

## 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 appeal decision date order within 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. [Appeals against Refusal of applications for Lawful Use Certificates](#)
12. [Applications for the award of costs](#)

## 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.

<b>Application number</b>	DC/20/3326/OUT
<b>Appeal number</b>	APP/X3540/W/22/3311875
<b>Site</b>	Land At Victoria Mill Road, Framlingham, Suffolk , IP13 9DW
<b>Description of development</b>	Outline application with all matters reserved apart from access: a phased development, including the erection of up to 49 self/custom-build homes (plots), with the development to include 16 affordable homes, public open space that will include equipped play and multi-use games area, landscaping, and other associated infrastructure.
<b>Committee / delegated</b>	Committee
<b>ESC Decision Date</b>	26 May 2022
<b>Appeal valid date</b>	21 January.2023
<b>Appeal start date</b>	10 March 2023
<b>Appeal decision date</b>	26 October 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written Representations
<b>Main issues</b>	<ul style="list-style-type: none"> <li>- The effect of the development on an asset of community value (ACV).</li> <li>- Whether the scale of development proposed is appropriate, having regards to the Council’s spatial strategy and the Framlingham Neighbourhood Plan.</li> <li>- Following the refusal of this application an alternative proposal was granted planning permission for up to 35 dwellings (DC/22/2831/OUT).</li> </ul>
<b>Summary of decision:</b>	
<u>Asset of community value</u>	<p>Recognised that the development would result in the loss of an area of grass highway verge, which is registered as an ACV, to facilitate the realignment of Victoria Mill Road and highway improvements necessary to make the development acceptable. The Inspector noted that the realignment would also provide benefits for existing residents of Victoria Mill Road.</p>

Policy SCLP8.1 sets out that proposals to change the use of an ACV will not be permitted and the development conflicts with the policy. However, this is balanced against the allocation of the site for housing under Policy FRAM25 which restricts the number of dwellings to reflect the limitation placed on the site by the need for access off Victoria Mill Road. Based upon evidence provided to demonstrate that the road alignment would be necessary to deliver the site allocation, the Inspector found there to be a tension between the Neighbourhood Plan and Local Plan in that respect. Moreover, the Inspector acknowledged that the Council has approved a scheme for 35 dwellings which would result in the realignment of the road and the loss of the ACV. This previous permission as a fallback position was afforded significant weight as a material consideration by the Inspector, who subsequently considered the conflict with Policy SCLP8.1 to be negligible.

#### Scale of development

Policy FRAM25 allocates the site for residential development of approximately 30 dwellings to be delivered during the second half of the Neighbourhood Plan period, after 2025. Acknowledged that the site is being brought forward in advance of the date originally intended. The allocation policy sets out that the suitability of the site for approximately 30 dwellings is due to the need to have access off Victoria Mill Road. FRAM1 sets out an overarching approach to development within Framlingham and expects that development proposals will be supported where they are of a size appropriate to the scale and grain of the town, with an indication that this would also generally be for sites of up to 30 dwellings.

The Neighbourhood Plan was made in 2017 and sets out the housing requirements for Framlingham and demonstrates that initially 200 homes were to be identified through the Neighbourhood Plan but that two proposals were approved, whilst the plan was being completed, in excess of this number. However, in recognition of the housing requirement being a minimum requirement for the Neighbourhood Plan, the Neighbourhood Plan identified preferred sites for future growth.

The Local Plan was adopted after the Neighbourhood Plan in 2020. It recognises that Framlingham has experienced rapid expansion and, on that basis, does not focus growth in the town. Policy SCLP3.1 seeks to significantly boost the supply of housing in the District and, as set out in supporting table 3.3, identifies that Framlingham will deliver approximately 2% of new growth identified in the Local Plan, with an additional 100 dwellings being required between 2031 and 2037. As such, the Local Plan does not allocate further development sites within the town and future development is established through the Neighbourhood Plan for the period up to 2031.

The Inspector noted that the Neighbourhood Plan takes a positive approach to housing development through FRAM1, which supports proposed developments of up to 30 dwellings. The Inspector considered that the proposition of FRAM1 is that schemes for more than 30 dwellings would not be supported, as the policy establishes a scale of development that been considered appropriate to the scale and grain of the town and

reflects the preferred options as consulted upon with the local community. As the Inspector considered that the appeal scheme would be for far more than the 30 dwellings envisaged by both FRAM1 and FRAM25, it was concluded that the appeal scheme would be at odds with these policies of the Neighbourhood Plan. It was also concluded that the proposal would not be in accordance with the spatial strategy established in the development plan. The Inspector identified that this would be harmful given the public interest in having a genuinely plan led system that provides consistency and direction.

#### Other matters

Site falls within a 'Zone of Influence' for a designated site. Inspector noted that, as the competent decision-making authority, it would have been necessary for them to complete an Appropriate Assessment for the scheme, and consider the planning obligation provided by the Appellant, if they had been minded to allow the appeal.

The planning obligation provided by the Appellant would also have facilitated public open space provision, affordable housing, and self-build housing. The Inspector was satisfied that the planning obligation would meet the necessary tests and could be reasonably taken into account.

#### Planning balance

Proposal would conflict with the development plan for the reasons set out above. Significant weight was afforded to the proposed delivery of self-build and custom build housing, with there being a local need for 52 plots. The Inspector also considered the site to be in a sustainable location with no evidence having been advanced to indicate the development would compromise highway safety, or that local infrastructure would be unable to meet the needs of the development. Also noted that the development give rise to some economic benefits during the construction phase and provide limited support to local services.

Provision of affordable housing would accord with the National Planning Policy Framework. Proposed development would also include a large area of open space, greater than that required in the Local Plan, and an equipped area for play. However, no evidence provided to the Inspector to suggest that this will meet any identified deficit of open space within the town. As these benefits could be secured for the locality as a result of the development, the Inspector afforded them moderate weight.

However, the Inspector also considered that significant proportion of the benefits outlined above would be realised through the development of 35 dwellings already granted planning permission, with the up lift of 14 dwellings being only modest. Equally, the Inspector considered that any benefit arising from it being a site that could be delivered quickly will largely be realised through the smaller scheme. In that respect, the already consented alternative was persuasive in justifying that less weight should be given to the added housing benefit of the larger scheme.

Had there been no previous approval, the influence of up to 52 homes may have been more persuasive in the balance, as was the case at the time of the Head of Planning's recommendation to Planning Committee.

