

## Appendix A

The following appeal decisions have been received. The full reports are available on the Council's website using the unique application reference.

The appeal decisions summarised in this appendix are categorised and set out in the following sections (click on a bullet point to jump to that section):

1. [Appeals against Refusal of applications for Planning Permission for 'Major' developments](#)
2. [Appeals against Refusal of applications for Planning Permission for 'Minor' developments](#)
3. [Appeals against Refusal of applications for Planning Permission for 'Other' developments](#)
4. [Appeals against conditions on a Planning Permissions](#)
5. [Appeals against the refusal of Variation or Removal of Conditions](#)
6. [Appeals relating to Prior Notification Applications under Part 3 of the Town and Country Planning General Permitted Development Order 2015 \(as amended\) \(i.e. changes of use with and without physical works\)](#)
7. [Appeals relating to applications for Advertisement Consent](#)
8. [Appeals relating to applications for Listed Building Consent](#)
9. [Applications relating to Enforcement Notices](#)
10. [Appeals against Community Infrastructure Levy \(CIL\) Decisions](#)
11. [Applications for the award of costs](#)

Within each section the appeal decisions are listed in date order based upon the date of the appeal decision issued by the Planning Inspectorate.

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## 1) Appeals against Refusal of applications for Planning Permission for 'Major' development

This section relates to appeals against the refusal of Planning permission for 'Major' developments, that is applications for 10 or more dwellings, more than 1,000sqm of floorspace or site area greater than 1ha.

There were no appeal decisions relating to 'Major' Planning Applications during this reporting period.

## 2) [Appeals against Refusal of applications for Planning Permission for 'Minor' development](#)

This section relates to appeals against the refusal of Planning Permission for 'Minor' developments, that is applications for up to 9 dwellings, up to 1,000sqm of floorspace, site area less than 1ha.

<b>Application number</b>	DC/21/2214/FUL
<b>Appeal number</b>	APP/X3540/W/21/3288661
<b>Site</b>	193 Maidstone Road, Felixstowe IP11 9EQ
<b>Description of development</b>	Construction of a chalet bungalow (following demolition of existing outbuildings)
<b>Committee / delegated</b>	Delegated
<b>ESC Decision Date</b>	19 October 2021
<b>Appeal valid date</b>	15 January 2022
<b>Appeal start date</b>	28 April 2022
<b>Appeal decision date</b>	31 May 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written Representations
<b>Main issues</b> The main issues are the effects of the proposal on: a) the living conditions of neighbours in James Boden Close; b) the character and appearance of the area; c) highway safety.	
<b>Summary of decision:</b> The inspector considered that because the side elevation of the proposed bungalow would only be 1m beyond the fence which separates the appeal site from Nos 10a and 11a, and its triangular shaped flank wall would protrude above the boundary so much more than the existing shed, it would appear visually intrusive and overbearing from the living rooms of the adjacent dwellings, considerably reducing the outlook from these modest sized homes. It would also introduce a significant sense of enclosure into their gardens, making them much less pleasant places to be. For those reasons the Inspector concluded that the proposal would harm the living conditions of the adjacent chalet bungalows contrary to SCLP5.7, SCLP11.1 and SCLP11.	

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The Inspector acknowledged that the dwellings in the immediate surroundings was varied in terms of the age, style and orientation of the dwellings, but that the common factor was that all the dwellings have direct frontage access. The proposed dwelling would be divorced from the street, but due to it being single-storey, and located in the space between the rear gardens of existing dwellings it would be largely hidden from the street. The Inspector concluded that whilst the new dwelling's siting would not be entirely in accord with the prevailing pattern of development, nearby examples of backland development appears to have been satisfactory integrated into their surroundings, and therefore the lack of direct road frontage isn't sufficient justification to reject this proposal.

The Inspector acknowledged that Margaret Street is not a through street, there appears to be little through traffic on Maidstone Road and Cornwall Road via Hamilton Street, and the width of the street and the need to negotiate between cars parked on both sides, mean that traffic flows and speeds are slow. The Inspector also confirms that the plans show there would be insufficient space for vehicles to park and manoeuvre on the site, but from what they saw there is on-street capacity to accommodate any displaced vehicles, and there was no specific evidence to suggest that any increased reliance on on-street parking would be unacceptable, and so they concluded that the scheme would not prejudice highway or pedestrian safety.

**Learning point / actions:**

This scheme was in part refused on the basis of a holding objection from the Local Highway Authority, on the basis of lack of details to demonstrate visibility from the access and the ability of vehicles to turn around within the plot. This decision demonstrates the importance of the consideration of the traffic and on-street parking environment in the vicinity, rather than application of set criteria without local adjustment.

<b>Application number</b>	DC/22/0665/FUL
<b>Appeal number</b>	APP/X3540/W/22/3308732
<b>Site</b>	29D Quilter Road, Felixstowe, Suffolk, IP11 7JJ
<b>Description of development</b>	Construction of replacement dwelling following demolition of existing.
<b>Committee / delegated</b>	Committee
<b>ESC decision date</b>	17 February 2022
<b>Appeal valid date</b>	2 December 2022
<b>Appeal start date</b>	8 February 2023
<b>Appeal decision date</b>	1 June 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written Representations
<b>Main issues</b>	
<p>The main issues are the effect of the proposal on (1) the character and appearance of the appeal site and the Felixstowe Conservation Area; and (2) the living conditions of adjacent residents, with particular reference to outlook, privacy and access to light.</p>	
<b>Summary of decision</b>	
<p>The Inspector considered that the existing storey building whilst not making a significant contribution to the character of the conservation area and not specifically mentioned in the Conservation Area Appraisal, its contribution is positive because it had limited visual impact upon the streetscene because of its single-storey scale and set back. It reflects the local character of other outbuildings/former buildings set further back from the road than the large detached, semi-detached and terraced dwellings of the Victorian/Edwardian era.</p> <p>Given the prevailing pattern of development in the conservation area, the scale of the proposed structure would be out of character for a recessed 'outbuilding' and no longer appear subservient to the original host property (29 Quilter Road) and the historic relationship would be lost. It would be a more dominant and overly scales feature on this small site, with far greater visual presence as a result of its height and roof form. This would be at odds with Policy SCLP11.5.</p> <p>The proposal would detract from the character and appearance of the appeal site and would fail to preserve or enhance those of the Felixstowe Conservation Area (a statutory requirement). This proposal would not enhance the character or appearance of the area, but in replacing the existing with a less sensitive structure it would not preserve or have a neutral effect. This is in conflict with the statutory duty, paragraph 202 of the Framework, and LP Policy SCLP11.5; and with the high quality design requirements of LP Policy SCLP 11.1.</p>	

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Although the appellant advises that this proposal would occupy the same footprint as the existing dwelling, the relationship to neighbouring dwellings would be significantly different as a result of the increased height, gabled roof form and position of windows. There would be the potential for direct overlooking from the proposed front facing first floor bedroom window to the side and rear facing windows of 27 Quilter Road. There would also be potential overlooking of the private garden areas of nos 29a and 29b and the area to the side of the outrigger of no 27.

