



Appeal Decision

Site visit made on 19 November 2025

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2025

Appeal Ref: APP/X3540/W/25/3370568

Land Adjacent Waterworks Cottages, Bodmin Close, Kesgrave, Suffolk, IP5 1AX

- 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 D Burn of Profile Homes Ltd against the decision of East Suffolk Council.
 - The application Ref is DC/24/1744/FUL.
 - The development proposed is construction of detached chalet bungalow.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the appeal site (the site) would be a suitable location for the proposed dwelling, having regard to the development plan;
 - the effect of the proposed development on trees; and
 - the effect of the proposed development on the Stour and Orwell Estuaries and Deben Estuary Special Protection Areas and Ramsar Sites.

Reasons

Location

3. The site is a portion of undeveloped land bound by footpaths and access tracks. It is just beyond the edge of the nearest settlement boundary and, as such, is in the countryside for planning purposes. In such locations Policy SCLP3.3 of the Suffolk Coastal Local Plan (2020) (the Local Plan) resists development unless in accordance with specific 'exception' policies, the pertinent one in this case being Policy SCLP5.3. This limits new residential development to that which satisfies a listed criterion, including limited development within existing clusters in accordance with Policy SCLP5.4. That policy supports single new dwellings within the countryside where they would be within a cluster of five or more dwellings and subject, thereafter, to further considerations.
4. Though the appellant has thoughtfully supplied it, I have no need in this instance to turn to the dictionary definition of the word 'cluster' as it is already defined in Policy SCLP5.4 as consisting of at least five dwellings in a continuous line or a close group, adjacent to an existing highway. The Supplementary Planning Document (SPD) 'Housing in Clusters and Small Scale Residential Development in the Countryside' (2022) sets out that a cluster can only exist in the countryside. I do

not find the SPD to take Policy SCLP5.4 in a different direction or make its requirements more onerous, as the policy itself addresses 'Housing in Clusters in the Countryside' and provides support for 'Proposals for new dwellings within 'clusters' in the countryside'.

5. I recognise the appellants position that this approach appears to prohibit residential development adjacent to settlement boundaries in favour of less well-connected and accessible locations. In one sense that is indeed its effect, but the justification for it is perfectly reasonable; As set out in preamble within the Local Plan, the former Suffolk Coastal District already has many small, dispersed communities in the countryside, and allowing limited additions to these settlements helps people to stay within, and sustain, their rural communities and the services within them. It is for this reason that an appropriate exception is incorporated into the wider strategic aim to direct most development towards larger settlements.
6. I note that a review undertaken by the Council in September 2025 found that all Local Plan policies relating to housing supply delivery need to be updated. That need arises, however, as a result of having to supply more housing, rather than because of any fundamental conflict with the Framework regarding where it is best located. I will consider the housing land supply position and the implications of the Framework, including the appellant's contention that services and facilities are readily accessible from the site, in my planning balance. Insofar as assessing the location of the site is concerned, I see no conflict between the policies of the Framework and the approach set out in the Local Plan, even though it is over five years old.
7. Existing housing near the appeal site is within the settlement boundary and thus cannot be part of a cluster. The only exception is in the form of semi-detached dwellings to the west of the site, but there are only two of them. As such, the site is not in a cluster in the countryside and does not benefit from the support of Policy SCLP5.4. The proposed development would conflict with the spatial strategy as reflected in Policies SCLP3.3 and SCLP5.3, and the appeal site would not be a suitable location for the proposed dwelling, having regard to the development plan.

Trees

8. The application is supported by an Arboricultural Report and Impact Assessment (ARIA) (2023) prepared by Moore Partners Ltd. This considers six existing trees on the site, and a further four near it. Much of the site and the area beyond it to the south, west, and east is subject to an area Tree Preservation Order¹ (TPO).
9. Though it is interspersed with some greenery, Kesgrave is strongly suburban and developed in character. At the point at which the appeal site aligns with the settlement boundary, however, the nature of the land changes strikingly to a far more verdant one, including a notable increase in tree coverage. The trees at and near the appeal site are one of the first and most prominent markers of this change as one leaves the developed area from Bodmin Close. In this respect, and within themselves as specimens, they are a valuable part of the local setting.
10. The Council is concerned that (firstly) insufficient information has been provided to demonstrate that the proposed dwelling could be built without direct harm to

¹ TPO Number 38

nearby trees, and (secondly) that the relationship between the two entities would be such that future occupiers would want to fell the trees.