Inspector did not consider that local finance considerations would outweigh the conflict identified with the Council's spatial strategy and as such no weight was afforded to financial considerations.

In closing, the Inspector dismisses the appeal stating:

"Therefore, the identified adverse impacts of the development, the conflict with the development plan to which I have afforded significant weight, would significantly and demonstrably outweigh the benefits outlined above.

The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict."

**Learning point / actions:**

Loss of the ACV was deemed to be necessary to facilitate the development and the conflict between Policy FRAM25 and Policy SCLP8.1 was resolved in favour of the site's allocation under Policy FRAM25 when taking into account the fallback planning permission for 35 dwellings.

The appeal decision is very brief, but in considering the main issues the Inspector afforded more weight to the non-conformity of the proposed development with the adopted spatial strategy, as set out within the Local Plan and Neighbourhood Plan, than to the social, economic, and environmental benefits arising from the proposed development, including the delivery of additional affordable housing and self-build and custom-build housing, including the fact that a consent already exists.

It is also notable that significant weight was afforded to the proposed delivery of up to 49 self-build and custom-build homes, given there is a local need for 52 plots. It is interesting how the Inspector reduced weight to the proposed 52 homes because a 35 home consent was already in place. The planning balance applied to benefits and harm at the appeal stage was therefore materially different to that at the time of the decision on this proposal.

## 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/22/4534/FUL
<b>Appeal number</b>	APP/X3540/W/23/3316587
<b>Site</b>	Land at Farm View 4 Millville, Mill Lane, Campsea Ashe, Suffolk, IP13 0PL
<b>Description of development</b>	The development proposed is retention of existing access (contrary to condition 4 of planning permission DC/22/1103/VOC), retention of existing storage building and erection of domestic wind turbine.
<b>Committee / delegated</b>	Delegated
<b>ESC Decision Date</b>	6 January 2023
<b>Appeal valid date</b>	11 April 2023
<b>Appeal start date</b>	19 May 2023
<b>Appeal decision date</b>	14th September 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written
<b>Main issues</b> The effect of the proposal on the character and appearance of the area.	
<b>Summary of decision:</b> The appeal site is part of a wider parcel of former agricultural land on the outskirts of the settlement of Campsea Ashe. The land sits next to the intended garden of an adjacent dwelling under construction, and both are within the same ownership. The proposal has three aspects: a storage building on an extended curtilage, the access, and the wind turbine.  Despite its shallow roof and dark colour, the utilitarian storage building which has been constructed is visible from outside of the site, in views across the access but also from the west, where the roadside hedging is less effective. The Inspector noted that the hedge would need to be retained at a low level to achieve visibility splays and avoid overshadowing the proposed solar panels; which further resulted in the visual impact of the building. The buildings footprint was found to be generous for the intended purpose and there was not sufficient evidence that the building could not be accommodated successfully within the approved curtilage. Having regard to SCLP10.4 the Inspector found that the proposed outbuilding would erode the rural character of this end of Mill Lane, by extending built form into what is otherwise open countryside. The building would be set away from the dwelling that it would serve and would appear as a largely unrelated and incongruous structure in this rural location. Furthermore, the size of the curtilage would not respect the scale and location of the dwelling as required by SCLP5.14.	

The retention of a gated access and drive into part of the meadow creates an unnecessary break in the roadside hedgerow (more so once the proposed planting takes place) and would have a somewhat domesticated appearance at odds with the rural character of the site.

The proposed turbine would appear as an incongruous feature within the context of the meadow. The Inspector found a lack of reasoning as to why the turbine could not be sited elsewhere within the approved garden, closer to the dwelling which it would serve. Whilst such a location would also be visible in the landscape, being grouped with other domestic paraphernalia and buildings in the 'original' curtilage would minimise its visual impact on the surrounding countryside.

The planting of a hedgerow around the adjacent site would not mitigate the impact given the proposed height of the turbine. but recognition must also be given to the intrinsic character and beauty of the countryside, as set out in the National Planning Policy Framework (the Framework).

**Learning point / actions:**

The Inspector gave weight to the intrinsic character and beauty of the countryside. The renewable energy generation that would be created by the wind turbine and solar panels did weigh in favour of the development however the lack of information of their output limited this weight over the harm caused to the visual character of the area.

<b>Application number</b>	DC/22/0855/OUT
<b>Appeal number</b>	APP/X3540/W/22/3309813
<b>Site</b>	Bell View Farm, Manse Lane, Cratfield, Suffolk IP19 0DJ
<b>Description of development</b>	Outline Application (Some Matters Reserved) - Erection of detached dwelling utilising existing access to Bell View Farm.
<b>Committee / delegated</b>	Delegated
<b>ESC Decision Date</b>	20 May 2022
<b>Appeal valid date</b>	13 December 2022
<b>Appeal start date</b>	08 February 2023
<b>Appeal decision date</b>	15 September 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written representations
<p><b>Main issues</b></p> <ul style="list-style-type: none"> <li>• Whether the development site forms a 'Cluster' as required by Policy SCLP5.4</li> <li>• The effect of the development on the character and appearance of the area, including its effect on heritage assets; and</li> <li>• its accessibility to services and facilities by sustainable means</li> </ul>	
<p><b>Summary of decision:</b></p> <p>The inspector agreed with Officers that the site did fall within a cluster when taking into account the guidance within the SPD.</p> <p>The inspector also went on to say that even it was considered to be part of a cluster criterion d of SCLP5.4 requires that the development would not cause undue harm to the character and appearance of the cluster or result in any harmful visual intrusion into the surrounding landscape. The Inspector considered that the site clearly formed a key part of the open area adjacent to the road junction. The development would be intrusive in this context as the dwelling would intrude into the open space that was historically part of the village green. This is an important local landscape feature and is recorded in the Suffolk Historic Environment Record. The proposal was also considered to be contrary to Policy SCLP5.7 as there would be harm to the character of the area.</p> <p>It was noted that Bell Farm is Grade II listed which historically faced the village green of which the site forms a remnant of that open space and as Bell Farm has historically been associated with the village green contributes to its setting. Bell Green Cottage is also Grade II Listed. Similarly, the open nature of the site contributes to the significance of Bell Green Cottage. The removal of part of the historic green would intrude into the settings of both listed buildings and harm their significance. The public benefits of the proposal would not outweigh the less than substantial harm on heritage assets.</p>	

Furthermore, it was found that the openness of this area is consistent with the pattern of development of the settlement described in the Landscape Character Assessment (LCA). The erosion of this area would not accord with Policy SCLP10.4 and SCLP12.34 which seeks to protection and enhancement of the special qualities and features of the area.

