



# Kesgrave Neighbourhood Plan Decision Statement

(The Neighbourhood Planning (General) Regulations 2012 – Regulation 18)

## 1. Summary

1.1 Following an independent examination, East Suffolk Council now confirms that the Kesgrave Neighbourhood Plan will proceed to a Neighbourhood Planning Referendum subject to the modifications set out in section 3.

## 2. Background

2.1 Kesgrave Town Council, as the Qualifying Body, successfully applied for Kesgrave Town to be designated as a Neighbourhood Area under The Neighbourhood Planning (General) Regulations 2012. The [Neighbourhood Area](#) was designated by (former) Suffolk Coastal District Council on 27<sup>th</sup> September 2016.

2.2 The Kesgrave Neighbourhood Plan was published by Kesgrave Town Council for pre-submission consultation (Regulation 14) between 8<sup>th</sup> July and 2<sup>nd</sup> September 2019.

2.3 Following the submission of the Kesgrave Neighbourhood Plan ([submission version](#)) to East Suffolk Council the Plan was publicised and comments invited over a six week period which closed on 6<sup>th</sup> March 2020.

2.4 East Suffolk Council, with the agreement of Kesgrave Town Council, appointed an independent examiner, John Slater BA(Hons) DMS MRTPI to review the Plan and to consider whether it met the Basic Conditions required by legislation and whether it should proceed to Referendum.

2.5 The [Examiner's Report](#) received 24<sup>th</sup> June 2020 concluded that subject to modifications identified in the Report, the Kesgrave Neighbourhood Plan meets the basic conditions. This is summarised in paragraph 99 of the Report which states:

“To conclude, I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory

requirements including the basic conditions test and that it is appropriate, if successful at referendum, that the Plan, as amended, be made.”

2.6 The Examiner recommends that subject to the modifications listed in the Report, the Kesgrave Neighbourhood Plan should proceed to referendum. He further recommends that the referendum area should be the same as the designated neighbourhood area, there being no substantive evidence to demonstrate that this is not the case. The referendum area is contiguous with the administrative boundary for Kesgrave Town.

2.7 Following receipt of the Examiner’s Report, legislation requires that East Suffolk Council consider each of the modifications recommended, the reasons for them, and decide what action to take. This is set out in the table below. Ahead of this consideration, the Report and its findings have been subject to discussion between the Council and Kesgrave Town Council.

### **3. Decision and Reasons**

3.1 East Suffolk Council, under powers delegated to the Head of Planning and Coastal Management, has considered each of the modifications recommended. In all but one case the Council concurs with the reasoning and modifications provided by the Examiner in his Report dated 24<sup>th</sup> June 2020. In relation to the Examiner’s recommended modification to Policy KE7 ‘Non-Designated Heritage Assets’, the Council does not concur with the removal of the three assets and does not consider that this modification is needed to meet the basic conditions.

3.2 The Council has also identified three further modifications to the Plan which are considered necessary for consistency with the Examiner’s modifications, to meet the basic conditions or to correct errors. These are also set out in the table below.

3.3 With the Examiner’s recommended modifications (other than the removal of the three Non-Designated Heritage Assets) and other recommended modifications, East Suffolk Council has decided that the Kesgrave Neighbourhood Plan meets the Basic Conditions mentioned in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990, is compatible with the Convention rights and complies with provision made by or under Section 38A and 38B of the Planning and Compulsory Purchase Act 2004. As a consequence, the submission version of the Kesgrave Neighbourhood Plan will be modified as recommended for it then to proceed to referendum. It should be noted that under the Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020, the referendum will not be able to take place until at least 6<sup>th</sup> May 2021.

3.4 The Council has considered the referendum area as recommended by the Examiner and has decided there is no reason to extend the Neighbourhood Area for the purposes of referendum. The Referendum area will be the same as the designated Neighbourhood Area for the Kesgrave Neighbourhood Plan.

3.5 The list of modifications and actions required are set out in the following tables. As a consequence of these changes the Kesgrave Neighbourhood Plan will be re-published and titled the Kesgrave Neighbourhood Plan (Referendum Version).