The building would be materially higher than the existing, and with a more imposing gabled roof form, having a material impact on the outlook from no 29, and would result in an oppressive sense of enclosure. Due to the orientation, for a significant part of the day there would likely be a material reduction in daylight and sunlight reaching the lower windows.

Whilst it may not result in material light loss, the increased height and depth of the building alongside the boundary with No.27 would also be overbearing for occupants of that property, as the structure would dominate the outlook from the dwelling and much of the garden.

The scheme was therefore also considered unacceptable in terms of impacts upon Residential Amenity and contrary to policy SCLP11.2 and paragraph 130 f) of the NPPF.

**Learning point / actions**

This decision confirms the Local Authorities assessment of the impacts of the scheme upon the character of the Conservation Area and the amenity of adjoining residents.

<b>Application number</b>	DC/21/5658/FUL
<b>Appeal number</b>	APP/X3540/W/22/3305495
<b>Site</b>	Salix Sawmill, Summer Lane, Bromeswell, IP12 2QA
<b>Description of development</b>	Manager's Dwelling
<b>Committee / delegated</b>	Delegated
<b>ESC decision date</b>	20 December 2021
<b>Appeal valid date</b>	11 October 2022
<b>Appeal start date</b>	4 November 2022
<b>Appeal decision date</b>	07 June 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Hearing

#### **Main issues**

Whether there is an essential need for a rural worker to live permanently at or near their place of work, with particular regard to the effect of the proposed development on the character and appearance of the area.

#### **Summary of decision**

The Inspector found the need for 24 hour monitoring at the site was inconsistent with the evidence submitted by the appellant which states that checks of the machinery are currently made twice day or when the weather changes. It was found that there is sufficient flexibility to be able to respond to exceptional events and the business is already able to respond effectively to variable factors.

It was not demonstrated why the manager currently does not stay onsite full-time or why additional staff were not trained to act on any exceptional events or boiler issues. The need for a full-time manager to carry out the tasks in question has not been demonstrated.

The appeal does not demonstrate why systems such as electronic monitoring and humidity monitors and back-up power systems could not be used to monitor the site's functioning and hence to mitigate some of the need for employee checks there.

The Inspector noted that the applicants location one mile away from the site was sufficient to check local weather conditions. The potential scale of loss from a ten minute delay in reaching site was not adequately demonstrated.

The Inspector accepted that it is desirable for the machinery worker to live relatively close to the site, the appeal fails to demonstrate that there is a clearly established existing functional need for a worker to be accommodated at the location proposed.

It was concluded that the appeal site was physically separated from sawmill site, so that the proposed dwelling would appear as an independent residential dwelling and fail to reflect its functional role to support the agricultural activity, conflicting with the areas prevailing open appearance. The scale of the dwelling would erode the rural appearance of the area and not relate to their surroundings.

**Learning point / actions**

The separation of the site to the business unit emphasised the lack of essential need for the worker being close to the business.

<b>Application number</b>	DC/22/2300/OUT
<b>Appeal number</b>	APP/X3540/W/22/3305894
<b>Site</b>	Land adjacent to 5 Ipswich Road, Newbourne, IP12 4NS
<b>Description of development</b>	Erection of 'infill' dwelling.
<b>Committee / delegated</b>	Delegated
<b>ESC decision date</b>	7 June 2022
<b>Appeal valid date</b>	29 October 2022
<b>Appeal start date</b>	21 February 2023
<b>Appeal decision date</b>	26 June 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written Representations
<b>Main issues</b>	
<p>The main issue is the suitability of the location for the proposed development, with particular regard to the effect on the character and appearance of the appeal site and the surrounding area.</p>	
<b>Summary of decision</b>	
<p>The site lies within the Former Land Settlement Association Holdings (LSAH) area (SCLP11.9). Despite the scheme ending many years ago, this pattern of development can still be discerned in parts of the village, with the dwellings and their associated plots readily apparent. This part of the settlement includes a variety of predominantly residential properties along Ipswich Road. The road frontage is characterised by dwellings of varied size and appearance set within large plots with often substantive gaps between built development. As such, the distinctive pattern of development associated with the LSAH is readily apparent. The appeal site, which is an undeveloped area of paddock, forms part of one of the larger gaps in development, between No 5 and the next dwelling to the west.</p> <p>Due to the extent of the open land between existing built development to either side, and despite the garden centre on the opposite side of the road, the proposed development would not represent infill development within the existing frontage.</p> <p>While the proposed dwelling would retain relatively spacious gaps in the road frontage to either side, it would nonetheless represent an encroachment of development into the established pattern of open frontages in this part of the village. As such, the development would harmfully undermine the character of the former LSAH area, contrary to the purpose of Policy SCLP11.9.</p>	

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Furthermore, it would lead to an intensification of development at a point where the glasshouses associated with the garden centre opposite are a prominent feature close to the road frontage.

Due to the large gaps between the development, the Inspector also concluded that the site would not represent a 'close-group' or 'continuous line' of five or more existing dwellings to constitute a cluster under SCLP5.4.

**Learning point / actions**

The 'gaps' between existing development in Newbourne form part of the character of the former LSAH area. Infilling these gaps would be contrary to the purpose of SCLP11.9 and result in harm to the former LSAH character.

<b>Application number</b>	DC/22/0573/OUT
<b>Appeal number</b>	APP/X3540/W/22/3309921
<b>Site</b>	Land to the north of 18 Mill Road, Newbourne, IP12 4NP
<b>Description of development</b>	Erection of up to two dwellings and access with all other matters reserved.
<b>Committee / delegated</b>	Delegated
<b>ESC decision date</b>	9 February 2022
<b>Appeal valid date</b>	31 October 2022
<b>Appeal start date</b>	21 February 2023
<b>Appeal decision date</b>	26 June 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written Representations
<b>Main issues</b>	
<p>The main issue is the suitability of the location for the proposed development, with particular regard to the effect on the character and appearance of the appeal site and the surrounding area.</p>	
<b>Summary of decision</b>	
<p>The site lies within the Former Land Settlement Association Holdings (LSAH) area (SCLP11.9). The wider, distinctive pattern of development associated with the LSAH is particularly apparent on the eastern side of Mill Road, with the appeal site forming an extensive area of open land between the village hall and No 18; beyond this are further large gaps to the road frontage, including the site of the earlier appeal adjacent to No 19.</p> <p>Due to the extent of the open land between existing built development to either side, and despite the development on the opposite side of Mill Road, the two dwellings would not represent infill development within the existing frontage. Instead, and as found in the earlier appeal, they would represent a significant encroachment of development into the established pattern of open frontages in this part of the village. As such, the development would harmfully undermine the character of the former LSAH area, contrary to the purpose of Policy SCLP11.9.</p> <p>The site contributes positively in this regard through both its openness, reflecting its former LSAH associations, and its verdant character and appearance, linking to the open countryside beyond. The views that are available across the site make a positive contribution to the street scene. The development of up to two dwellings together with an access point, driveways and domestic paraphernalia would harmfully undermine this character and appearance. Moreover, given the existence of a greater intensity of residential development on the opposite site</p>	

of Mill Road, the proposal would add to this and so lead to harmful urbanisation of this part of the village.