Lastly the Inspector agreed that the site would not be accessible to services and facilities by sustainable means contrary to Policy SCLP7.1.

**Learning point / actions:**

Further highlighted the use of the 'Housing in Clusters and Small-Scale Residential Development in the Countryside' SPD. Good consideration of Heritage harm, in what was the loss of a remnant part of what was a much larger village green historically. The decision highlighted the importance of retaining this remaining area for its heritage significance.

<b>Application number</b>	DC/21/3794/FUL
<b>Appeal number</b>	APP/X3540/W/22/3291156
<b>Site</b>	Land at 306 Main Road, Kesgrave IP5 2PS
<b>Description of development</b>	Redevelopment to provide 3 dwellings with associated access, parking and landscaping.
<b>Committee / delegated</b>	Delegated
<b>ESC Decision Date</b>	01 October 2021
<b>Appeal valid date</b>	21 February 2022
<b>Appeal start date</b>	20 May 2022
<b>Appeal decision date</b>	15 September 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written Representations
<p><b>Main issues</b></p> <ul style="list-style-type: none"> <li>• whether the site is a suitable location for development having regard to the settlement hierarchy and development strategy for the authority, and if it is not, whether there are any material considerations that would justify reaching a different conclusion; and</li> <li>• the effect of the development on the integrity of habitats sites.</li> </ul>	
<p><b>Summary of decision:</b></p> <p>Local Plan Policy SCLP5.3 allows for limited development within existing clusters and LP Policy SCLP5.4 sets the detailed policy framework for this. It defines existing clusters as, relevant to this appeal, having at least 5 dwellings. There are fewer than 5 dwellings forming a cluster on this side of Main Road, therefore the proposal would not meet this exception.</p> <p>The definition of previously developed land contained in the Framework excludes land that was last occupied by forestry buildings. The Inspector was not made aware of any planning definition of forestry and have no reason to disagree with the appellant's use of the dictionary definition. The Inspector concluded that there would need to be some form of functional relationship between a building used for forestry purposes and the forest. A yard associated with a tree surgeon, who would carry out work on trees in other locations not functionally linked to that yard, does not seem to me to fall within that exclusion; therefore considered the site would constitute previously developed land. Paragraphs 119 and 120 of the Framework are clear in their support for the reuse of previously developed land.</p>	

The proposal would, in and of itself, be well designed and would integrate visually into the surrounding area with suitable landscaping. It therefore would not harm the character and appearance of the area; which was one of the primary concerns of the earlier dismissed appeal albeit it for a larger development proposal.

The Inspector considered that no substantive harm would arise from the proposed development. While the benefits of the appeal proposal would be limited due to its small scale and the ability of the Council to demonstrate a five year housing land supply, it would nonetheless represent an efficient use of previously developed land that would not cause harm to the character and appearance of the area and be well located with respect to access to services and facilities. There would also be biodiversity and economic benefits. Taken collectively, the benefits of the scheme would outweigh the conflict with the development plan.

In respect of the effect of the development on the integrity of habitats sites, officers had received the financial contribution and undertaken an appropriate assessment in respect of the increase recreational disturbance resulting from the three additional dwellings. The Inspector also noted that ‘the effects would likely be limited’, but concluded that whilst the Council is satisfied with the adopted means to secure RAMS contribution, “there is no accompanying mechanism before me to ensure that the financial contribution is used towards the measures set out in the RAMS. Without that certainty, I cannot conclude that the proposed development would not have an adverse effect on the integrity of the habitats sites. There is no evidence before me to allow me to demonstrate that there are not alternative solutions to deliver new housing that would have a lesser effect on the features of the sites in question, that there are imperative reasons of overriding public interest to permit what is proposed or that there would be compensatory measures that would offset the harm.” Consequently, the Inspector determined that the proposed development would be contrary to SCLP10.1, the Habitats Regulations and, insofar as it relates to habitats sites, Section 15 of the Framework which taken together require all impacts on habitats sites to be mitigated for.

**Learning point / actions:**

This appeal would have been allowed had it not been for the Inspector’s position on the RAMS payment. In this case the Inspector was wrong to discount the RAMS payment, which numerous other inspectors have accepted. We consistently provide the Planning Inspectors with robust information on RAMS and that is consistently accepted. There is no method for East Suffolk to correct to Inspector on this matter but if they had doubts then they could have asked questions of East Suffolk over the method of payment. There only learning to take from this is the need to further reinforce the status of RAMS payments with Inspectors to ensure they understand the process, which many other Inspectors before and since have accepted.

<b>Application number</b>	DC/22/1625/FUL
<b>Appeal number</b>	APP/X3540/W/22/3306857
<b>Site</b>	Red House Barn, The Street, Brandeston, Woodbridge, Suffolk IP13 7AB
<b>Description of development</b>	Proposed dwelling, involving construction of new vehicular access. Conversion of part retained former agricultural building currently approved to be used ancillary to existing dwelling
<b>Committee / delegated</b>	Delegated
<b>ESC Decision Date</b>	15 June 2022
<b>Appeal valid date</b>	08 November 2022
<b>Appeal start date</b>	18 January 2023
<b>Appeal decision date</b>	21 September 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written
<b>Main issues</b>	
The effect of the proposal on a) the character and appearance of the area and b) ecology.	
<b>Summary of decision:</b>	
<p>The Inspector referred to SCLP5.5 and SCLP11.5 in their decision; the appeal site is located just outside of the Brandeston Conservation Area (the BCA) and thus is within its setting. The significance of the BCA is partly derived from the strong linear layout of the village, which is created by the close siting of the built form to the highway, and its overall rural characteristics created by the close relationship with open farmed fields which come right up to the village edge. It was found that this site is an important reminder of the historic links between the former farm complex at Red House Barn and the countryside beyond. Its open and rural characteristics mark a clear distinction to the edge of the village and thus it contributes positively towards the intrinsic characteristics of the BCA and the rural character of the wider, open countryside. The drive was found to be an incongruous feature in the locality, where built form tends to be only slightly set back from the road and of a single plot depth. The introduction of trees along the driveway would be intrusive and overly domestic, thus drawing the eye further. Little weight was given to the close proximity of the Red House annexe and curtilage. The Inspector found the barn of little architectural quality and the proposed development would have a harmful effect on the character of the landscape rather than making a positive contribution or enhancement to the setting.</p>	
<b>Learning point / actions:</b>	
<p>The Inspector placed weight on the setting of the Conservation Area and the over domestication of the site was considered to harm that setting and the wider landscape.</p> <p>No weight was given to the positive alterations to the barn, and it was not considered that this improvement would be a positive contribution or enhancement to the setting.</p>	

