



Appeal Decision

Site visit made on 4 November 2025

by H Whitfield BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th November 2025

Appeal Ref: APP/X3540/W/25/3370762

Land to North of Lowood Lodge, Hasketon Road, Burgh, Woodbridge IP13 6JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Mr Matt Tack against the decision of East Suffolk Council.
 - The application Ref is DC/25/1756/PIP.
 - The development proposed is described as 'Application for Permission in Principle - Erection of 1no. detached dwelling and garage (self-build), creation of new access on to Hasketon Road/Mill Lane and stopping up of existing access'.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Matt Tack against East Suffolk Council. This application is the subject of a separate decision.

Preliminary Matters

3. The proposal is for permission in principle. The Planning Practice Guidance (PPG) advises that The Town and Country Planning (Permission in Principle) Order 2017 (as amended) ('the Order') is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle, and the second 'technical details consent' (TDC) stage is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
4. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent technical details consent application if permission in principle is granted. I have determined the appeal accordingly and have considered the proposed site plan as indicative only.
5. Permission in principle can be sought for a range of dwellings by expressing a minimum and maximum net number of dwellings as part of the application. In this instance, permission in principle has been sought for one dwelling on the appeal site.

Main Issues

6. The main issues are whether the site is suitable for residential development, having regard to its location, land use and the amount of development proposed, with particular consideration to:

- the effect of the proposal on the integrity of European Sites; and
- the Council's spatial strategy and the site's location in the countryside.

Reasons

European Sites

7. Article 5B(1) of the Order states that permission in principle cannot be granted for development which is *habitats development*. This is defined in Article 5B(5) of the Order as development which is likely to have a significant effect on a qualifying European site¹ either alone or in combination with other plans and projects and is not directly connected with or necessary for the management of the site. If a proposed permission in principle development is likely to have a significant effect on a qualifying European site without any mitigating measures in place, an Appropriate Assessment must be undertaken by the competent authority to establish whether the development would adversely affect the integrity of the protected site. If the outcome of the Appropriate Assessment is unfavourable, it would preclude the grant of permission in principle.
8. The appeal site is located within the 13km Zone of Influence (Zol) of the Deben Estuary Special Protection Area (SPA) and Ramsar site, the Stour and Orwell Estuaries SPA and Ramsar site and the Sandlings SPA (hereafter the European Sites), which are European Sites afforded protection under the Habitats Regulations. These European Sites are designated in recognition of their importance for populations and assemblages of breeding and non-breeding birds and the habitats that they provide.
9. The sites' conservation objectives include ensuring their integrity, including the extent, distribution, structure, function and supporting processes of the habitats, and ensuring the population and distribution within the sites of each of the qualifying features, is maintained or restored. The principal pathways of impact on these European Sites from developments relate to additional recreational disturbance. The proposal would result in one new dwelling and given the susceptibility and vulnerability of the qualifying features of the European Sites to such uses, particularly when considered in combination with other local development, the proposal would have a likely significant effect on these European Sites due to increased disturbance through recreational activity. I must therefore undertake an Appropriate Assessment in accordance with my duty under the Habitats Regulations.
10. The Council's Recreational Disturbance Avoidance and Mitigation Strategy SPD (RAMS SPD) sets a strategic approach to mitigate adverse impacts on these Habitats Sites, including through education, communication, and habitat-based measures. The measures are to be funded through financial contributions, based on a specified tariff per dwelling and this provides certainty about what the necessary mitigation entails for this development. However, there is no mechanism before me to ensure that this would be secured. The appellant does not dispute that a financial contribution would be required in accordance with the tariff set in the RAMS SPD in order to mitigate the likely significant effects of the development on the European Sites. However, they contend that this is a matter which can be identified and relied upon at the permission in principle stage, without being legally secured until the TDC stage, when the planning permission is granted.