In respect of whether the site forms part of a cluster, whilst there are more than five dwellings within the immediately surrounding area, including those on the western side of Mill Road, these cannot in the Inspectors view, be considered to be a continuous line or close group. Rather, the dwellings as a whole represent a loose-knit and informal grouping. The fact that there is development on two sides of the appeal site does not alter this finding.

**Learning point / actions**

Similarly to APP/X3540/W/22/3305894 (land adjacent to 5 Ipswich Road, Newbourne above) the Inspector considered that the site was not a suitable location for the proposed dwellings, particularly due to the material harm to the character and appearance of the site and surrounding area.

<b>Application number</b>	DC/22/3275/FUL
<b>Appeal number</b>	APP/X3540/W/22/3312548
<b>Site</b>	The Cabin Holiday Let, Park Farm, Kings Lane, Weston, NR34 8TG
<b>Description of development</b>	Change of use from holiday let to C3 Residential.
<b>Committee / delegated</b>	Delegated
<b>ESC decision date</b>	16 August 2022
<b>Appeal valid date</b>	31 January 2023
<b>Appeal start date</b>	27 March 2023
<b>Appeal decision date</b>	05 July 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written Representations
<b>Main issues</b>	
The main issue is the effect on existing tourist accommodation and related to this the suitability of the location for the proposed use.	
<b>Summary of decision</b>	
The inspector concurred with officers that the applicant had failed to supply sufficient evidence that there was no longer a demand for tourist accommodation in the area.	
While some evidence of marketing had been provided, it was not sufficient to demonstrate compliance with the requirements of Policy WLP8.17. Consequently, it was not possible to conclude that it had been fully and satisfactorily demonstrated that there was no demand for the tourist accommodation in the location.	
<b>Learning point / actions</b>	
This appeal decision confirms officers interpretation and application of planning policy in relation to the marketing required for a change of use from tourism to residential.	

<b>Application number</b>	DC/22/1327/FUL (associated Advertisement Consent application DC/22/1328/ADI)
<b>Appeal number</b>	APP/X3540/W/22/3301900 (associated Advertisement Appeal APP/X3540/H/22/3301901 in <a href="#">Appeals relating to applications for Advertisement Consent</a> section later in this appendix)
<b>Site</b>	243 London Road South, Lowestoft, NR33 ODS
<b>Description of development</b>	Change of use A5 to A1 Barber shop, shutter to the front with associated new shop front, removal of chimney and replacement of first floor upvc window.
<b>Committee / delegated</b>	Delegated
<b>ESC decision date</b>	30 May 2022
<b>Appeal valid date</b>	10 August 2022
<b>Appeal start date</b>	13 September 2022
<b>Appeal decision date</b>	26 July 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written Representations
<b>Main issues</b> The effect of the development on the character and appearance of the Lowestoft Conservation Area	
<b>Summary of decision</b> The unauthorised works undertaken have failed to preserve or enhance the character and appearance of the Conservation Area. This would be contrary to policies WLP8.29 and WLP8.39 of the LP which seek to demonstrate high quality design which reflects local distinctiveness and preserve or enhance the character or appearance of the area.  Furthermore, the internally illuminated acrylic signage was considered incongruous, unduly prominent and visually intrusive in the street scene.	
<b>Learning point / actions</b> The appeal confirms a building's fenestration is an important component in defining its visual and architectural character, and whilst the removed shopfront was not original it did retain traditional elements important to the area.	

<b>Application number</b>	DC/22/2630/FUL
<b>Appeal number</b>	APP/X3540/W/23/3314668
<b>Site</b>	Marchwood, Martlesham Road, Little Bealings
<b>Description of development</b>	Erection of 1 No new residential dwelling with detached garage in front of Marchwood.
<b>Committee / delegated</b>	Delegated
<b>ESC decision date</b>	20 December 2022
<b>Appeal valid date</b>	8 March 2023
<b>Appeal start date</b>	19 April 2023
<b>Appeal decision date</b>	27 July 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written Representations
<b>Main issues</b>	
<ul style="list-style-type: none"> <li>- whether the location of the proposed dwelling would be an appropriate one given the countryside setting and</li> <li>- whether the development would have an adverse impact on the character and appearance of Martlesham Road.</li> </ul>	
<b>Summary of decision</b>	
<p>While it is agreed that the site would lie within a cluster and the scale of development envisaged would comply with the Policy 5.4, Criterion b) requires that the development consists of infilling within a continuous built-up frontage and is in a clearly identifiable gap within an existing cluster. Criterion d) requires that it would not cause undue harm to the character and appearance of the cluster or, result in any harmful visual intrusion into the surrounding landscape.</p> <p>The inspector found that the site would not be infilling within a continuously built-up frontage. This is because the nature of development on the south side of the road has the properties set well back behind landscaped gardens which do not constitute identifiable gaps as they are part of the planned design of these plots. Further, the development would cause harm to the character and appearance of this side of Martlesham Road because tandem development is not a feature of development on the south side of the road other than Cedar Cottage and the recently permitted house to its rear (now completed) which is the exception rather than the rule on this side.</p> <p>The established character of development along the southern side of Martlesham Road is of open, spacious development with houses set in large landscaped plots standing back from the road and Marchwood is an example where the house has been designed to be seen across a designed and landscaped frontage.</p>	

As such, to construct another house in front of Marchwood would be seriously detrimental to its character and appearance and would dominate the setting whilst eroding the green, open character on the south side of the road.

Moreover, as development within an established garden, the proposed house would fail to comply with the requirements of Policy SCLP 5.7 which requires the scale, design and materials of the development not to harm street scene character or adjacent properties.

**Learning point / actions**

Deep frontage plots should be considered as planned features of the prevailing development pattern and therefore should not be found to represent clearly identifiable gaps when judged within the context of policy SCLP5.4.