<b>Application number</b>	DC/22/0878/FUL
<b>Appeal number</b>	APP/X3540/W/22/3310853
<b>Site</b>	Sole Bay House, Gun Hill, Southwold, Suffolk IP18 6HF
<b>Description of development</b>	Subdivision of dwelling into two units and refurbishment, alterations and additions
<b>Committee / delegated</b>	Delegated
<b>ESC Decision Date</b>	15 August 2022
<b>Appeal valid date</b>	01 February 2023
<b>Appeal start date</b>	26 April 2023
<b>Appeal decision date</b>	22 September 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written Representation
<b>Main issues</b>	
<p>The Approval included a condition which restricted one of the two dwellings with a permanent occupancy restriction as the proposal included the creation of a new dwelling and policy SWD4 of the Southwold Neighbourhood Plan requires any new dwelling to have this restriction.</p>	
<b>Summary of decision:</b>	
<p>The applicant argued that the building was originally two dwellings due to multiple entrance doors, kitchens, bathrooms, meters and heating systems within the building and that family members and family friends have at times previously occupied separate floors with a degree of independence. Therefore, it was unreasonable to add the condition.</p> <p>There was no certificate of lawfulness to confirm what the existing lawful planning use of the building was at the point the planning application was made. The inspector acknowledged that this was not necessary if both the applicant and the Local Planning Authority agreed on the use, however this was not the case, and a certificate would have been beneficial. The inspector found that the evidence supplied by the applicant did not sufficiently demonstrate that the property comprised two independent primary dwelling units at the time the application was submitted.</p> <p>The restricted occupancy condition applied to the additional dwelling created on the site was necessary to accord with Policy SWD4 of the NP, which seeks to ensure new dwellings are occupied only as a principal residence, in order to safeguard the sustainability of Southwold and contribute towards ensuring its vitality and viability throughout the year.</p>	
<b>Learning point / actions:</b>	
<p>The inspector reached the same conclusion as officers that the evidence submitted by the applicant was insufficient to demonstrate that the property had previously been subdivided and that the condition was correctly applied to the permission.</p>	

<b>Application number</b>	DC/21/3575/OUT
<b>Appeal number</b>	APP/X3540/W/22/3294336
<b>Site</b>	Land Adjacent 29, Mill Road, Newbourne, Woodbridge IP12 4NR
<b>Description of development</b>	Erection of two detached dwellings.
<b>Committee / delegated</b>	Delegated
<b>ESC Decision Date</b>	25 February 2022
<b>Appeal valid date</b>	28 March 2022
<b>Appeal start date</b>	13 June 2022
<b>Appeal decision date</b>	27 September 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written Representations
<p><b>Main issues</b></p> <ul style="list-style-type: none"> <li>• the effect of the proposal on the character and appearance of the area; and</li> <li>• the effect of the development on the integrity of habitats sites.</li> </ul>	
<p><b>Summary of decision:</b></p> <p>The Inspector set out that the site lies within a cluster for the purposes of SCLP5.4 noting that there are three dwellings to one side of the appeal site. Outline planning permission has been granted for the land immediately to the other side, beyond which lies a further residential property. Residential development continues beyond along both Mill Road and Jackson Road. There is also development on the opposite side of Mill Road. The proposal therefore would not extend the built-up area into the countryside.</p> <p>Given the expansive areas of hardstanding and the appearance of the structures on the site. These structures restrict views through the site to the open land to the rear. The position of the site on the junction reduces its prominence. The site does not make a strong contribution to the historic horticultural character that adds to the quality of Newbourne. The Inspector could see no reason in character or appearance terms to maintain a gap between development on Mill Road and Jackson Road or for the two sides of Jackson Road to mirror each other when there is not a regular pattern of development. The Inspector was therefore satisfied that the proposed development would have an acceptable effect on the character and appearance of the area. It would therefore be in accordance with LP Policies SCLP5.3, SCLP 5.4 and SCLP11.9.</p> <p>Adverse effects on the integrity of the habitats sites would arise from increased recreational disturbance. Strategic mitigation measures to address these effects are set out in the Suffolk Coast Habitats Regulations Assessment Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). This sets out a tariff based contribution towards the delivery of a mitigation strategy to address these effects and is clear that such contributions should be secured using an appropriate mechanism. The applicant paid the contribution and the appropriate assessment was undertaken post determination/during the appeal process. The Inspector found that whilst the Council is satisfied with the adopted means</p>	

to secure RAMS contribution, “there is no accompanying mechanism before me to ensure that the financial contribution is used towards the measures set out in the RAMS. Without that certainty, I cannot conclude that the proposed development would not have an adverse effect on the integrity of the habitats sites. There is no evidence before me to allow me to demonstrate that there are not alternative solutions to deliver new housing that would have a lesser effect on the features of the sites in question, that there are imperative reasons of overriding public interest to permit what is proposed or that there would be compensatory measures that would offset the harm.” Consequently, the Inspector determined that the proposed development would be contrary to SCLP10.1, the Habitats Regulations and, insofar as it relates to habitats sites, Section 15 of the Framework which taken together require all impacts on habitats sites to be mitigated for.

**Learning point / actions:**

This appeal would have been allowed had it not been for the Inspector’s position on the RAMS payment. In this case the Inspector was wrong to discount the RAMS payment, which numerous other inspectors have accepted. We consistently provide the Planning Inspectors with robust information on RAMS and that is consistently accepted. There is no method for East Suffolk to correct to Inspector on this matter but if they had doubts then they could have asked questions of East Suffolk over the method of payment. There only learning to take from this is the need to further reinforce the status of RAMS payments with Inspectors to ensure they understand the process, which many other Inspectors before and since have accepted.

