



Committee	Strategic Planning Committee
Date	08/04/2024
Subject	Appeal Performance Report - 8 December 2023 to 10 March 2024
Cabinet Member	Councillor Kay Yule Cabinet Member with responsibility for Planning and Coastal Management
Report Author(s)	Katherine Scott Principal Planner (Development Management, Technical Lead) katherine.scott@eastsoffolk.gov.uk
Head of Service	Philip Ridley Head of Planning and Coastal Management philip.ridley@eastsoffolk.gov.uk
Director	Nick Khan Strategic Director nick.khan@eastsoffolk.gov.uk

Key Decision?	No
Is the report Open or Exempt?	OPEN

Category of Exempt Information and reason why it is NOT in the public interest to disclose the exempt information.	Not applicable
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Purpose/Summary

This report and attached appendix contain statistics and summaries of planning related appeal decisions received, as a means to monitor the quality of decisions made by the Local Planning Authority and identify any key learning points to improve future decision making.

Recommendation(s)

That Strategic Planning Committee note the report concerning the appeal performance of the team and the attached appendix containing summaries of appeal decisions.

Strategic plan

How does this proposal support Our Direction 2028?

Environmental Impact	The statistics presented in this report are not directly applicable to the this. However, it is recognised that the planning application and appeal process has to consider the material planning impacts upon the environment.
Sustainable Housing	The statistics presented in this report are not directly applicable to the this. However, it is recognised that the planning application and appeal process and the planning policies which are used to determine such applications seeks to ensure the provision of sustainable housing.
Tackling Inequalities	The statistics presented in this report are not directly applicable to the this. However, it is recognised that the planning application and appeal process and the planning policies which are used to determine such applications, seek to support communities, and the provision of facilities which can be beneficial including community buildings, open space and facilities for physical and mental health wellbeing.
Thriving Economy	The statistics presented in this report are not directly applicable to the this. However, it is recognised that the planning application and appeal process and the planning policies which are used to determine such applications, seek to support appropriate economic development within the district.
Our Foundations / governance of the organisation	The Planning Service and the determination of planning and planning related applications is a statutory function of the Council. It also provides a vital mechanism through which improvements to the district can be secured for the benefit of residents, businesses and visitors.

Justification for recommendations

1. Background

- 1.1. This report provides an update on the planning performance of the Development Management Team in terms of the quality and quantity of appeal decisions received from the Planning Inspectorate.
- 1.2. The applicant has a right to appeal to the Planning Inspectorate when East Suffolk Council as Local Planning Authority refuses a planning application or planning related application (e.g. listed building consent), when they do not agree with a condition(s) imposed on a consent, or when an enforcement notice is served on them.

2. Introduction

- 2.1. The report is presented to Members as rolling reporting mechanism on how the Council is performing on the quality of decisions by reporting on appeal decisions received from the Planning Inspectorate.
- 2.2. A total of 16 planning related appeal decisions, have been received from the Planning Inspectorate since the 8 December 2023 following a refusal of planning permission or the serving of an Enforcement Notice by East Suffolk Council.
- 2.3. A summary of all the appeal decisions received is appended to this report (Appendix A).
- 2.4. The Planning Inspectorate monitor appeal success rates at Local Authorities and therefore it is important to ensure that the Council is robust on appeals, rigorously defending reasons for refusal. Appeal decisions also provide a clear benchmark for how policy is to be interpreted and applications considered.
- 2.5. Very few planning refusals are appealed (approximately 20%) and nationally on average there is a 42% appellant success rate for major applications, 27% success rate for minor applications and 39% success rate for householder applications.
- 2.6. Of the 12 Planning Appeals (i.e. those against refusal of planning permission), ten of the decisions were dismissed (83.3%) and two of the decisions were allowed (16.7%) by the Planning Inspectorate.
- 2.7. All of the cases on which appeal decisions were received during this reporting period, related to planning applications or planning related applications that were determined at officer level in accordance with the scheme of delegation.
- 2.8. There were no appeals against conditions on Planning Permissions, or appeals against the refusal of applications seeking to remove or vary conditions.
- 2.9. There were two appeals against the refusal of applications seeking Prior Notification Approval, and both of these were dismissed. One related to a change of use under Part 3

of the General Permitted Development Order, which sought to convert an agricultural building to a dwelling. The other Prior Notification decision related to a proposal to erect a new agricultural building under Part 6 of the General Permitted Development Order.