<b>Application number</b>	DC/21/2982/FUL
<b>Appeal number</b>	APP/X3540/W/22/3292259
<b>Site</b>	Fordley Meadows, Butchers Lane, Kelsale cum Carlton, Suffolk IP17 2PH
<b>Description of development</b>	Conversion of redundant barn to one bedroom dwelling - to allow onsite management of Suffolk Horses and improve security of livestock
<b>Committee / delegated</b>	Delegated
<b>ESC decision date</b>	10 August 2021
<b>Appeal valid date</b>	25 May 2022
<b>Appeal start date</b>	31 August 2022
<b>Appeal decision date</b>	27 July 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written Representations
<p><b>Main issues</b></p> <p>Whether the appeal site represents an appropriate location for the proposed development, having regard to the special strategy in the development plan, i.e. whether there was suitable justification for a rural workers dwelling on this site in the countryside and/or whether the building was suitable for conversion.</p>	
<p><b>Summary of decision</b></p> <p>The site is located outside of the defined settlement boundary, within the countryside and is accessed via narrow lanes.</p> <p>The inspector concurred with the view of officers that there wasn't sufficient functional justification for a dwelling on this site. Whilst the appellant is a breeder of Suffolk Punch Horses, which are rated by the Rare Breeds Survival Trust as a critically endangered species, and that the appellants stated that have up to 8 horses including 2 breeding mares on site, with potentially up to 2 foalings a year, the inspector was satisfied there was sufficient sitting up space within the existing building that could be utilised during any periods of foaling where closer supervision may be required.</p> <p>There was no evidence of the number of foals that have been born during the time the appellants have been breeders or how the process has been managed in previous years. The Inspector acknowledged the letter from a local vet confirming a foal died in 2017, there was little to explain the circumstances around this unfortunate event or whether this outcome would have been avoided if someone was living on site.</p>	

The Inspector also concluded that it was evident that the horses are currently able to reside on site and this has not led to any significant problems. It is acknowledged that horses require daily attention, usually twice a day, and it is not uncommon for horses to be stabled and grazed in locations which do not have a residential occupant within sound and site.

The Inspector also highlighted that there was no evidence that other options for monitoring the horses, have been fully explored and/or discounted.

In response to the appellants suggestion that living on site would reduce their need to travel, the inspector explained that whilst living on site would reduce trips to tend the horses, it would likely create trips away from the site by car to access a full range of community facilities such as shopping, healthcare, leisure and entertainment given the distance to the nearest sizable town. Therefore, the inspector concluded this would be neutral effect of the travel undertaken.

The Inspector concluded that there is insufficient evidence to demonstrate that there is an essential need for a rural worker to live at the appeal site and the scheme was in conflict with policies SCLP3.3, SCLP5.3 and SCLP5.6 of the Suffolk Coastal Local Plan.

In terms of the conversion/re-use of the building, the Inspector also concurred with the views of officers, that it hadn't been adequately demonstrate that the building is redundant from its use as a hay/straw barn, given that it remains a building which is capable of such use and the wider site has stables. The building is also relatively modern, having been granted planning permission in 2013.

The proposed separation of the building from the existing stable block would lead to a more domestic appearance, and the associated domestic paraphernalia would extend residential development along Butchers Lane, so the scheme would fail to enhance the immediate setting as required by SCLP5.5.

**Learning point / actions**

This appeal decision confirms officers interpretation and application of planning policy in relation to rural workers dwellings and the conversion of modern buildings in the countryside.

<b>Application number</b>	DC/22/4421/FUL
<b>Appeal number</b>	APP/X3540/W/3314806
<b>Site</b>	2 Elm Cottages, Yarmouth Road, Corton, Suffolk, NR32 5NQ
<b>Description of development</b>	Construction of a portable office cabin onto an existing hard stand/footings
<b>Committee / delegated</b>	Delegated
<b>ESC decision date</b>	12 January 2023
<b>Appeal valid date</b>	19 April 2023
<b>Appeal start date</b>	2 May 2023
<b>Appeal decision date</b>	24 August 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written Representations
<b>Main issues</b>	
<p>The main issues are (1) whether the site is suitable for the use, having regard to the Council's growth strategy and focus for commercial activity; and (2) the visual impact of the outbuilding on the character and appearance of the area.</p>	
<b>Summary of decision</b>	
<p>The Inspector considered that in respect of (1) the Council's growth strategy as set out in Policy WLP1.1 of the East Suffolk Council Waveney Local Plan (2019) focuses much of the areas housing and employment towards Lowestoft and other main settlements. Policy WLP1.2 confirms that new employment and town centre development will not be permitted in the countryside except where specific polices in the Local Plan indicate otherwise. A tattoo studio does not fall into any of the uses classes listed in the supporting text to the policy, but such a use, providing employment and offering services to visiting members of the public, would typically be found in town centre.</p> <p>Policy WLP8.18 sets out a sequential approach to town centre development. By allowing it in the countryside, would require evidence from the appellant to demonstrate a lack of suitable and available sites within a settlement boundary. Out of centre sites should be accessible by public transport and for pedestrians and cyclists, and with good links to the town centre.</p> <p>The Inspector afforded weight to the appellant's continued trade as a sole trader of a small business in Norfolk* [Suffolk]. But the appellant provided no evidence to demonstrate there are no other suitable premises available. The Inspector also noted the rural location distant from any town centre that would not be a suitable location for a business use attracting high numbers of visitors, likely travelling by car, given limited options for pedestrians, cyclists and public transport. Without evidence of a lack of alternative premises, the development would conflict with the sequential approach at policy WLP8.8.</p>	

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The Inspector added that the Council's suggested condition, to control and limit the hours of use of the tattoo parlour would alone be insufficient to avoid activity that would be more appropriate located within a settlement.

The Inspector therefore concluded that, the site is unsuitably located within a rural area for the use, having regard to the Council's growth strategy and focus for the location of businesses, contrary to policies WLP1.1, WLP1.2 and WLP8.8, consistent with the sequential approach to development at Section 7 of the National Planning Policy Framework (2021).

In relation to (2) the Inspector noted the metal, flat roof portable building would have restricted visual impact owing to the sited boundaries, neighbouring properties and set back position from roadsides. Neighbouring buildings are timber clad or brick in materials more sympathetic to the semi-rural setting.

The Inspector added that, as installed, the outbuilding is out of keeping with the character and appearance of surrounding buildings and appears as an unacceptably urban feature in this garden setting, contrary to the design objectives of policy WLP8.29, which requires development to, amongst other things, to respond to local context and form.

**Learning point / actions**

This decision confirms the Spatial Strategy for the District as set out at policies WLP1.1, WLP1.2 and WLP18.8, with main town centres as the focus for sustainable employment and retail growth.