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Head of Planning and Coastal Management

Dated: 27 July 2020



Examiner's recommended modification	Reason for change (summarised)	Action by ESC
<p><b>That the East Suffolk Council in consultation with Kesgrave Town Council makes the necessary editorial changes to the supporting text within the Referendum Version of the plan document so that it aligns with the changes which are recommended in this report.</b></p>	<p>The Examiner's recommendations have focused on the wording of the policies, however associated appropriate changes will be needed to the non-policy text.</p>	<p>Agree. The supporting text has been amended where necessary to reflect the modifications to the policies.</p>
<p><u>Policy KE1: Infill and Residential Garden Development</u>  <b>In the first sentence of a) delete "(excluding residential garden development)" and replace "peace and tranquillity (amenity)" with "amenity"</b>  <b>In i) insert ": significant" before "loss of amenity"</b>  <b>Delete b) and c)</b></p> <p>Paragraph 55 of report - <b>In the light of my conclusions on Policy KE1 some of the supporting justification for the exclusion of residential garden development and Appendix A will need to be removed from the document.</b></p>	<p>To ensure that the policy is reasonable in terms of the tests of acceptability of development within an urban setting.</p> <p>To ensure consistency with strategic policies which encourage residential development within the Settlement Boundary.</p> <p>To reflect the consideration that there is no evidence to suggest that conditions in Kesgrave would justify an approach which goes against making best use of land in an urban settlement.</p> <p>To ensure that the policy does not include matters which do not relate to the use and development of land.</p>	<p>Agree. Policy amended as recommended. Associated amendments also made to supporting text to Policy KE1.</p> <p>Associated amendments made to the supporting text to Policy KE2 'Residential uses in Kesgrave District Centre'.</p> <p>Associated amendments made in Section 3 'Key Challenges and Issues'.</p> <p>Paragraphs have been renumbered accordingly. Appendix A is removed. Appendix E is also removed as it related to deleted supporting text. The Appendices have been renumbered accordingly.</p>
<p><u>Policy KE3: Maintaining Kesgrave's identity</u>  <b>Delete "only" and "in Section 9"</b></p>	<p>To ensure that the policy is positively worded.  To remove cross-references to other parts of the Plan, especially as the policy may be quoted in other documents.</p>	<p>Agree. Policy amended as recommended.</p>

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<p><u>Policy KE4: Benefits of Green and Community Growing Spaces</u>  <b>Delete all text in a) before “development”, amend “development” to “Development” and after “proposals” insert “where appropriate”</b>  <b>In b) replace “expected” with “encouraged”</b></p>	<p>The first line of the policy is not a statement of policy but a justification for it, and could be moved to the supporting text.  Inclusion of “where appropriate” to ensure the policy is consistent with the legal tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2015.  To ensure that the policy does not expect communal growing spaces to be incorporated where this is not practical.</p>	<p>Agree. Policy amended as recommended. Equivalent wording incorporated in paragraph 6.2.</p>
<p><u>Policy KE5: Local Green Spaces</u>  <b>In the first paragraph delete “in Section 9” and all text after “Spaces”</b>  <b>In the final paragraph after “permitted” insert “, except in very special circumstances”</b></p>	<p>References to “in section 9” and paragraph 99-101 are superfluous.  The inclusion of “, except in very special circumstances” would ensure the policy complies with the NPPF.</p>	<p>Agree. Policy amended as recommended.</p>
<p>The Examiner further made the following observation (outside of the recommendations) in relation to reference to Policy SCLP11.9 Areas to be Protected from Development in the Suffolk Coastal Final Draft Local Plan:  <b>Also in view of the uncertainty as to the ongoing status of areas to be protected from development, paragraph 6.16 may also require amendment.</b></p>	<p>In view of uncertainty in relation to the potential removal of Policy SCLP11.9 Areas to be Protected from Development in the emerging Suffolk Coastal Local Plan.</p>	<p>Paragraph 6.16 of the Submission Kesgrave Neighbourhood Plan contains a reference to Policy SCLP11.9 in the Suffolk Coastal Final Draft Local Plan. The spatial extent of the Area to be Protected from Development in Kesgrave is shown on the Policies Map in the Kesgrave Neighbourhood Plan.  The Suffolk Coastal Local Plan is currently progressing through Examination with the Main Modifications consultation having taken place between 1<sup>st</sup> May and 10<sup>th</sup> July 2020. This included a Main Modification proposing the removal of Policy SCLP11.9 Areas to be Protected</p>