11. On the first concern, I see no reason why permission could not be granted on the condition that no development occur until such time as details of the foundations and hard surfaces associated with the development have been submitted and agreed.
12. On the second concern, I am mindful that the Council has not refused the application on the basis that the proposed dwelling would provide inadequate natural light for its occupants. Even so, the openings in the dwelling that would serve its three bedrooms and living room would all be south-facing and, as such, have the potential to be adversely affected by shade from the band of Silver Birch trees located nearby to the south. Much the same is true of the garden. It also seems probable that leaves and possibly branches would fall onto the dwelling and its grounds.
13. The arrangement and orientation of the dwelling along with the proximity of the trees makes it likely that future occupiers would seek to reduce the extent of overshadowing and leaf/branch fall. Whether the relevant Silver Birch trees are covered by the TPO is unclear. Even if they are, I have little before me to show that light levels in the dwelling would be acceptable without felling the trees, or that a programme of lesser works to the trees would be a viable solution. Given this, I have little reason to feel that even if the Council was in a position of control, it could reasonably decline applications to fell the trees once the planning system had permitted the erection of the dwelling.
14. I have no reason to doubt that tree felling has occurred at the nearby waterworks site, but I have little to show me that the trees in question were healthy, that they made the same or a similar contribution to the character of the area as the trees at and near the appeal site, or that there was not a practical reason relating to the operation of the waterworks which required their felling. I therefore attach minimal weight to any tree felling on that nearby site.
15. The appellant contends that the trees at and near the appeal site are nearing the end of their natural lives, but that position is contradicted by the ARIA, which states that five of the six Silver Birch trees south of the proposed dwelling can be expected to live for between 20 and 40 further years. Even if one tree is close to the end of its life, that would make so small a change to the circumstances described above as to make little difference to my findings.
16. It is not evident that the proposed development would result in an arrangement whereby the trees at and near the site would remain. The loss of the trees would be to the detriment of the character and appearance of the area. As such, the proposal conflicts with Local Plan Policies SCLP10.4 and SCLP11.1 where they require development to protect and enhance the visual relationship and environment around settlements and their landscape settings, and to enhance key features of local character.

Habitats sites

17. The Suffolk Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) has identified that increased levels of residential development would have a Likely Significant Effect (LSE) on Habitats sites (European designated sites) on

the Suffolk coast. Of these, the appeal site is within the recreational disturbance Zone of Influence for the Stour and Orwell Estuaries and Deben Estuary Special Protection Areas (SPAs) and Ramsar Sites. The RAMS sets out a tariff for new development by way of mitigation.

18. The appellant does not contest that a payment is required, arguing instead that it could easily be provided. There is, however, no legal agreement in place to secure the payment, and I have little from the appellant as to how I may be certain it would be made.
19. I have considered whether a negatively worded condition could be used. The Planning Practice Guidance (PPG) states that a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. It goes on to say that in exceptional circumstances a negatively worded condition may be appropriate where there is clear evidence that the delivery of the development would otherwise be at serious risk.
20. Notwithstanding my findings in respect of the location of the appeal site and the effect of the proposed development on trees, it is not clear to me that delivery of the proposed development would be at risk if the appeal were dismissed due to the absence of a legal agreement; I see no reason why a resubmission that included a finalised agreement could not address that issue. Overall, the use of a negatively worded condition would be contrary to the PPG and inappropriate.
21. As such, and in adopting a precautionary approach, I am unable to rule out significant harm to the integrity of the SPA and Ramsar sites. The appeal scheme would conflict with the Habitats Regulations and chapter 15 of the Framework, which requires that if significant harm to biodiversity cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. For the same reasons it also conflicts with Local Plan Policies SCLP10.1 and SCLP10.2.

Other Matters

22. I have not referred to Policies KE1 of the Kesgrave Neighbourhood Plan or SCLP5.7 of the Local Plan as these address infill and residential garden development. It is not clear to me that the proposal or site meets either description.

Planning Balance

23. The Suffolk Coastal Local Plan area has a housing land supply of 3.36 years. However, as the adverse effects of the proposed development on the Stour and Orwell Estuaries and Deben Estuary SPAs and Ramsar Sites provide a strong reason for refusal, the provisions of paragraph 11(d) of the Framework are not engaged.
24. Notwithstanding the above, I note the local housing land supply position. The appeal scheme would result in a net gain of one dwelling which could be built quickly, helping towards undersupply locally, and supporting the wider Governmental aim of significantly boosting housing supply. A mix of temporary and lasting economic benefits would accrue from the construction phase and residential occupation respectively. These benefits attract positive weight in my determination, though they would be modest owing to the scale of the scheme.

The site is within walking distance of services and facilities, and the proposed development would accord strongly with the aims of the Framework in that regard.

25. However, the Framework also states that the planning system should be genuinely plan-led, that trees make an important contribution to the character and quality of urban environments, so development should ensure existing trees are retained wherever possible, and that planning permission should be refused if significant harm to biodiversity cannot be avoided, mitigated, or compensated for. Overall, the benefits from the appeal proposal would be greatly outweighed by the extent to which it conflicts with the Local Plan and the Framework.

Conclusion

26. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is dismissed.

A Knight

INSPECTOR