The decision also confirms the Local Authority's assessment of the design impact of the development on the character of the area.

The portacabin was erected following the Local Authority's refusal and, in light of the appeal decision, this case referred back to Planning Enforcement for enforcement action to follow to remove the portacabin.

<b>Application number</b>	DC/22/0374/FUL
<b>Appeal number</b>	APP/X3540/W/23/3316988
<b>Site</b>	New Chapel Farm, Mells, Halesworth, Suffolk, IP19 9DE
<b>Description of development</b>	Full planning application for erection of outbuilding at New Chapel Farm, to be ancillary to barn conversion of application DC/21/4412/FUL.
<b>Committee / delegated</b>	Delegated
<b>ESC decision date</b>	10 October 2022
<b>Appeal valid date</b>	22 April 2023
<b>Appeal start date</b>	31 May 2023
<b>Appeal decision date</b>	25 August 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written Representations
<b>Main issues</b>	
The main issue is the effect of the proposal on the character and appearance of the appeal site and the street scene.	
<b>Summary of decision</b>	
<p>The Inspector acknowledged the character of the site and its layout, and the degree prominence of the building in the Streetscene due to its slightly elevated position. They did not agree with the applicants view that the building would be negligible in its scale, mass and materiality, but considered that the footprint and height would create a sizeable addition to the street scene, exacerbated by the land levels. The proposal would appear unduly dominant and visually intrusive.</p> <p>The proposed garaging combined with the storage and plant rooms would be an overly large building in this prominent area of the site. The previous presence of now demolished buildings would not justify the construction of a building of the size proposed in its forward position.</p> <p>The Inspector acknowledged the provision of solar panels to power an EV charging point, but that would not require a building of the size proposed. In the view of the Inspector the environmental benefits to power generation would not outweigh the visual harm.</p>	
<b>Learning point / actions</b>	
Confirms the officers approach to seeking to safeguard the visual amenity of the area.	

<b>Application number</b>	DC/22/3482/FUL
<b>Appeal number</b>	APP/X3540/W/22/3313518
<b>Site</b>	Patience Acre, Chenerys Loke, Weston, NR34 7XH
<b>Description of development</b>	Use of existing dwelling for permanent residential occupancy
<b>Committee / delegated</b>	Delegated
<b>ESC decision date</b>	2 September 2022
<b>Appeal valid date</b>	10 February 2023
<b>Appeal start date</b>	16 March 2023
<b>Appeal decision date</b>	5 July 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written Representations
<b>Main issues</b>	
The main issue is the effect on existing tourist accommodation and related to this, the suitability of the location for the proposed use.	
<b>Summary of decision</b>	
<p>The Inspector made reference to policies WLP1.1 of the East Suffolk Coastal – Waveney Local Plan (2019) that defines the scale and location of growth across the Plan area, and policy WLP7.1, that defines the rural settlement hierarchy and planned growth, having regard to the site's location outside a defined settlement boundary, in an area of designated countryside.</p> <p>The Inspector referred to the appellant's contention that as the dwelling already exists, there is no material change of use, but refuted this by adding that the footnote to policy WLP1.2 clarifies that new residential development does not include dwellings restricted by condition for use as holiday lets. Therefore, any unrestricted use of an existing property would not be permitted, in accordance with policy WLP1.2, unless specific policies indicate otherwise.</p> <p>Policy WLP8.17 is relevant as this refers to tourist accommodation. The appellant argued that as the policy refers to 'change of use' the policy was not applicable, but the Inspector disputed this, as the appeal involved the loss of a dwelling currently used as tourist accommodation, controlled by an occupancy condition. The policy is therefore of direct relevance and importance to the appeal decision.</p> <p>The Inspector added that no evidence of any marketing was provided by the appellant, as required by policy WLP8.17. The circumstances and evidence provided by the appellant of the change in the character of the area and increased noise from the Southern Relief Road, was noted by the Inspector, who added that screening to the front of the site helps to reduce the visual impact of the road. The Inspector acknowledged that</p>	

the road, combined with the allocated Beccles and Worlingham Garden Neighbourhood development north of the road, urbanises the area. Evidence of flooding of the site was provided by the appellant and was cited as a contributory factor in the property not being marketed, but the Inspector stated that necessary flood alleviation measures have been addressed resulting from the construction of the new road.

Taken together, the Inspector agreed with the appellant that there are changed circumstances arising from the construction of the Southern Relief Road, but in the absence of any evidence of marketing to test the effects of such changes, it is not possible to conclude there is no demand for the tourist accommodation in this location.

The Inspector thus concluded that in the current circumstances, this not a suitable location for the permanent residential occupancy, contrary to policies WLP1.2, WLP1.2 and WP7.1 of the East Suffolk Coastal – Waveney Local Plan (2019), and there were no other material considerations that outweighed the conflict with the Development Plan.

**Learning point / actions**

This appeal decision confirms officers' interpretation of the Spatial and Rural Strategy for the District in relation to development in the countryside, and the importance of marketing evidence to justify any loss of tourist accommodation, as required by policy WLP8.17.

<b>Application number</b>	DC/21/4940/OUT
<b>Appeal number</b>	APP/X3540/W/22/3295686
<b>Site</b>	Kings Field, Hulver Street, Henstead, NR34 7UE
<b>Description of development</b>	The development proposed is erection of three dwellings.
<b>Committee / delegated</b>	Delegated
<b>ESC decision date</b>	21 February 2022
<b>Appeal valid date</b>	25 April 2022
<b>Appeal start date</b>	28 June 2022
<b>Appeal decision date</b>	04 September 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written Representations
<p><b>Main issues</b></p> <p>Whether the appeal site represents an appropriate location for the proposed development, having regard to the spatial strategy in the development plan.</p> <p>The effect of the proposed development on the character and appearance of the area.</p>	
<p><b>Summary of decision</b></p> <p>Policy WLP1.1 and WLP1.2 of the East Suffolk Council Waveney Local Plan restricts development in the countryside except where other policies in the LP indicate otherwise.</p> <p>Policy WLP8.7 provides for a limited amount of housing in the Countryside, with small scale development of up to three homes within clearly identifiable gaps in a built-up frontage, on land which is surrounded by residential development (including its curtilage) on two sides (including the opposite side of the highway).</p> <p>The inspector did not consider that the gap between the two properties was small, as is suggested within the supporting text to the policy WLP8.7. The existing gap between the built development does not contribute to a continuous built frontage and is broadly concealed from views from the road by the existing landscaping.</p> <p>The Inspector also agreed that the wider built context of the site with the level of spacing between the existing dwellings and the overall size of the gap between the two dwellings on either side, suggests that the development would not constitute the infilling of a clearly identifiable gap in a built-up frontage.</p>	

The Inspector noted that notwithstanding this, due to the size of the gap and resultant plot widths, it was considered that the proposed development would introduce a discordant built form to the locality that would not be reflective of the density in the village and surrounding built up area and would introduce a form of development that would not be compatible with the layout of surrounding development.