<b>Application number</b>	DC/22/2701/FUL
<b>Appeal number</b>	APP/X3540/W/22/3310083
<b>Site</b>	Terracotta Easton Lane, Hacheston, Woodbridge, IP13 0DX
<b>Description of development</b>	Erection of two dwellings including detached garages. Form new access to Easton Lane.
<b>Committee / delegated</b>	Delegated
<b>ESC Decision Date</b>	07 July 2022
<b>Appeal valid date</b>	20 December 2022
<b>Appeal start date</b>	21 February 2023
<b>Appeal decision date</b>	27 September 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written Representations
<p><b>Main issues</b></p> <ul style="list-style-type: none"> <li>• character and appearance of the area; and</li> <li>• the residential amenity of Terracotta.</li> </ul>	
<p><b>Summary of decision:</b></p> <p>The appeal proposal is for two dwellings, with the first (dwelling A) fronting Easton Lane, located in a similar position to that previously approved. The second dwelling (dwelling B) would be sited behind the existing dwelling, served by a narrow access and would lead to a development at odds with the general pattern of development. This would result in an urbanising affect which would be both out of character and harmful to the overall appearance of the area. Furthermore, the proposal will result in a dwelling to the rear of the existing properties in both Easton Lane and The Street, which is at odds with the prevailing pattern of development in the immediate area and would result in development that fails to take opportunities for improving the character and quality of the area. Therefore, the proposal is contrary to SCLP5.7 of the Local Plan which permits infill residential development within existing gardens where the scale and design would not result in harm to the street scene or character of the area.</p> <p>The access would need to run along the boundary of Terracotta and dwelling A. The result of the tandem development proposed is the need for the vehicles to pass close to the side elevation of the neighbouring property and the private amenity space of both properties. The additional noise and disturbance resulting from the increased traffic movements would be harmful to the living conditions of both Terracotta and dwelling A. The Inspector considered that noise from cars accessing, turning and manoeuvring within the site and utilising the proposed access road, whilst modest, given its potential proximity would be detrimental to living conditions of neighbouring properties. The proposed development</p>	

would therefore be contrary to SCLP11.2 which seeks to protect all existing and future occupiers from an unacceptable loss of amenity in terms of noise and disturbance.

**Learning point / actions:**

The Inspector reached the same conclusion as the case officer in that the development would be in conflict with the adopted Local Plan Policies and would result in harm to both the prevailing character of development and residential amenity.

<b>Application number</b>	DC/22/1329/FUL
<b>Appeal number</b>	APP/X3540/W/23/3314546
<b>Site</b>	8 Vine Road, Otley, Suffolk, IP6 9NZ
<b>Description of development</b>	Full planning approval is sought for the development of this site, the building is composed of a modest two bedroom eco-bungalow. The total GIA is 130m2 which includes an entrance hall, cloakroom and utility room. An open plan Kitchen, Dining and Living area along with two en-suite double bedrooms, surrounded with a private garden and parking/turning area.
<b>Committee / delegated</b>	Delegated
<b>ESC Decision Date</b>	15 September 2022
<b>Appeal valid date</b>	14 March 2023
<b>Appeal start date</b>	31 May 2023
<b>Appeal decision date</b>	09 November 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written Representation
<b>Main issues</b>	
The effect of the proposed development on the character and appearance of the area and on the living conditions of neighbouring occupiers with particular regard to outlook.	
<b>Summary of decision:</b>	
<p>The inspector found that the proposed development would appear incongruous given the strong, regular plot pattern and design of dwellings that characterises Vine Road and would result in it appearing as a discordant, cramped addition to the built form. The Inspector placed importance on the proposed materials, finding that timber cladding would not have any relationship to the surrounding development in this location. Although it was acknowledged that the proposed dwelling would not be readily visible from public areas, the Inspector concluded that this would not address the harms identified. The Inspector concluded that the proposed development would have an adverse effect on the character and appearance of the area. It would be contrary to SCLP5.7 and SCLP11.1, as well as paragraph 130 of the NPPF.</p> <p>The proposed dwelling would be sited immediately adjacent to what would form the remaining rear garden of No 8 and would effectively encompass the full length of the boundary. The Inspector found that the siting would increase the sense of enclosure felt by occupiers when using the garden and adversely affect their outlook. It was concluded that this would harm the living conditions of occupiers of that property.</p>	

The Inspector acknowledged that steps had been taken to reduce impact on neighbours and acknowledged that sufficient space would remain for there to be acceptable private amenity spaces to the existing and proposed dwelling; however, the Inspector concluded that these would not overcome the harm identified with respect to outlook. It was concluded that the application would be contrary to SCLP5.7, SCLP11.1 and SCLP11.2, as well as paragraph 130 of the NPPF.

It was acknowledged that there would be a benefit from the delivery of an additional dwelling, and the associated economic benefits during the construction and occupation stages. However, the Inspector concluded that these would be limited given the proposal is for one dwelling and would not outweigh the harms identified.

In relation to arguments based on PD rights, the Inspector noted that the construction of outbuildings associated with a dwelling is fundamentally different from the introduction of a new dwelling occupied by a separate household.

**Learning point / actions:**

The Inspector reached the same conclusion as the case officer in that the development would be in conflict with the adopted Local Plan Policies and NPPF and would result in harm to the prevailing character of the area, as well as harm to the amenity of no.8 Vine Road.

<b>Application number</b>	DC/22/3204/FUL
<b>Appeal number</b>	APP/X3540/W/23/3316154
<b>Site</b>	Holly Tree Barns, Bell Green, Cratfield, Suffolk, IP19 0DN
<b>Description of development</b>	Change of use of redundant cart shed to single dwelling and all associated works
<b>Committee / delegated</b>	Delegated
<b>ESC Decision Date</b>	13 January 2023
<b>Appeal valid date</b>	02 April 2023
<b>Appeal start date</b>	15 June 2023
<b>Appeal decision date</b>	09 November 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written reps
<b>Main issues</b>	
The main issue is whether the site is a suitable location for development with regard to the spatial strategy and access to services and facilities by means of transport other than the private car.	
<b>Summary of decision:</b>	
In the view of the Inspector, the proposed development would not result in the enhancement that Policy SCLP5.5 expects.	
The proposed development would not be in a suitable location with regard to the spatial strategy and access to services and facilities by means of transport other than the private car. It would therefore be contrary to LP Policies SCLP3.1, SCLP3.3, SCLP5.3, SCLP5.5 SCLP12.34 and the guidance contained in the SPD which taken together and insofar as they relate to this appeal, seek to direct development to the most sustainable settlements and identify the circumstances in which the conversion to a dwelling in the countryside would be appropriate.	
It would also be contrary to LP Policy SCLP7.1 which requires development to be located close to and provide safe pedestrian and cycle access to services and facilities.	
<b>Learning point / actions:</b>	
The proposed extension and alterations would be limited in their scale and extent and were thus found to have a neutral effect on the immediate setting of the area. Therefore, no enhancement would be achieved as required by policy.	

