



Appeal Decision

Hearing held on 4 February 2025

Site visit made on 4 February 2025

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

an Inspector appointed by the Secretary of State

Decision date: 03 March 2025

Appeal Ref: APP/W3520/W/24/3346173

The Angel, 5 High Street, Debenham, Stowmarket IP14 6QL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mrs Stacey Paine against Mid Suffolk District Council.
 - The application Ref is DC/24/01358.
 - The development proposed is change of use from drinking establishment (Sui Generis) to dwelling house (C3).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mrs Paine against Mid Suffolk District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appeal was made against the failure of the Council to reach a decision on the application within the relevant statutory timeframe. The Council has explained at appeal that had it been in a position to do so it would have refused the application. I have been provided with what would have been their reasons for refusal as part of their statement of case and the appellant has had the opportunity to comment upon them. These reasons have assisted in defining the main issues.
4. The Government published a revised version of the National Planning Policy Framework (the Framework) on 12 December 2024. I have considered its amendments against the earlier version and have updated Framework paragraph numbers where necessary. At the hearing, it was agreed that the Framework changes were not considered to be substantive or determinative in relation to the main issues relating to viability and heritage assets.
5. In relation to flooding, the revisions to the Framework, at paragraph 176, now advise that applications for most changes of use do not need to be subject to the sequential test. Furthermore, Annex 3 indicates that drinking establishments and dwellings fall within the same vulnerability category. Therefore, the Council confirmed at the hearing that in relation to flooding, subject to a condition relating to flood resilience measures, should the appeal be allowed, the basis for this objection could no longer be justified. It has, therefore, not been necessary to consider this matter in the main issues.

6. A scheme for the change of use of the public house to a dwelling was dismissed at appeal in 2022¹. Due to the similarity of the main issues, I shall refer to that appeal decision where relevant.

Main Issues

7. The main issues are:
- whether or not there is sufficient justification for the change of use of the public house to a dwelling having regard to the provisions of the development plan; and
 - whether or not the proposal would preserve the Grade II listed building (listed as Angel Inn) or any of the features of special architectural or historic interest that it possesses, and its effect on other designated heritage assets including the Debenham Conservation Area.

Reasons

Viability

8. The Angel Inn (The Angel) is prominently located on High Street towards the centre of Debenham, a relatively large Suffolk settlement which is identified in the development plan as a Key Service Centre. The immediate area has a mix of commercial and residential properties.
9. The appellant bought The Angel from Enterprise Inns in 2011 but at the hearing, the appellant explained that the business was struggling after a couple of years. Subsequently, permission was secured to reduce the size of the public house and the northern part of the building together with the beer garden was converted into a dwelling. Two successive tenants then ran the public house until the appellant apparently closed the premises in 2019. Prior to the 2022 appeal decision, the appellant marketed the property on two separate occasions with different agents. Following the appeal decision, it was then marketed for a further period, again with a different agent, with the marketing ending in May 2023. The change of use application subject to this appeal was submitted in March 2024. In the background to ongoing uncertainty over the future of The Angel, a community group formed in 2013 now referred to as Debenham Angel Community Limited (DACL) and the premises has been registered as an Asset of Community Value (AVC).
10. This appeal scheme seeks to convert The Angel (excluding the part already in use as a dwelling) to a single dwelling. No external or internal alterations are proposed other than a general refurbishment and the yard at the rear would be used as domestic parking.
11. Following the 2022 appeal decision, the Council adopted the Babergh and Mid Suffolk Joint Local Plan, Part 1 (November 2023) (JLP). This plan includes specific policies in relation to the loss of community facilities and employment premises. JLP Policy LP28 seeks to support and safeguard community facilities, such as public houses, which play an important role within the community. Part 2 of the Policy relates to the loss of community facilities and states (in summary) that this will only be permitted if compensatory provision is provided, or the appellant can sufficiently demonstrate that the use is not viable, is no longer performing a

¹ APP/W3520/W/21/3271036 APP/W3520/Y/21/3271041

functional role and is not needed for an economically viable alternative community use. Part 3 of the policy outlines how to evidence viability and states that the form of evidence collection should be agreed with the Council prior to gathering. It also specifies marketing requirements and requires relevant evidence of community need and/or requirements.