Therefore, it was also concluded that the proposed development would have a significantly harmful effect on the character and appearance of the area.

**Learning point / actions**

This decision confirms Officers interpretation of Policy WLP8.7, albeit that there is no reference to the supporting 'Clusters' SPD, within this decision.

### 3) [Appeals against Refusal of applications for Planning Permission for ‘Other’ developments](#)

This section relates to appeals against the refusal of Planning Permission for ‘Minor’ developments, that is applications for changes of use with no physical works and/or householder applications\_

<b>Application number</b>	DC/22/3067/FUL
<b>Appeal number</b>	APP/X3540/W/22/3309867
<b>Site</b>	2 Flensburgh Street, Lowestoft, Suffolk, NR32 2AR
<b>Description of development</b>	“No building work will take place. It will simply be changed from a 5 bedroomed single family residence to a 5 separate bedroomed H.M.O.”
<b>Committee / delegated</b>	Delegated
<b>ESC decision date</b>	7 October 2022
<b>Appeal valid date</b>	13 December 2022
<b>Appeal start date</b>	08 February 2023
<b>Appeal decision date</b>	12 June 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written Representations
<b>Main issues</b>	<p>The main issue is whether the site is a suitable location for the proposed development with regard to the provisions of the development plan in respect of conversion to houses in multiple occupation (HMO).</p>
<b>Summary of decision</b>	<p>The Inspector raised concerns regarding the lack of scaled plans, and concluded it was not possible to be certain if the property was large enough to be suitable for conversion.</p> <p>The inspector also raised concerns regarding the lack of evidence of sound insulation between the appeal site and neighbouring properties. It would be necessary for it to be demonstrated that a suitable scheme could be installed to ensure that there would not be an adverse effect on the living conditions of the attached neighbours.</p>

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The use to provide supported living with a range of needs is not uncommon, and would not constitute an exceptional circumstance in and of itself. There was also no mechanism before the inspector to restrict the use of the property to supported living. There was also no evidence before the inspector demonstrating that there is a particularly high demand for multi-let properties or that the council is not delivering sufficient dwellings. The Inspector therefore concluded that exceptional circumstances had not been demonstrated to justify the proposal.

The Inspector concluded that this is not a suitable location for the proposed development with regard to the provisions of the development plan in respect of conversion to HMO, and that it would be contrary to Policy WLP8.4.

**Learning point / actions**

Whilst this decision may well have been dismissed on matters of principle, this appeal decision should be seen as a learning point for applicants and agents in ensuring that they submit adequate and appropriate plans and other supporting information with applications, in order to demonstrate acceptability of a scheme in terms of matters other than principle e.g. sufficient floorspace and noise mitigation measures.

<b>Application number</b>	DC/22/1404/FUL
<b>Appeal number</b>	APP/X3540/D/22/3312166
<b>Site</b>	97 The Avenue, Lowestoft, Suffolk, NR33 7LH
<b>Description of development</b>	Replace the windows on the front
<b>Committee / delegated</b>	Delegated
<b>ESC decision date</b>	8 September 2022
<b>Appeal valid date</b>	19 December 2022
<b>Appeal start date</b>	17 March 2023
<b>Appeal decision date</b>	21 June 2023
<b>Appeal decision</b>	Allowed with conditions
<b>Appeal Procedure</b>	Fast Track Appeal (Householder Written Representations)
<b>Main issues</b>	
<p>This proposal would not enhance the character or appearance of the area, but in replacing the existing with a less sensitive structure it would not preserve or have a neutral effect.</p>	
<b>Summary of decision</b>	
<p>The avenue is a tree-lined suburban street within a Conservation Area. No 97 is a large two-storey building with a painted render façade and bay windows on ground and first floor. As such the building makes a positive contribution to the street scene and conservation area. The area is subject to an Article 4 direction, which amongst other matters, requires approval of replacement windows and doors.</p> <p>The scheme sought the replacement of the windows across the property's front elevation which are currently single-glazed timber sash windows, some of which are original. The replacements are to be double-glazed sash windows with uPVC frames. The Inspector considered that the drawings shows that these would be of the same design as the existing windows with frames of the same width and parallel glazing bars to the central window in each bay.</p> <p>The Inspector looked at the character of the Avenue, both within and outside the Conservation Area, and at the windows which exist in the properties. They considered that the area was highly varied in terms of detailing and types, and that most have replacement double-glazed uPVC windows, which are also varied in their design and quality, with a number of examples of unsympathetic replacements. However, there are a number of sympathetic replacements similar to the current proposal, which in the view of the Inspector would be reflect the design and appearance of these existing examples and they would not be uncharacteristic or fail to preserve the appearance of the conservation area and its setting.</p>	

**Learning point / actions**

The existing context of replacement windows can provide a suitable justification in some instances.

<b>Application number</b>	DC/22/2729/FUL
<b>Appeal number</b>	APP/X3540/W/22/3313896
<b>Site</b>	Croylands, 2 Cliff Road, Lowestoft, Suffolk NR33 0BT
<b>Description of development</b>	To change front and side windows to white sash windows and door to composite - repair brick work around bay areas
<b>Committee / delegated</b>	Delegated
<b>ESC decision date</b>	20 September 2022
<b>Appeal valid date</b>	2 March 2023
<b>Appeal start date</b>	17 March 2023
<b>Appeal decision date</b>	05 July 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written Representations

#### **Main issues**

Whether the proposed replacement windows and door would preserve or enhance the character or appearance of the South Lowestoft Conservation Area.

#### **Summary of decision**

The property is a three-storey building divided into flats located on a prominent corner at the end of a terrace of similar dwellings, which appear to be late nineteenth or early twentieth century building which have retained much of their original detailing and uniformity, with most of them appearing to have retained their original sash windows, and where replacement windows have been installed, this has been undertaken sympathetically respecting the design and appearance of the original windows and as such the appeal property and the terrace of dwellings make a positive contribution to the character and appearance of the area.

The proposal was to replace the existing timber-framed sash windows which retain their original appearance but which have been subject to repair or part replacement with white uPVC double glazed sash windows. In the view of the inspector the pictures submitted with the application were generic commercial products with insufficient detail to appreciate fully the effects of the changes proposed, but they were concerned that the design of the windows in the material provided does not match that of the existing windows and the width of the glazing bars and thickness and appearance of the glazing itself are unclear. Replacement windows that introduced a more modern or materially different appearance would be particularly apparent and incongruous due to the contrast with the largely uniform windows on the adjoining terrace.