<b>Application number</b>	DC/22/4965/FUL
<b>Appeal number</b>	APP/X3540/W/23/3319788
<b>Site</b>	63 The Avenue, Lowestoft, Suffolk, NR33 7LH
<b>Description of development</b>	New dwelling
<b>Committee / delegated</b>	Delegated
<b>ESC Decision Date</b>	22 March 2023
<b>Appeal valid date</b>	26 June 2023
<b>Appeal start date</b>	19 July 2023
<b>Appeal decision date</b>	09 November 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written Representation
<b>Main issues</b>	
Whether the development would preserve or enhance the character or appearance of the Lowestoft Conservation Area.	
<b>Summary of decision:</b>	
<p>The inspector found that the proposed back land form of development would alter the <i>“pleasing character by introducing substantial additional built form into the long back garden area”</i>. They identified that this is a distinct difference to the otherwise small scale sheds and outbuildings which otherwise populate these areas. The size of the plot may be of a comparable size to, or larger than, other plots within the Conservation Area, but the arrangement of the site is inconsistent with the remainder of those in the area as these all address The Avenue.</p> <p>They also found that views of the new dwelling would likely be limited from along the Avenue given the distances, intervening buildings and existing well-established landscaping. However, it would be visible from the rear rooms of homes addressing The Avenue, from those gardens and from views into the Conservation Area from Walmer Road via the small service lane that accesses the site. From these views, the loss of the characteristic undeveloped garden areas would be obvious.</p> <p>They concluded that there would be less than substantial harm to the significance of a designated heritage asset and that the only benefit of an additional dwelling, is minimal, and would not outweigh the identified harm. It would also conflict with Policies WLP8.29, WLP8.33 and WLP8.39 of the East Suffolk (Waveney) Local Plan.</p>	
<b>Learning point / actions:</b>	
The Inspector reached the same conclusion as the case officer in that the development would be in conflict with the adopted Local Plan Policies and NPPF and would result in harm to the prevailing character of the Conservation Area.	

<b>Application number</b>	DC/22/3331/OUT
<b>Appeal number</b>	APP/X3540/W/23/3318967
<b>Site</b>	Hillside Farm, Wangford Hill, Wangford, Suffolk, NR34 8AS
<b>Description of development</b>	<i>Outline Application (Some Matters Reserved) - New farm house dwelling to accommodate farm director or principal farm employee. Agricultural restriction and tie to the farm to be applied.</i>
<b>Committee / delegated</b>	Delegated
<b>ESC Decision Date</b>	24 February 2022
<b>Appeal valid date</b>	15 June 2023
<b>Appeal start date</b>	05 July 2023
<b>Appeal decision date</b>	17 November 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Hearing
<b>Main issues</b>	
<p>The main issue was whether it had been demonstrated that there was an essential need for the proposed dwelling to accommodate a rural worker to live permanently at the appeal site in the countryside.</p>	
<b>Summary of decision:</b>	
<p>Policy WLP8.8 of the East Suffolk Council - Waveney Local Plan (March 2019) (Local Plan) only supports proposals for permanent rural worker homes in the countryside where four essential criteria are met. This was the main issue in the appeal, and the matter that was subject of a hearing.</p> <p>The Inspector acknowledge the various demands on the appellant's time including for propagation, planting, irrigation, spraying, pest control, crop monitoring, wholesale and farm shop deliveries and farm security. However, the Inspector agreed with the Council's view that these demands do not require an overnight on-site presence and that an existing farmhouse provided some presence. The Inspector therefore concluded that it had not been demonstrated that there was an essential need for the proposed dwelling to accommodate a rural worker to live permanently at the appeal site in the countryside.</p>	
<b>Learning point / actions:</b>	
<p>This is a good example of a strong refusal reason being upheld through the appeals process. Proposals seeking permission for rural worker dwellings are often complex and will nearly always involve the applicant's personal circumstances to some extent – which ordinarily is not a material planning consideration. In this case, the Inspector agreed with the Council that the justification for the new dwelling was simply not evidenced and convincing, as required by planning policy. It is always difficult to take away key actions from these kind of appeal decisions because each case is so unique and assessed on its merits. However, this decision does reinforce that sympathy for the applicant's personal</p>	

circumstances and the obvious convenience of living on site is not a sound planning reason to justify a rural worker dwelling; there must be the appropriately evidenced/established functional need for the proposal (and that this could not be fulfilled by another existing dwelling or accommodation in the area which is suitable and available for the worker). The decision confirms that Local Plan policy sets a high bar for accepting new rural worker dwellings in the countryside, and this must be applied consistently on all decisions moving forward. This decision should be reflected on in the consideration of future applications for rural worker dwellings in the Waveney Local Plan Area.

The Appeal Hearing enabled open discussion on the applicants needs but it resulted in a lot of information not submitted in the application or appeal documents. This demonstrates the importance of providing detailed submissions and ensuring all information on farming practices and needs are covered in supporting statements.

<b>Application number</b>	DC/22/2482/FUL
<b>Appeal number</b>	APP/X3540/W/22/3311369
<b>Site</b>	Church Farm, Land Southwest of, Church Lane, Earl Soham, IP13 7SD
<b>Description of development</b>	Proposal for the installation of 1no. micro wind turbine.
<b>Committee / delegated</b>	Delegated
<b>ESC Decision Date</b>	9 September 2022
<b>Appeal valid date</b>	26 January 2023
<b>Appeal start date</b>	19 April 2023
<b>Appeal decision date</b>	24 November 2023
<b>Appeal decision</b>	Allowed
<b>Appeal Procedure</b>	Written reps
<b>Main issues</b>	
<ul style="list-style-type: none"> <li>- The effect of the proposal upon the landscape character and appearance of the area</li> <li>- The principle of the site for micro wind turbine installation</li> </ul>	
<b>Summary of decision:</b>	
<p>Appeal allowed. The Inspector found that the relatively contained nature of the site would not result in harm to the wider landscape and noted that the Council did not refuse on this ground.</p> <p>The Inspector noted that there would be a clear conflict with the Local Plan and the Framework which is clear in its limited support for on shore wind power proposals which has been the case since 2015. However, they also considered the lack of Neighbourhood Plan, the lack of Local policy setting out suitable areas for wind power development and the limited objection from local people and therefore the inability to comply with the Framework along with the drive for renewable energy, a material consideration weighing strongly in favour of the proposal.</p>	
<b>Learning point / actions:</b>	
<p>When the application was refused, the decision had to be made based on the National Planning Policy Framework (NPPF) at the time, which set out what was effectively a ban on onshore wind turbines. Therefore, the refusal recognised no direct harm of the proposal, only the national and local plan policy conflict. The NPPF was subject to some minor changes in September 2023 which have modestly improved the potential for onshore wind with public support but not to such an extent to allow approvals in East Suffolk. This is potentially one of the first appeal decisions in the country for a wind turbine since the 2023 amendment to the NPPF.</p>	