¹ As defined by regulation 8 of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations)

11. I note the RAMS SPD requires mitigation to be secured before the grant of *planning permission* and in the case of a permission in principle, it is the granting of the TDC which has the effect of granting planning permission for the development. However, in these circumstances, the PPG is clear that permission in principle can only be granted if, after taking account of mitigation measures in the Appropriate Assessment, a decision-maker concludes the development would not adversely affect the integrity of the European Site. To come to such a conclusion, I must be satisfied beyond all reasonable scientific doubt that any adverse effect on the integrity of the European Sites would be avoided. This means there must be certainty that any necessary mitigation would be delivered.
12. The PPG states that planning obligations cannot be secured at the permission in principle stage. I note the appellant's suggestion that the necessary obligations could be secured at the TDC stage in relation to this matter. However, in carrying out this Appropriate Assessment, I must take a precautionary approach. Even though there is certainty about what the necessary mitigation measures would entail in this case, in the absence of an effective mechanism before me through which the payment of the tariff could be secured, I do not have the necessary certainty that any adverse effects on the integrity of the European Sites would be avoided. While I accept that a planning obligation to secure this payment could be entered into at the TDC stage, there is no mechanism before me to ensure that that would be the case and therefore no certainty that this would occur, irrespective of whether an additional Appropriate Assessment would be necessary and carried out at the TDC stage².
13. The appellant suggests that an inability to secure a planning obligation or impose a condition at the permission in principle stage does not prevent the competent authority from taking mitigation into account during the Appropriate Assessment. While I do not disagree with this, the fact remains that there must be certainty that the necessary mitigation would be secured and this certainty must exist at the time the Appropriate Assessment is carried out.
14. While planning obligations under s106 of the Town and Country Planning Act 1990 cannot be secured at the permission in principle stage, there is no legal reason why an alternative obligation could not be entered into at any time, for example alongside the permission in principle application, to secure the necessary mitigation measures with the trigger for its delivery linked to the associated TDC or as an upfront payment. The latter of which is supported by the RAMS SPD which provides an option for an upfront payment under Section 111 of the Local Government Act 1972. While noting the wording on the Council's Section 111 Payment Form refers to *planning permission*, there is nothing before me to suggest that this form is the only way to provide an upfront payment for this purpose, or that alternative terms could not be agreed with the Council that would be relevant to the permission in principle application process.
15. Therefore, in the absence of an effective mechanism before me through which the payment of the RAMS tariff could be secured and taking a precautionary approach, I do not have the necessary certainty that any adverse effects on the integrity of the European Sites would be avoided. Imperative reasons of overriding public interest of a social or economic nature are not present that would be sufficient to overcome the harm that would be caused to these European Sites. Nor has it been demonstrated that there are no alternative solutions.

² C.G. Fry & Son Limited v SSLUHC and another [2025] UKSC 35 on appeal from: [2024] EWCA Civ 730

16. For the above reasons, I therefore conclude that the proposal would have a likely significant adverse effect on the integrity of the European Sites. This conflicts with the Habitats Regulations and chapter 15 of the National Planning Policy Framework (the Framework) which seeks to conserve and enhance the natural environment.
17. The proposal therefore constitutes habitats development which is exempted from permission in principle under Article 5B(1) of the Order. Consequently, it follows that permission in principle cannot be granted. Nevertheless, for completeness, I will now consider the other matter in dispute.