The Inspector also noted that there appeared to be no details of the replacement front door submitted and therefore it is not possible to assess whether it would preserve the character and appearance of the area and would result in harm.

The inspector concluded that the replacement windows and door would not preserve the character and appearance of the South Lowestoft Conservation Area, and therefore the scheme was contrary to Local Plan Policy WLP8.39 and section 16 of the NPPF.

**Learning point / actions**

Replacement windows that introduced a more modern or materially different appearance would be particularly apparent and incongruous due to the contrast with the largely uniform windows in the adjoining terrace.

This decision also highlights to applicants/agents the importance of supplying sufficient drawings/information to illustrate proposed replacement windows and doors, so that their potentially impact can be fully understood, and potentially avoid a refusal on the basis of it not being demonstrated that they would not result in harm to the conservation area.

<b>Application number</b>	DC/23/0067/FUL
<b>Appeal number</b>	APP/X3540/D/23/3321883
<b>Site</b>	409 London Road South, Lowestoft, NR33 0BJ
<b>Description of development</b>	Change front windows
<b>Committee / delegated</b>	Delegated
<b>ESC decision date</b>	4 April 2023
<b>Appeal valid date</b>	24 May 2023
<b>Appeal start date</b>	14 June 2023
<b>Appeal decision date</b>	17 August 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Fast Track Appeal (Written Representations)
<b>Main issues</b>	
The main issue is the effect of the proposal on the character and appearance of the dwelling and the South Lowestoft Conservation Area.	
<b>Summary of decision</b>	
<p>The proposal was for the replacement of the existing timber sash windows on the front elevation with UPVC sash windows. The inspector advised that although they were mindful of the purposes of replacing the windows, the evidence provided in relation to the window conditions was limited and did not show whether they were beyond practical repair. Additionally, no evidence was provided to show that the current windows do not allow for safe escape or that safety locks could not be fitted.</p> <p>The inspector also disagreed with the applicants view that similar windows would be indistinguishable from the original windows as the submitted details did not indicate that the replacements would have the same proportions of a traditional sliding sash appropriate to the building.</p> <p>The inspector concluded that the proposal does not preserve or enhance the character of the conservation area. They add that although having more thermally efficient windows would be a public benefit of some weight, when considering that improvements could be secured using more sympathetic materials, this would not outweigh the identified harm.</p>	
<b>Learning point / actions</b>	
The decision confirms the officers interpretation of policy WLP8.39 and the NPPF test in Paragraph 202 when determining replacement window applications where an article 4 direction applies.	

#### 4) [Appeals against conditions included on a Planning Permissions](#)

<b>Application number</b>	DC/21/3397/FUL
<b>Appeal number</b>	PP/X3540/W/22/3295780
<b>Site</b>	Beulah, 47 Wangford Road, Reydon IP18 6PZ
<b>Description of development</b>	The proposed development of a single new build dwelling house.
<b>Committee / delegated</b>	Delegated
<b>ESC decision date</b>	30 September 2021
<b>Appeal valid date</b>	20 July 2022
<b>Appeal start date</b>	20 July 2022
<b>Appeal decision date</b>	13 June 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written Representations
<p><b>Main issues</b></p> <p>Planning permission was granted in September 2021 for a single dwelling house. Condition 9 of that permission requires that the dwelling shall be occupied as an only or principal home in accordance with Policy RNP 4 of the Reydon Neighbourhood Plan 2021 made May 2021 (RNP).</p> <p>The main issue is whether the condition is necessary, reasonable and enforceable in the interests of ensuring the property is only occupied as a principal home.</p>	
<p><b>Summary of decision</b></p> <p>The Inspector did not agree with the appellants contention that the development will 'likely not be built', because at the time of the inspectors site visit the approved dwelling was at an advanced stage of construction. There was also no substantive evidence to demonstrate that the condition has rendered the development unviable.</p> <p>The inspector acknowledged that the development economics of a single dwelling may be different to a large-scale housing development, in the absence of any evidence as to the viability of this development, this would not justify removing the condition. There was also no substantive evidence put to the inspector that the policy has prevented development from being brought forward in Reydon.</p> <p>The Inspector could also see no reason why this condition would not be enforceable. Occupancy restrictions are an established mechanism in the planning system and there is no reason this condition should be treated any differently.</p>	

RNP Policy RNP4 provides examples of the types of evidence that could be used to demonstrate that a dwelling was in use as an only or principal home. The Inspector accepts the appellants point that taken in isolation, some of those items listed would not be determinative as to whether a dwelling was in use as an only or principal home. However, in the view of the inspector a number of those items in combination would allow the council in due course to reasonably ascertain how the dwelling is being occupied.

The Inspector concluded that the retention of the condition is required to comply with Policy RNP4 of the Reydon Neighbourhood Plan, and therefore meets the tests required by paragraph 56 of the NPPF, in that it is necessary, relevant to planning, relevant to the development permitted, enforceable, precise and reasonable in all other respects.

**Learning point / actions**

This decision confirms the application of a condition relating to new open market dwellings being used as only or principal home, within the area covered by the Reydon Neighbourhood Plan.

## 5) Appeals against the refusal of Variation or Removal of Conditions

There were no appeals relating to Variation or Removal of Condition Applications during this reporting period.

6) Appeals relating to Prior Notification Applications under Part 3 of the Town and Country Planning General Permitted Development Order 2015 (as amended) (i.e. changes of use with and without physical works)

There were no appeals relating to Prior Notification Applications during this reporting period.

7) [Appeals relating to applications for Advertisement Consent \(i.e. signs/advertisements requiring consent under the Advertisement Regulations 2007 \(as amended\)\)](#)

<b>Application number</b>	DC/22/1328/ADI (associated planning application DC/22/1327/FUL)
<b>Appeal number</b>	APP/X3540/H/22/3301901 (Associated appeal for planning permission APP/X3540/W/22/3301900 in <a href="#">‘Minors’</a> section of this Appendix)
<b>Site</b>	243 London Road South, Lowestoft, NR33 0DS
<b>Description of development</b>	Illuminated Acrylic advertisement
<b>Committee / delegated</b>	Delegated
<b>ESC decision date</b>	30 May 2022
<b>Appeal valid date</b>	10 August 2022
<b>Appeal start date</b>	13 September 2022
<b>Appeal decision date</b>	26 July 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written Representations
<b>Main issues</b>	
The effect of the development on the character and appearance of the Lowestoft Conservation Area	
<b>Summary of decision</b>	
The unauthorised works undertaken have failed to preserve or enhance the character and appearance of the Conservation Area. This would be contrary to policies WLP8.29 and WLP8.39 of the LP which seek to demonstrate high quality design which reflects local distinctiveness and preserve or enhance the character or appearance of the area.	
Furthermore, the internally illuminated acrylic signage was considered incongruous, unduly prominent and visually intrusive in the street scene.	
<b>Learning point / actions</b>	
The appeal confirms a building’s fenestration is an important component in defining its visual and architectural character, and whilst the removed shopfront was not original it did retain traditional elements important to the area.	

