 115b), 116 and 117c) which expect that it should be ensured that safe and suitable access to a site can be achieved for all users, and development be prevented if there would be an unacceptable effect upon highway safety.

Trees

24. The Council's concerns relate to both protected and unprotected trees. From what I saw, the protected trees form a line of significant specimens of some stature above an understory, along the northwestern boundary. They are a prominent and positive feature that make a significantly positive contribution to the character, appearance and overall amenity of the area. Despite the lack of evidence in respect of the access splays and root protection areas, their position to one side of the site, suggests it is likely the protected trees and most if not all others within the northwestern belt/hedgerow may be capable of being retained and protected, and this could be secured by planning conditions.
25. However, in providing a new access, it would appear inevitable the proposal would result in the loss of some of the trees and potentially significant reduction works to others, that form the largely uninterrupted line of understorey trees forming the hedgerow and potentially larger specimen trees across the frontage. This would be from the physical access construction and provision of sufficiently unimpeded visibility splays in both directions, and their on-going maintenance.
26. Whether it be in the access location shown on the submitted plans, or another such as a more northerly option indicated, which trees would be directly lost, their value, and whether others in the splay would need to be removed and/or could tolerate reductions, is not clearly defined. However, from what I saw and the submissions before me, the scheme would result in losses, whether it be larger frontage specimens or understorey trees forming the hedgerow. It is not demonstrated that any such effects could be satisfactorily mitigated through any measures that could be secured such as tree protection and replacement planting.
27. That such matters could be dealt with at the reserved matters stage, does not obviate that there would be likely to be some potentially significant adverse effects, and consequent effects to the character and amenity of the area. The Council has approved development opposite where hedgerow has been lost, although the former size and value are unclear, and this does not justify finding an absence of harm for this specific proposal.
28. For the reasons set out above the proposal would have adverse effects upon trees. This would conflict with the aims of Policies SP09 and LP16 of the JLP

which, in combination and amongst other things seek that development supports and contributes to the conservation, enhancement and management of the natural and local environment and networks of green infrastructure. It would also conflict with Framework paragraph 187 which has similar objectives.

Other Matters

29. The appeal site is within a Zone of Influence of the Stour and Orwell Estuaries Special Protection Area and Ramsar site, and the appellant has made a payment in accordance with the Suffolk Coast Recreational Disturbance Avoidance & Mitigation Strategy. As it is seeking to secure mitigation against the likely significant effects of the proposal and it is not put to me it would result in an overall benefit, and I am dismissing the appeal for other substantive reasons, I have not considered this matter further. On the basis the payment adequately secures the delivery of full and timely mitigation, this would be a neutral matter in the balance.

Heritage and Planning Balance

30. The proposal would result in a moderate level of less than substantial harm to the setting and significance of Eley's Cottage. Framework paragraph 215 requires the harm should be weighed against the public benefits. However, great weight should be given to an asset's conservation, and less than substantial harm should not be equated with a less than substantial planning objection.
31. The proposal would result in limited economic benefits during construction and once complete modest on-going benefits to the local economy such as through on-going spend and support to the vitality and viability of local services and facilities. Though not a ceiling, it appears the Council can demonstrate a deliverable 5-year housing land supply. However, substantive evidence points towards the Council not having met its statutory duties⁴ to provide sufficient Self and Custom Build (SCB) dwelling plots to meet demand in the area, for which the delivery in principle is supported by Policy LP08 of the JLP.
32. The numerical evidence indicates a shortfall of the order of around 252 plots. Factors such as the Council's approach to monitoring, time lags for CIL Part 7 forms being submitted and confirmed, and introducing a local connection test will all influence the figures. Although there is limited substantive evidence to quantify how these factors may affect numbers if at all, and there could still be a significant shortfall remaining. Assuming a condition could secure the scheme as being for SCBs, though only being two dwellings, the delivery of such dwellings elevates the weight attributed, to which I give moderate weight in favour of the scheme.
33. The detailed circumstances of the appeal decisions⁵ advanced by the Council differ from this proposal. When dealing with heritage assets, each case will differ depending on the significance of an asset and the harm from a proposal. So, neither of these decision letters of themselves justify dismissing the appeal alone, and I have considered this appeal scheme upon its own merits and effects.
34. It would seem the appeal scheme may be able to secure an overall net gain to biodiversity in accordance with Policy LP16 of the JLP, which the evidence suggests could be secured to be of a magnitude that attracts moderate weight in favour of the proposal. It is possible the scheme could potentially secure overall

⁴ The Self-Build and Custom Housing Act 20165 (as amended).

⁵ APP/D3505/W/24/3354153 and APP/D3505/W/24/3354585.

minor net benefits in respect of drainage matters and renewable energy generation. However, there is nothing of substance to demonstrate the scheme would secure anything other than minor net benefits at best.

35. Compliance with policies and standards in respect of matters such as the living conditions of future and neighbouring occupiers, contaminated land, and mitigating any adverse effects upon designated habitats sites, would be neutral matters in the balance. Overall, the policy compliance and benefits advanced attract moderate weight in favour of the appeal proposal.
36. When giving considerable importance and weight to the special regard I must have to the desirability of preserving the setting of a listed building, the harm that would arise from the proposal would not be outweighed by its cumulative benefits. Therefore, there would be a conflict with Framework paragraphs 213 and 215 as the harm to a designated heritage asset would not be outweighed by the benefits, and would not have a clear and convincing justification. The proposal would therefore conflict with Policy LP19 of the JLP which sets out similar requirements.
37. As well as the harm to setting and significance of a designated heritage asset for which the Framework policies have not been met, I cannot be certain the proposal could ensure a safe and suitable access, which is an important matter. It is also likely to result in the loss of trees, which attracts weight against the scheme. The proposal conflicts with policies for the location of new housing in the JLP and the ENP. Even were I to accept the appellant's view on some policies being regarded out of date, the overall policy conflict and harm would still attract moderate weight against the scheme. Overall, the harm from the proposal significantly outweighs the benefits, therefore, the appeal should not succeed.

Conclusion

38. The proposal conflicts with the development plan read as a whole, the Framework read as a whole, and the aims of section 66 of the LBCAA. There are no material considerations advanced that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, the appeal should not succeed.

Mr D Szymanski

INSPECTOR