Spatial strategy and countryside location

18. Policy SCLP3.2 of the Suffolk Coastal Local Plan (2020) (the SCLP) establishes the Council's settlement hierarchy and Policy SCLP3.3 defines settlement boundaries. There is no dispute that the site lies outside of any defined settlement boundary and is therefore within the countryside. Policy SCLP5.3 of the SCLP sets out the circumstances where housing development is acceptable in the countryside. Once such exception is limited development within existing clusters and Policy SCLP5.4 specifies detailed requirements under points a) to d) which proposals must meet in order to be supported.
19. The appeal site comprises a parcel of land on Hasketon Road enclosed by established vegetated boundaries. Because of their alignment and proximity to one another, the group of houses to the south and east are considered to comprise a cluster of more than five dwellings in a close group adjacent to an existing highway which satisfies criterion a) of Policy SCLP5.4.
20. In respect of criterion b), Wood Farm lies to the north and would be separated from the proposed dwelling by the remainder of the field of which the appeal site is a part, a collection of trees and Wood Farm's garden area. Although the Housing in Clusters and Small Scale Residential Development in the Countryside SPD (2022) (the SPD) makes allowance for gaps, there is an extensive area of open land, which includes the appeal site, and intervening trees between Lowood Lodge (annotated as The White House on the submitted plans) and Wood Farm. This separation is simply too great for it to be regarded as part of a close group of existing dwellings adjacent to an existing highway. Rather, Wood Farm is well away from and outside of the identified cluster along Hasketon Road.
21. The proposal would not amount to infilling within a continuous built-up frontage due to the distance between Lowood Lodge and Wood Farm and the extent of intervening land that would remain between the appeal site and Wood Farm to the north. Nor is the site considered to be an identifiable gap *within* an existing cluster as Wood Farm is not considered to form part of this cluster, and the proposed development would project out significantly beyond the end of the cluster at Lowood Lodge.
22. Given a relatively large intervening parcel of land would lie between the appeal site and Wood Farm to the north and to the west is an area of woodland with agricultural land beyond, the site would not be adjacent to existing development on these two sides. On the opposite side of the road, three properties exist containing development that extends along the eastern boundary of the appeal site such that both parties agree it can be considered adjacent to existing development on this side.
23. Lowood Lodge lies to the south, separated from the appeal site by a collection of trees, detached garage and an access track. From my site visit observations, the property

has a garden area to the south of the dwelling which extends west towards an area of woodland. The Council states that the garage to the north of the dwelling appears to have been built around 2020 without planning permission and that the land between Lowood Lodge and the appeal site is not considered to form part of the property's residential curtilage.

24. I note the appellant's reference to a previous planning application³ at Lowood Lodge where this land was included within the red line on the approved site location plan and their comments about the use of this land. However, whether this land is part of the curtilage of Lowood Lodge is a matter of fact and degree and it is not for me, under a Section 78 appeal, to determine whether the garage or use of this land for residential purposes is lawful. Instead, this would be a matter requiring separate determination under Section 191 of the Town and Country Planning Act 1990, independently of the outcome of the appeal.
25. Based on the evidence before me, I cannot be certain that the land between Lowood Lodge and the appeal site forms part of the residential curtilage of this property. From my observations on site, the tree cover on this land (some of which appeared to have been very recently felled by the presence of sawdust on the appeal site), extends to join the larger area of woodland to the west, which corresponds with historic maps included within the appellant's Heritage Impact Statement. Whilst this area has been eroded by the presence of the garage, it nevertheless provides a distinct separation between the appeal site and the development that exists to the south at Lowood Lodge. The SPD sets out that the site should relate well to the character of existing dwellings and the residential nature of the area. In the absence of any substantive evidence to demonstrate that this garage and the use of the land for residential purposes is lawful, I find that the appeal site is bounded by intervening land that forms a gap separating the appeal site from existing development at Lowood Lodge. Consequently, the site would not be located adjacent to existing development on two sides, and the proposal therefore fails to meet the requirements of criterion b).
26. The appeal scheme would also represent an extension of the built-up area into the surrounding countryside as the proposal would result in development further north than Lowood Lodge, beyond the area of tree cover and land that has not been demonstrated to be in lawful residential use. The development would therefore extend beyond the land and landscape features that otherwise form a defined boundary to the existing cluster into the open and undeveloped land of which the appeal site is apart, resulting in a harmful intrusion into the surrounding landscape. As such, there would also be conflict with criteria c) of Policy SCLP5.4.
27. Both parties agree that criterion d), which requires consideration of the effect on the character and appearance of the cluster and surrounding landscape, is a matter that is relevant to the TDC stage. Notwithstanding whether criterion d) could be satisfied at the TDC stage, all of criteria a) to d) must be met for new dwellings to be supported under this Policy.
28. For the above reasons, I therefore conclude that the appeal site would not be a suitable for residential development due to its location, land use and the amount of development proposed, having regard to the Council's spatial strategy and the site's countryside location. This conflicts with Policies SCLP3.2, SCLP3.3, SCLP5.3 and SCLP5.4 of the SCLP which together and amongst other things seek to direct