- 2.10. In terms appeals against applications for Advertisement Consent, there was one case, which was allowed. It related to erection of a totem sign at a service station.
- 2.11. During this period there were no appeals against refusals of applications for Listed Building Consent, or Certificate of Lawfulness, or Enforcement Notices, or Community Infrastructure Levy (CIL) decisions.
- 2.12. This reporting period included an appeal against a High Hedge Notice. This was allowed in part and varied. The Inspector concluded that the notice was not flawed to any significant degree, but amended the height to which the hedge main stems had to be cut and the future maximum height. As explained in the summary of that case within Appendix A, the hedge had been significantly reduced in height between ESC serving the notice and the Inspector visiting the site.
- 2.13. As part of the appeal process, applicants can seek an award of costs against the council. There were no such applications for costs during this recording period.
- 2.14. In terms of the key outcomes of the reported appeals, the matters of particular note are:
 - Many of the Planning Application appeals were dismissed on matters relating to visual amenity and impact upon the character of the area. The nature of the developments was varied but the Inspectors agreed in those cases that they would have negatively harmful visual impacts of sufficient degree as to sustain a refusal. However, it should be noted that this isn't a blanket reason to refuse a scheme, as there are also decisions that were allowed on the basis that the harm wasn't sufficient.
 - The appeal decision relation to the Prior Notification application for the conversion of the agricultural building to a dwelling in Kelsale, confirms the approach officers have been taking in terms of the extensive nature of the works (i.e. replacement of the roof and most of the walls constituting in effect a rebuild rather than a conversion of a building).
 - The High Hedge Notice decision also shows what can happen if the owners of hedges reduce their height/cut the top off in the period between when the notice is served and their appeal is determined.

3. Proposal

- 3.1. The outcomes of appeals should continue to be monitored on a quarterly basis.

4. Financial Implications

- 4.1. There are no direct financial implications arising from the appeal statistics and outcomes included within this report. The only financial implications that would arise from planning appeal decisions would be the potential award of costs, and/or any costs of pursuing compliance with any enforcement notices that are upheld (i.e. the appeal's dismissed).

5. Legal Implications

- 5.1. There are no direct legal implications arising from the appeal statistics and outcomes included within this report.

6. Risk Implications

- 6.1. There are no direct risk implications arising from the appeal statistics and outcomes included within this report. The only risk implications that could arise from planning appeals relate to the financial matters outlined above, and the potential for consents to be granted contrary to the view of the Local Planning Authority, and when some schemes are permitted on appeal it can be more difficult to secure benefits and controlling mechanisms that may have been granted were the scheme to have been granted at a local level.

7. Options

- 7.1. None. The appeal decisions should continue to be monitored and reported through these quarterly reports.

8. Recommendations

- 8.1. That the report concerning the appeal performance of the team and the attached appendix containing summaries of appeal decisions be noted.

9. Reasons for Recommendations

- 9.1. These figures enable the Local Planning Authority's performance to be monitored, and the presentation of the key points of appeal decision, enable the identification of key learning points, enabling improvement of decision making.

10. Conclusions/Next Steps

- 10.1. Strategic Planning Committee should continue to receive these quarterly monitoring reports.

Areas of consideration comments

Section 151 Officer comments:

There are no financial implications arising from this report.

Monitoring Officer comments:

No additional comments.

Equality, Diversity and Inclusion/EQIA:

There are no specific implications arising in terms of this matter from the statistics included within this report.

Safeguarding:

There are no specific implications arising in terms of this matter from the statistics included within this report.

Crime and Disorder:

There are no specific implications arising in terms of this matter from the statistics included within this report.

Corporate Services implications:

(i.e., Legal, Finance, Procurement, Human Resources, Digital, Customer Services, Asset Management)

The Legal Services team are involved in the drafting of notices and determination of Certificate of Lawfulness applications, both of which can be the subject of appeal. The team are also involved when other forms of planning appeal follow the Inquiry process route.

Residents and Businesses consultation/consideration:

Residents and businesses adjoining application sites for planning applications, are consulted on those applications. Those who have commented on such applications are also notified when an appeal is received.

Appendices:

Appendix A	Summary of Appeal Decisions received during this reporting period.
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Background reference papers:

None