12. JLP Policies SP05 and LP10 relate to the loss of employment premises and proposals will be required to demonstrate that other employment or community uses have been explored and are unviable. It requires a similar marketing exercise to JLP Policy LP28 but states that the approach to marketing **must** (my emphasis) be agreed with the Council. Policy DEB 11 of the Debenham Neighbourhood Plan (2019) (DNP) also relates to the loss of employment sites and, amongst other things, requires evidence of marketing the current use and exploring viable, alternative employment uses.
13. The appellant's most recent viability report (Teague, 2024) concludes that The Angel is no longer viable as a public house. Amongst other things, it gives an overview of the accommodation provided and its suitability, its condition, potential customer base, trading accounts and marketing.
14. The consultation from the Council's Economic Development and Tourism Officer highlighted that prior approval had not been obtained for the marketing and evidence collection in accordance with the policies in the recently adopted JLP. The officer therefore expressed doubt that a lack of viability for the public house had been demonstrated or that alternative commercial or community uses had been adequately explored. The appellant may have sought assistance from the Council to find a solution for The Angel prior to the last marketing campaign. However, I only have limited information relating to this and this still does not negate the requirements of the policies. There were several months between the adoption of the JLP and the submission of the planning application, and despite the viability addendum (November 2024) mentioning that each marketing campaign accorded with JLP Policy LP28, this appears not to be the case. The lack of an agreed valuation and marketing exercise significantly diminishes their value in demonstrating a lack of viability.
15. Whilst the marketing agents appear to be well known, with experience of the licenced property sector, I share the previous Inspector's view that during the first two marketing campaigns, the premises may not have been advertised at a realistic asking price. At the hearing, there was a general agreement between the parties that the price set during the last marketing exercise may have appeared to be more realistic. This was in line with an independent valuation in 2019 funded by the Parish Council (Fleurets). However, this was some time ago and the representative of the DACL explained at the hearing that they had not been able to gain access to the property to commission a survey to update this valuation.
16. Looking at the most recent sales particulars and what I saw on site, it appeared to me that the condition of the building had significantly deteriorated since the previous marketing in 2019/2020 and many of the internal fittings associated with the public house had been removed. This indicates to me that the property was not presented in a similar condition to that previously marketed. Furthermore, the premises was no longer described as being in good condition and ready for immediate occupation. Alongside, there is uncertainty as to whether the rear yard can be used for outside trading. All these factors could affect the property value

and suggest that the sales price may still not have been realistic. I am also not convinced that the public house was being actively marketed as an ongoing business opportunity. Furthermore, whilst the sales particulars mentioned that the building was suitable for other community or employment uses, there is little indication as to what these uses could be, how they were promoted and whether there was any community need. It is also unclear as to whether a range of terms were openly promoted. Therefore, notwithstanding the fact that approval was not sought for the collection of evidence and marketing, I am not satisfied that the exercise carried out clearly demonstrated that the public house was no longer viable, that it could not have a functional role in the community and that it was not needed for other community or employment uses.

17. The most recent viability report discusses the reasons for a lack of viability, including its size, potential for diversification, use of the rear yard, parking, competition and tourist appeal. Based on what I have seen and read, it appears to me that the public house is well placed in relation to other shops and businesses, and it is an attractive and vibrant community. I saw that the premises could readily be visited on foot from nearby residential properties. The submitted evidence also suggests that the local community appears set to grow with a significant number of new dwellings planned. The pub may not have dedicated customer parking, but it was not immediately apparent to me during my visit that there was a lack of places to park, and it clearly did not dissuade other businesses from operating.
18. Although the premises is looking rather neglected, it is an attractive building with considerable appeal as a historic pub. There are concerns regarding its reduced size, lack of a functioning beer cellar and doubts about the potential for outside trading space. However, the building has two main public rooms with one being a relatively large and well-lit space with characterful features. It also has a sizeable kitchen area and an upstairs flat which could offer flexible space if required.
19. There are several licenced premises in Debenham, including The Lion which has recently opened opposite, and The Woolpack further along High Street. However, there was little to suggest why The Angel could not complement these businesses or offer something different. On this point, the Council's Economic Development and Tourism Officer commented that the community interest in the pub and recent opening of The Lion demonstrated that a pub in this location could thrive if appropriately managed and promoted.
20. Whilst that the trading accounts are under dispute, it appears to me that there are no verified figures in an agreed format from either party of previous trading, including those presented by the DACL, and many assumptions have been made. Much of the viability report focusses on general trends within the pub market and uses examples of public houses across the area and seeks to relate those to the appeal premises. While such trends are noted, all premises have their own circumstances, such as the size of the local catchment population, their position and ability to attract trade. However, it is evident that the last tenant appeared to be finding the business viable, despite a down-turn in profits, and there is little to explain why the tenanted arrangement was not working. For these reasons, the evidence does not clearly demonstrate that a future pub business would be unviable.
21. The information from the representative of DACL and some of the residents indicate that in the past the public house was well used by local residents and

featured in community life. There has been a strong and sustained community interest in the future of the Angel with it remaining an ACV, and repeated registration of an intention to buy, when the property has been put up for sale. However, at the hearing there was little to suggest that the DACL is able to purchase the premises at this current time with no clear evidence of a business plan, funding in place or obvious sources of grant aid. Despite the clear intent, the DACL appeared far from being in a position to purchase the premises in a timely fashion. It is also possible that this protracted involvement may have dissuaded other parties from coming forward to purchase the property.