³ Council Ref. DC/16/1056/FUL

development in accordance with the settlement hierarchy and set out the circumstances in which residential development is permitted in the countryside

Other Matters

29. The appeal site is located close to Lowood, a Grade II listed building that lies to the south-east, across the highway. Mindful of the statutory duty set out in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have had special regard to the desirability of preserving its setting. Lowood is an early 19th Century country house of regency design, constructed from red brick in Flemish bond which has been painted white and has a slate roof. Insofar as is relevant to this appeal, the significance of this listed building derives from its traditional appearance, architectural and historic interest.
30. Given the level of detail provided at this stage and the current setting of the site, I see no reason to disagree with the Council's conclusion that the principle of one dwelling on the appeal site would be acceptable and that a development could be designed to ensure it preserves the setting of the listed building and its significance. On this basis, I agree with the Council that heritage impacts would be more appropriately considered at the TDC stage, where the details of the built form, access arrangements and the site layout would be provided.
31. The appellant contends there are no technical objections, and no harm has been identified in respect of other technical matters including access and living conditions. However, as these are matters for consideration at the TDC and are contingent on the detailed design of the development, they are not relevant to this permission in principle stage and weigh neither in favour nor against the development.
32. The appellant also refers to an intention to construct the dwelling to a high quality. However, no technical details have been provided at this stage and there is no substantive evidence before me to indicate that the development would go beyond the requirements of the Development Plan in this respect. While the design quality may be a relevant consideration at the TDC stage, it carries only limited weight in this current assessment.
33. The proposal is described as a self-build project in some of the supporting documents. There is no mechanism before me to ensure the development would meet the definition of a self-build home as set out in the Self-build and Custom Housebuilding Act 2015 (as amended), nor would it be possible to secure a planning obligation or to impose conditions to a grant of permission in principle for this purpose. Nevertheless, it would be possible to secure the development as this type of housing at the TDC stage where any future applicant could demonstrate their primary input into the final design and layout of the dwelling.

Planning Balance and Conclusion

34. I have concluded that the proposal would constitute habitats development which is exempted from permission in principle under Article 5B(1) of the Order. Consequently, it follows that permission in principle cannot be granted.
35. However, in the event that this was not the case and permission in principle could be granted, I have nevertheless found that the appeal site would not be suitable for residential development having regard to the Council's spatial strategy and the site's countryside location and would be contrary to the abovementioned policies of the

SCLP. This is sufficient to bring the development into conflict with the development plan when read as a whole. Development that conflicts with the development plan should normally be refused unless material considerations indicate otherwise.

36. The Council concedes that it cannot currently demonstrate a five-year supply of deliverable housing sites. In such circumstances, paragraph 11(d) of the Framework indicates that permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed. In accordance with Footnote 7 of the Framework, habitats sites are one such asset. Consequently, irrespective of the level of shortfall, paragraph 11(d)ii is not engaged and the proposal does not benefit from the presumption in favour of sustainable development in this instance.
37. The development would nevertheless make an efficient use of land to provide one self-build dwelling. As a small site, it could also be built-out reasonably quickly. The development would therefore make a small but beneficial contribution to the choice of homes in the area and the supply of housing land; as well as providing social and economic benefits during construction and after occupation.
38. Housing delivery is supported by the Framework and, therefore, this benefit weighs in favour of the proposal. However, given the scale of the development, any social, economic or environmental benefits associated with the delivery of one dwelling would be relatively limited, even taking account of the objective of significantly boosting the supply of housing in the Framework, and would not outweigh the harm I have identified.
39. Therefore, for the reasons given above, I conclude that even if permission in principle could be granted, the proposal conflicts with the development plan as a whole and the material considerations would not indicate that the appeal should be decided other than in accordance with the development plan. Accordingly, the appeal should be dismissed.

H Whitfield

INSPECTOR