The Council is generally supportive of proposals for renewable energy where there is no landscape or environmental harm. This Inspector's decision does seem rather overconfident against the policy position and caution should be taken in how this appeal influences further applications.

## Appeals against Refusal of applications for Planning Permission for 'Other' developments

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

<b>Application number</b>	DC/21/3725/FUL
<b>Appeal number</b>	APP/X3540/D/23/3322708
<b>Site</b>	The Boot House, Church Road, Marlesford, IP13 OAT
<b>Description of development</b>	Proposed three roof lights
<b>Committee / delegated</b>	Delegated
<b>ESC Decision Date</b>	09 May 2023
<b>Appeal valid date</b>	27 May 2023
<b>Appeal start date</b>	29 June 2023
<b>Appeal decision date</b>	12 September 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Fast Track (HH Written Representation)
<b>Main issues</b>	<p>The main issue is the effect of the proposal on the character, appearance and special interest of the Marlesford Conservation Area.</p>
<b>Summary of decision:</b>	<p>Paragraph 199 of the National Planning Policy Framework (the Framework) advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, irrespective of the level of harm to its significance. Having regard to paragraph 202 of the Framework, I consider that the harm to the significance of the conservation area (as a designated heritage asset) would be less than substantial, but this harm should nevertheless be weighed against the public benefits of the proposal.</p> <p>The Inspector found that the proposal would not preserve or enhance the character and appearance of the Marlesford Conservation Area, and would detract from part of its special interest. This would conflict with the statutory duty, the Framework, and Policies SCLP11.1, SCLP11.3 and SCLP11.5 of the East Suffolk Council Suffolk Coastal Local Plan 2020, as supported by the SPD, which together seek high quality design which demonstrates a clear understanding of the character of the built and historic environment, responds to local context and the form of surrounding buildings, and reinforces the national objectives in respect of the conservation of heritage assets.</p>

**Learning point / actions:**

The inspector agreed with officers in that the proposal harmed the character and special interest of the Conservation Area and therefore should be refused.

<b>Application number</b>	DC/22/1794/FUL
<b>Appeal number</b>	APP/X3540/W/22/3312405
<b>Site</b>	The Old House, Bransons Lane, Playford, Suffolk, IP6 9DN
<b>Description of development</b>	Single storey side and front extension
<b>Committee / delegated</b>	Delegated
<b>ESC Decision Date</b>	13 December 2022
<b>Appeal valid date</b>	17 May 2023
<b>Appeal start date</b>	26 May 2023
<b>Appeal decision date</b>	12 September 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Written Representation
<b>Main issues</b>	
The effect of the proposal on the character and appearance of the dwelling.	
<b>Summary of decision:</b>	
<p>The Inspector referred to SCLP11.1 in their decision. Although the property is not listed or NDHA, the Inspector commented that views of the original, traditionally detailed property with attractive brickwork, are important aspects to the character and appearance of the dwelling. The inspector found that, whilst there is no objection in principle to modern design, the flat-roofed design of the and form of the extension would be at odds with the architecture of the host dwelling, and that the proposed siting would almost entirely obscure one of the most important elevations of the original building. The inspector found that this would detract from its character and appearance. The Inspector also considered the proposal cumulatively with previous extensions and found that the original building would appear to be subsumed by more modern additions. It was concluded that the proposal would detract from the character and appearance of the appeal property, contrary to the design aims of LP Policy SCLP11.1 and paragraph 130 of the National Planning Policy Framework.</p> <p>The Inspector noted that that the extension aims to help towards the energy efficiency of the dwelling by providing additional well-insulated living space but concluded that the benefits would not outweigh the visual harm which has been identified.</p>	
<b>Learning point / actions:</b>	
This confirms Officer's views on the unacceptability of the design and siting of this proposal.	

<b>Application number</b>	DC/21/4413/FUL
<b>Appeal number</b>	APP/X3540/W/23/3319395
<b>Site</b>	Part of Land South Side of A14, Felixstowe Road, Levington, Suffolk IP10 0LT
<b>Description of development</b>	Change of use from former agricultural to mixed use of B2 and B8.
<b>Committee / delegated</b>	Delegated
<b>ESC Decision Date</b>	25 October 2022
<b>Appeal valid date</b>	14 April 2023
<b>Appeal start date</b>	14 April 2023
<b>Appeal decision date</b>	14 September 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Hearing
<b>Main issue</b>	
The main issue relates to whether the site is an appropriate location for the scheme, having particular regard to safeguarding the countryside and ensuring a suitable and sustainable form of development.	
<b>Summary of decision:</b>	
<p>Site is located in the countryside where Policy SCLP3.3 sets out that new residential development, employment and town centre development will not be permitted unless subject to other policies in the Local Plan. Policy SCLP4.2 requires proposals for new employment development falling within use classes B1, B2, and B8 on land outside of settlement boundaries to demonstrate that there is no sequentially preferable land available adjacent to existing employment areas, within existing employment areas or within settlement boundaries, or a need for additional employment development has been demonstrated. The Inspector found that the requirements of Policy SCLP4.2 accord with the requirements of the NPPF.</p> <p>The Inspector acknowledged that Policy SCLP4.5 supports economic development in rural areas subject to a number of criteria, including the need for proposals to be for a scale of enterprise that accords with the settlement hierarchy. As the proposal related to the introduction of a new employment use in a rural location, the Inspector found that the proposal would fail to accord with the settlement hierarchy and as such does not accord with Policy SCLP4.5.</p>	

On the Appellant's submitted sequential test, the Inspector acknowledged that there was verbal agreement at the Hearing by the Appellant in relation to concerns by the Council in respect of the sequential test submitted, such as a lack of evidence/justification to support the discounting of sites, enquiries made, or the consideration of other locations, amongst other things. These concerns reduced the effectiveness of the sequential test. The Inspector was subsequently not convinced that there are not alternative locations which could be sequentially preferable to the appeal site.