8) [Appeals relating to applications for Listed Building Consent](#)

There were no appeals relating to Listed Building Consent Applications during this reporting period.

9) [Applications relating to Enforcement Notices](#)

<b>Enforcement Case Number</b>	ENF/21/0003/DEV
<b>Appeal number</b>	APP/X3540/C/22/3297741 & 3297742
<b>Site</b>	26 Highland Drive, Worlingham
<b>Description of development</b>	Without planning permission the erection of a fence adjacent to a highway, which is over 1m in height (shown in blue on the attached plan) contrary to Schedule 2, Part 2, Class A.1(a)(ii) of the Town and Country Planning (General Permitted Development)(England)(Order 2015 (as amended)).
<b>Committee / delegated</b>	N/A
<b>Date of Enforcement Notice</b>	7 April 2022
<b>Appeal valid date</b>	28 April 2022
<b>Appeal start date</b>	19 May 2022
<b>Appeal decision date</b>	06 September 2023
<b>Appeal decision</b>	Appeal allowed
<b>Appeal Procedure</b>	Written Representations
<b>Main issues</b>	
Due to its size and particular location, the fence was considered to be an incongruous and prominent addition to the street scene, and at odds with other forms of boundary treatments in the immediate locality.	
<b>Summary of decision</b>	
The Inspector found the development not to be in material conflict with the aims and objectives of policy WLP8.29 and the development plan as a whole. He considered such fencing to standard garden height to be a ubiquitous arrangement throughout the country in instances such as the appeal site.	
<b>Learning point / actions</b>	
None	

<b>Enforcement Case number</b>	ENF/21/0411/COND
<b>Appeal number</b>	APP/X3540/C/22/3303106 and APP/X3540/C/22/3303066
<b>Site</b>	Land at The Paddock, 4 The Street, Lound, Suffolk NR32 5LR
<b>Description of development</b>	<p>Without planning permission, the unauthorised material change of use of land from agricultural to a residential use, including the stationing of a mobile home for residential use purposes.</p> <p>And</p> <p>Without planning permission the creation of a new access and driveway, erection of an outbuilding, installation of a green utility supply unit, a beige cabinet, concrete hardstanding, block paving, wooden steps, decking and a pergola (the unauthorised development)</p>
<b>Committee / delegated</b>	N/a
<b>Date of Enforcement Notice</b>	16 June 2022
<b>Appeal valid date</b>	26 August 2022
<b>Appeal start date</b>	26 August 2022
<b>Appeal decision date</b>	11 September 2023
<b>Appeal decision</b>	Appeals dismissed with amendments to the wording of the notices
<b>Appeal Procedure</b>	Written Representations
<b>Main issues</b>	<p>The appeals concern whether or not works, constituting implementation had commenced within the 3 year statutory time period in association with a proposed development involving the construction of a dwelling granting planning permission in June 2017.</p>
<b>Summary of decision</b>	<p>The inspector reviewed the evidence, statements etc supplied by both the appellants and the council, and visited the site. The Inspector considered that the works undertaken could be deemed to be material operational development and if it could be demonstrated that they took place by 29 June 2020, they would confirm that the implementation of the planning permission had been effected.</p>

The appeal on ground (b) is that the breach alleged has not occurred as a matter of fact. For this particular ground, the appellant would be accepting that the change of use and the stationing of a mobile home and associated operational development both constitute breaches of planning control but have not occurred i.e. when the notices were served these breaches had not taken place. The Inspector found that this is clearly not the case because both parties claims that the use and physical works had taken place.

The appeal on ground (c) is that no planning permission is required for the works already carried out on the basis that either planning permission had already been granted or that works fall within the parameters of the General Permitted Development Order. The inspector concluded that insufficient proof had been put forward to support the appellants case, and that the additional works go significantly beyond the permitted development allowance for temporary buildings during the construction process. In their view there is *“absolutely not indication that any works material to the planning permission’s implementation had been effected prior to the September”* (September 2021)

The appeals on ground (a) (i.e. that planning permission should be granted), were also dismissed by the Inspector, on the grounds that granting of planning permission for a dwelling in the form of a caravan would not meet the requirements of the relevant Local Plan Policies or the reasons an except was made to policy in permitting the 2017 planning permission. The Inspector also concluded that the development is not respectful of local character and therefore was also unacceptable in terms of visual amenity. It was also found unacceptable due to the lack of compliance with the Recreational Avoidance Mitigation Strategy for European Protected sites in the form of the requisite financial payment to the scheme.

The Inspector also considered human rights matters in relation to the appellant, and the circumstances leading up to the serving of the enforcement notices. They were satisfied that the Councils decision to take formal enforcement action was necessary and proportionate.

The appeal in relation to the use was dismissed with an amendment to the wording of the notice, so the Enforcement Notice stands with the amended wording (to point 4 to read as set out below). The period for compliance is 4 months after the notice takes affect, and the notice requires:

1. Permanently cease the residential use of the Land.
2. Permanently cease the use of the Land for the stationing of a mobile home for residential purposes.
3. Permanently remove the mobile home and any associated fixtures and fittings from the Land.
4. Following compliance with steps (ii) and (iii) above, return the land to its former levels by the uncovering of the original soil horizons and profiles, and for a complete soil covering to be achieved capable of supporting a ‘recovery’ grass sward.

The appeal in relation to the siting of the caravan and associated physical works was dismissed with an amendment to the wording of the notice, so the Enforcement Notice stands with the amended wording (to point 4 to read as set out below). The period for compliance is 4 months after the notice takes affect, and the notice requires:

- 1) Permanently remove from the land the access and driveway,

outbuilding, green utility supply unit, beige cabinet, concrete hardstanding, block paving, wooden steps, decking and pergola (“the unauthorised Development”)

- 2) Restore the land to its condition immediately prior to the unauthorised works referred to in paragraph 3 above taking place by reseeding with grass seed or turfing the Land.

**Learning point / actions**

None

## 10) Appeals against Community Infrastructure Levy (CIL) Decisions

There were no CIL decisions during this reporting period.

11) Applications for the award of costs (submitted alongside one of the appeals reported above)

There were no costs decisions during this reporting period.