22. At the hearing, the appellant suggested that the opening of The Lion had provided compensatory provision for The Angel, in accordance with Part 2 of JLP Policy LP28. However, my interpretation of this element of the policy is that an alternative facility should be provided alongside the appeal premises closing. However, The Lion, has already opened and there is no adequate suggestion that this premises is in any way linked to this appeal proposal. I do not, therefore, find compliance with this element of the policy.
23. I have had regard to the appeal decision at the Admiral's Head, Woodbridge² in 2021. Whilst I note some similarities with the case before me, and consistency in decisions is important, each case must be determined on its own merits and in the light of the specific circumstances and context. In the case before me, I am not satisfied that the evidence presented complies with the development plan policies and this appeal also relates to designated heritage assets. Therefore, I am not persuaded that the circumstances are directly comparable.
24. Although the pub has been closed for some time, I am not satisfied that the intentions of The Framework to guard against the unnecessary loss of valued facilities and services have been met. Whilst this is not the last public house in the community, the evidence suggests that it was valued in the past and could still be valued by a growing community if it were to reopen. Its loss would erode the range of facilities on offer to the community and thereby reduce the appeal of the village to the community and visitors.
25. Whilst it is unhelpful that the Council did not commission an independent assessment of the viability report or substantially comment on the recent marketing, they have provided reasons for maintaining their objection to the proposal, including the new policy requirements. Therefore, I am not convinced that the situation is significantly different to the circumstances surrounding the previous appeal. Therefore, drawing together all of the above, I conclude that there is not sufficient justification for the change of use of the public house to a dwelling having regard to the provisions of the development plan. The proposal would therefore conflict with JLP Policies LP28, SP05, LP10, DNP Policy DEB11 and The Framework as described above.

Designated heritage assets

26. The Angel is a Grade II listed building (Ref.1199398) and is a public house dating from the 16th century. The list description explains, amongst other things, that the building was built as an inn with its name recorded in a survey of 1621. It is constructed of timber frame with plastered panels and has a pantile roof. It describes the building's external features, and internal details including a plank

² APP/X3540/W/21/3267667

and muntin screen, chamfered cross beams, a massive fireplace lintol, exposed timber framing and an upper gallery to the rear; the latter feature often associated with early inns. The appellant's Heritage Statements provide an informative account of the building's history and fabric but appear based on the scheme subject to the previous appeal. They do not, therefore, fully address the impact of the current proposal on the building's significance.

27. Based on my visit and from the details available to me, including the list description, I consider that the special interest and significance of the listed building, insofar as it relates to this appeal, is predominantly derived from its age, form, historic fabric and its architectural features. Its historic use as a public house over a significant period of time and its layout and historic features associated with that use, contribute to that significance.
28. The Debenham Conservation Area is mainly focussed on the wide and sweeping High Street running through the settlement. The area's character and appearance is strongly defined by the range of historic properties, plot boundaries and open spaces dating from the late medieval period. This includes an attractive range of commercial and domestic buildings of varied appearance with a consistent high-quality streetscape and a vibrant feel. The width of High Street adds to the charm of the area and provides lengthy views of the streetscape. A significant number of buildings near to the appeal premises are listed buildings. These include 3 High Street (listing name, Swiss Farm Butchers, The Debenham Gallery Ref.1032322) to the north which is a Grade II* listed building. To the south is Gate House Lloyds Bank (Ref.1352461) and opposite is The Red Lion Inn (Ref.1199618) which are Grade II listed. Their significance is derived from their age, form, historic fabric, architectural features and functions. They also have group value which, along with the appeal property, adds to their significance.
29. The Angel is prominently situated within this key area of activity and can clearly be identified as an historic pub. The building helps reinforce the historic, commercial and social function of the High Street and its vibrancy. It therefore makes a positive contribution to the character and appearance of the area.
30. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires special regard to be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. Paragraph 202 of the Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance.
31. The appeal proposal relates to the change of use of the building only. At the hearing the appellant explained that the building would readily convert to a dwelling without harm to the historic fabric. It was explained that the main changes would be to replace the commercial kitchen units with a domestic equivalent and upgrade other modern fittings. However, the Council explained that they would still require a listed building consent application to oversee the works relating to the domestic conversion to protect the building's special interest and significance.
32. In my experience, it would be normal practice to apply for listed building consent alongside an application to change the use of a public house to a dwelling.

However, having seen the building and the submissions made, it appears to me that it could be occupied as a dwelling without significant changes to the building's layout, fabric or historic features. This is especially since the building is relatively small, with a layout similar to a dwelling, and the first floor is already in residential use. Whilst I consider that it would be appropriate for listed building consent to be obtained for works affecting the significance of the building should the use be accepted, which might include the location of services, fabric repairs, and addressing the modern, commercial fittings, I see no adequate reason why the absence of such an application at this stage should prevent the determination of a change of use application on its own.