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		<p>from Development. The Local Plan Inspector has not yet issued his final report and therefore his final conclusions are not yet known, and the Plan is not yet adopted. Should the policy be removed in the Suffolk Coastal Local Plan on adoption, the cross-references in the Neighbourhood Plan would become redundant. The Council considers that it is not appropriate to make any modifications to text in the Neighbourhood Plan in advance of receipt of the Inspector's report and the adoption of the Local Plan. However, as the Policies Map unnecessarily duplicates policy in the Local Plan, it is considered that general conformity with the strategic policies in the plan can be best achieved by amending the Policies Map to remove reference to the Area to be Protected from Development, to avoid unnecessary duplication or the risk of inconsistency.</p> <p>Cross references in paragraph 6.16 to the Policies Map have been deleted.</p>
<p><u>Policy KE6: Wildlife Conservation</u>  <b>Replace "existing habitat features" with "the features of biodiversity importance on the site"</b>  <b>In the final two sentences replace "This includes" with "including"</b></p>	<p>It is unlikely to be practical to retain all existing habitat features, and this goes beyond paragraphs 174 and 175 of the NPPF. It is unreasonable to expect that all existing trees are protected for wildlife benefits.</p>	<p>Agree. Policy amended as recommended.</p>
<p><u>Policy KE7: Non-Designated Heritage Assets</u>  <b>Replace the first paragraph with "The following are designated as non-designated heritage assets, as shown on the</b></p>	<p>The three assets are noted as being quite recent installations and therefore do not qualify as heritage assets that would warrant protection under heritage planning policies.</p>	<p>First Paragraph – Agree. Policy amended as recommended, with the inclusion of the word "to" in between "need" and "balance" for grammatical correctness.</p>

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<p><b>Polices Map, and any development affecting them or their setting will need balance the scale of any loss or harm to them or their setting with the significance"</b></p> <p><b>Delete from the list and renumber accordingly</b></p> <p><b>"B The computer</b></p> <p><b>E The War memorial</b></p> <p><b>G Cedarwood Walk Sculptures"</b></p> <p><b>Delete the final paragraph</b></p>	<p>The wording of the policy goes beyond the protection required by paragraph 197 of the NPPF.</p>	<p>Final paragraph – Agree. Policy amended as recommended.</p> <p>Proposed Non Designated Heritage Assets – The Council does not concur with the Examiner's recommendation in relation to the deletion of the three Non Designated Heritage Assets. The Council's criteria for designation of Non Designated Heritage Assets does not include a requirement related to the age of the asset. The Council disagrees with the Examiner's view that the definition of heritage asset in the NPPF implies that assets must be of a certain age. The Council concurs with the assessments in the Submission Kesgrave Neighbourhood Plan that the assets meet the Council's criteria.</p> <p>The Council's reasoning is set out below:</p> <p>The Council's criteria for identification of Non-Designated Heritage Assets (see <a href="https://www.eastsuffolk.gov.uk/planning/design-and-conservation/non-designated-heritage-assets/">https://www.eastsuffolk.gov.uk/planning/design-and-conservation/non-designated-heritage-assets/</a>) sets out that the significance of a heritage asset can be derived from its archaeological, architectural, artistic or historic interest. Within these headings the Council has established a number of criteria. The Council requires a building or structure to meet two or more of the significance measuring criteria in order to be identified by the Council as</p>

Examiner's recommended modification	Reason for change (summarised)	Action by ESC
		<p>being a Non-Designated Heritage Asset. The Council's criteria have been prepared with reference to Historic England's 'Conservation Principles and Guidance for the Sustainable Management of the Historic Environment' and 'Good Practice Guide for Heritage Listing'. The latter document (page 9) states that the age of an asset may be an important criterion but does not set an age threshold in order for an asset to qualify as a Non Designated Heritage Asset. In this context the heritage interest of the three assets is described below:</p> <p><b>B: The Computer –</b>  The Submission Kesgrave Neighbourhood Plan sets out that The Computer meets the following significance measuring criteria:</p> <ul style="list-style-type: none"> <li>• Architectural interest – Landmark status</li> <li>• Artistic interest – Aesthetic value</li> <li>• Historic interest – Association</li> </ul> <p>The Council considers that for the reasons set out in the Submission Kesgrave Neighbourhood Plan (page 68) The Computer meets the criteria listed above and therefore is of heritage interest. It can therefore appropriately be identified as a Non Designated Heritage Asset.</p> <p><b>E: The War Memorial -</b></p>

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		<p>The Submission Kesgrave Neighbourhood Plan sets out that The War Memorial meets the following significance measuring criteria:</p> <ul style="list-style-type: none"> <li>• Artistic interest – Aesthetic value</li> <li>• Historic interest – Social and communal value</li> </ul> <p>The Council considers that for the reasons set out in the Submission Kesgrave Neighbourhood Plan (page 71) The War Memorial meets the criteria listed above and therefore is of heritage interest. It can therefore appropriately be identified as a Non Designated Heritage Asset.</p> <p>G: Cedarwood Walk Sculptures -</p> <p>The Submission Kesgrave Neighbourhood Plan sets out that The Cedarwood Walk Sculptures meets the following significance measuring criteria:</p> <ul style="list-style-type: none"> <li>• Historic interest – Association; Social and communal value</li> <li>• Artistic interest – Known designer.</li> </ul> <p>The Council considers that for the reasons set out in the Submission Kesgrave Neighbourhood Plan (page 73) The Cedarwood Walk Sculptures meets the criteria listed above and therefore is of heritage interest. It can therefore appropriately be identified as a Non Designated Heritage Asset.</p>

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		<p>The Council's decision to take an alternative view to the Examiner relates to a matter of planning judgement rather than to any new fact or evidence, and therefore there is no requirement to invite representations on the matter under 13(1) of Schedule 4B of the Town and Country Planning Act 1990.</p> <p>The assessments in Appendix C have been referenced with letters (rather than numbers) to accord with the policy.</p> <p>The key to the Policies Map has been corrected to include G. Cedarwood Walk Sculptures.</p> <p>For correction in consistency of formatting, bullet points have been added to the reason for listing for The Computer.</p>
<p><u>Policy KE10: Improving Bus Services and Infrastructure</u>  <b>That the policy be deleted and the aspirations of the section be incorporated within the Non-Policy actions</b></p>	<p>To ensure that the policies of the Neighbourhood Plan relate to the development and use of land and reflect the three legal tests for financial contributions.</p>	<p>Agreed. Policy deleted and aspirations for improvements to bus services have been included in Non-Policy Actions.</p> <p>Paragraph included in supporting text to explain that there is a relevant Non-Policy Action and that Local Plan policy promotes the use of public transport. No further amendments to the supporting text are considered necessary.</p> <p>Subsequent policies renumbered accordingly.</p>
<p><u>Policy KE 11: Improving Residential Parking</u>  <b>Replace the second sentence with "The layout of any new residential roads should be designed in a such manner that where on street parking is possible there should be an adequate remaining width of carriageway to enable safe access by</b></p>	<p>To ensure that the policy is not construed as validating on-street parking and to remove the word "street-cramming" and the implication that an applicant would need to provide alternative layouts.</p>	<p>Agreed. Policy amended as recommended.</p>

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emergency service vehicles, refuse vehicles and delivery/removal vehicles.”		

### Council's further modifications

Under section 12(6)(a) of Schedule 4B of the Town and Country Planning Act 1990, the Council considers that the following modifications are also needed in order that the Plan meets the basic conditions or for the correction of errors.

Policy	Reason for change	Action by ESC
<u>Paragraph 3.2</u> Last sentence cross refers to paragraph 3.2.	The cross reference is incorrect and should refer to paragraph 3.1.	“paragraph 3.2 above” has been replaced with “paragraph 3.1 above”.
<u>Policy KE2: Residential Uses in Kesgrave District Centre</u> The Policy contains the wording “as identified on the Policies Map in Section 9”	For consistency with the Examiner's other recommendations, the cross-reference to “in Section 9” should be removed.	“in section 9” has been removed from the policy.
<u>Policy KE2: Residential Uses in Kesgrave District Centre</u> The first sentence of the policy contains reference to “a mix of uses that are suitable for a Local Centre”.	The policy relates to a District Centre and to meet the basic condition of being in general conformity with policy SSP30 of the Site Allocations and Area Specific Policies DPD (2017) the mix of uses referred to should be those which are suitable to a District Centre.	“Local Centre” has been replaced with “District Centre”.