33. There is no doubt that the loss of the building's long-standing historic use as a public house would be harmful to the building's special interest and significance. It would remove the building's historic purpose, and it would no longer function in the way intended, undermining its historic interest as a focal point in the life of the village. It would also no longer be experienced and appreciated in its original use and the public would not be able to view the historic interior. Consequently, the evidential and historic values of the building would be diminished. Also, although I see no reason for the exterior of the building to physically change because of this proposal, and therefore it would still be recognised as an historic pub, it would no longer contribute to the vibrancy and activity in High Street. The character and appearance of the Conservation Area and the extent to which the setting contributes to the significance of other nearby listed buildings would therefore be diminished to some extent by the loss of a historic, commercial use.
34. I have considered the appeal decision at The Queens Head, Er Barton³ presented by the appellant at the hearing. In this case it was considered that the public house was no longer viable and the public benefit of securing a viable use outweighed the harm arising from the loss of the historic use. As I have not been satisfied that the proposal before me meets the local plan policies relating to community facilities and employment, I do not find this decision comparable.
35. I therefore conclude that the permanent cessation of the building's historic use as a public house, would cause harm to the special interest and significance of the listed building. It would also cause a degree of harm to the character and appearance of the Conservation Area and would erode to a small extent the contribution that the building makes to the setting of nearby listed buildings. Therefore, the expectations of the Act are not met. Paragraph 212 of the Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to its conservation. Paragraph 213 goes on to advise that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. I find the harm in the context of the significance of the heritage assets as a whole, in the language of the Framework, would be less than substantial in this instance. This commands considerable importance and weight and is not a less than substantial objection to the proposal.
36. Where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, paragraph 215 of the Framework advises that this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimal viable use.

³ APP/D3505/W/23/3332753

37. The proposal would most likely secure the re-occupation of the listed building which has been empty for some time and would provide a long-term future. It would also enable timely repairs to preserve the significance of the building and would enhance its appearance on the High Street which would be of benefit to the significance of the Conservation Area and the setting of other listed buildings. However, I have found that the case put to me that the building is no longer viable as a public house or other community, or employment use has not been adequately made. It therefore has not been satisfactorily demonstrated that the conversion to a dwelling is the building's optimal viable use. Therefore, only moderate weight can be given to these benefits. The proposal would contribute to housing supply with the existing flat replaced by a larger single dwelling. However, this would be a limited public benefit given this incremental change.
38. Given the above, I conclude that the moderate weight I have attributed to the public benefits identified would be of insufficient weight to outweigh the great weight to be given to the harm to the designated heritage assets. As such, the proposal would not comply with the Framework. In addition, there is no clear and convincing justification for the harm to the significance of the heritage assets. The proposal would fail to satisfy the requirements of the Act and the Framework. It would also conflict with JLP Policy LP19 and DNP Policy DEB18 which seek to underpin the statutory and policy objectives.

Planning balance and conclusion

39. I have set out above the public benefits of the proposal and concluded that these are insufficient to outweigh the harm that would be caused to the significance of the heritage assets. Although the Council cites an apparent lack of a 5-year housing land supply, I have identified harm to designated heritage assets. Therefore, bearing in mind footnote 7 of the Framework, the presumption in favour of the development is not engaged. As a result, the overall benefits of the proposal are insufficient to outweigh the harm identified in each of the main issues.
40. I have considered the all the representations made and have taken them into account in reaching my decision. It is for the owner to decide whether to sell the property and who to, and to set the price. However, in terms of obtaining planning permission to convert the premises to a dwelling, the decision must be made in accordance with the development plan, unless material considerations indicate otherwise. Whilst there would be benefits associated with the proposal, I consider that there are no material considerations, including the provisions of the Framework, of such weight to lead me to the conclusion that the proposal should not be determined other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

G Bayliss

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ms S Paine	The Appellant
Mr N Paine	Representing the Appellant
Mr P Cobbold	Agent

FOR THE LOCAL PLANNING AUTHORITY

Mr A Scott	Planning Officer
Cllr T Davis	Ward Member

INTERESTED PARTIES

Cllr F Winrow-Griffin	Debenham Parish Council
Cllr K Barlow	Debenham Parish Council
Mr A Cushion	Debenham Angel Community Ltd.
Ms J Taber	
Mr P Jaynes	
Ms J Morley	
Ms C Knight	
Ms J Walton	
Ms P Harling-Challis	

DOCUMENTS SUBMITTED AT THE HEARING

Appeal Decision Ref: APP/D3505/W/23/3332753: The Queens Head, The Street, Erwarton, Suffolk IP9 1LN

Application for costs submitted by the appellant