The Inspector recognised that there are other commercial developments in the locality. Additionally, given the site's location and proximity to other development, the Inspector considered the site to be in location with access to public transport. During their site visit, the Inspector also noted that a number of cyclists were using the road and so the highway conditions were not found to be unsuitable for the use of a bicycle. The Inspector referred to Policy SCLP12.34, which relates to the strategy for rural areas, and found that the introduction of built development to the site would result in significant visual harm, which would be further compounded by the conflict with Policy SCL4.2 and Policy SCLP4.5.

In concluding, the Inspector determined that the site does not constitute an appropriate location for the proposed development, having regard to safeguarding the countryside and ensuring a suitable and sustainable form of development. The proposal was found to conflict with Policies SCLP3.3, SCLP4.2, SCLP4.5, and SCLP12.34. It would also fail to accord with the requirements of the NPPF.

Noted in the planning balance that the development would result in economic benefits through the creation of local jobs, including during the construction phase, however, the proposed development would conflict with the Development Plan as a whole, and there are no material considerations to indicate otherwise.

**Learning point / actions:**

The Inspector agreed with officers that the submitted sequential test was not sufficient to demonstrate that there would be no alternative locations that would be sequentially preferable. This reaffirms that Applicant's need to provide robust evidence of enquiries made when seeking alternative sites, as well as evidence/convincing justification for discounting sites.

<b>Application number</b>	DC/21/5206/FUL (Also associated appeal in <a href="#">Appeals relating to applications for Listed Building Consent</a> )
<b>Appeal number</b>	APP/X3540/W/22/3298516
<b>Site</b>	Brampton Hall, London Road, Brampton NR34 8DS
<b>Description of development</b>	Construction of orangery to replace conservatory to side and replacement of side ground floor window.
<b>Committee / delegated</b>	Delegated
<b>ESC Decision Date</b>	21 February 2023
<b>Appeal valid date</b>	10 June 2022
<b>Appeal start date</b>	31 August 2022
<b>Appeal decision date</b>	5 October 2023
<b>Appeal decision</b>	Split Decision
<b>Appeal Procedure</b>	Written Representation
<p><b>Main issues</b></p> <p>Whether the proposed orangery would preserve a Grade II listed building, 'Brampton Hall', and any features of special interest that it possesses. The proposal also includes replacement of the modern ground floor bay window to the northeast flank wall of the Hall which was not resisted during the planning process.</p>	
<p><b>Summary of decision:</b></p> <p>The inspector considered the orangery would be disproportionately larger than the ground floor rooms in the Hall and the kitchen in the rear wing. It would also be of greater depth than the latter and obscure a large part of its northeast façade. Hence, the orangery would exacerbate the awkward bolt-on effect already experienced with the existing conservatory and disrupt the hierarchy of the scale of the component parts of the listed building.</p> <p>The statutory duties in Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) are matters of considerable importance and weight, as are the aims of paragraphs 197, 199 and 200 of the Framework. The Inspector confirmed that the orangery would be harmful to the special architectural and historic interest of the Grade II listed building, which would harm its significance as a designated heritage asset. For these reasons, they concluded that the proposed orangery would fail to preserve the Grade II listed building. Hence, it would not satisfy the duties of the Act, and would conflict with the design and heritage aims of Framework paragraphs 197 and 199; Policies WLP8.29 and WLP8.37 of the Council's Local Plan and its Historic Environment Supplementary Planning Document. This would equate to less than substantial harm to the asset. In such circumstances, paragraph 202 of the Framework identifies this harm should be weighed against the public benefits of proposals. The inspector was not persuaded there would be wider public benefits of sufficient magnitude to outweigh the great weight to the asset's conservation and considerable importance and weight to the less than substantial harm identified to the special interest of the asset.</p>	

The side window however was found acceptable by the inspector and therefore the inspector was minded to issue a split decision allowing the window with conditions but not allowing the orangery.

**Learning point / actions:**

The inspector agreed with officers that the harm caused by the orangery outweighed the public benefit and therefore officers were right not to allow it. The inspector however issued a split decision allowing the replacement window but disallowing the orangery.

<b>Application number</b>	DC/23/2187/FUL
<b>Appeal number</b>	APP/X3540/D/23/3329800
<b>Site</b>	10 Scales Street, Bungay, Suffolk, NR35 1EA
<b>Description of development</b>	Replacement windows to front of property
<b>Committee / delegated</b>	Delegated
<b>ESC Decision Date</b>	11 August 2023
<b>Appeal valid date</b>	30 September 2023
<b>Appeal start date</b>	13 October 2023
<b>Appeal decision date</b>	6 November 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Fast Track (HH Written Representations)
<b>Main issues</b>	
The main issue is the effect of the proposal on the character and appearance of the Bungay Conservation Area.	
<b>Summary of decision:</b>	
<p>The Inspector concluded that principle of replacement is acceptable as the windows are not original (dating from 1984). Policy WLP8.39 of the Local Plan states that in areas where Article 4 Directions are in place, proposals for replacement doors and windows in conservation areas must be of a suitable design and constructed in appropriate materials. The Historic Environment Supplementary Planning Document expands upon this, and is clear that the use of UPVC windows will only be supported when a window does not face onto a public thoroughfare or open space and so does not impact upon the appearance of the conservation area. 'Suitable design' can include the use of slimline double-glazed units that permit the use of solid glazing bars.</p> <p>The proposed windows would have been similar in style to the existing, but would not have the delicacy of the existing framing and glazing bars, nor the natural finish of timber. The latter would be particularly obvious on the solid lower panel to the replacement door. The benefit of reducing maintenance needs must be offset against the more permanent adverse visual impact of PVCu within an historic setting.</p> <p>The Inspector appreciated that the condition of the existing windows means that they are thermally inefficient and give rise to damp, but there was no evidence supplied to indicate that these non-original windows could not be replaced in materials more sympathetic to the location in a conservation area, i.e. timber, thereby concluding that the proposal would not preserve or enhance the character or appearance of the conservation area</p>	
<b>Learning point / actions:</b>	
The current policy and SPD remain relevant and are being supported when tested at appeal.	

<b>Application number</b>	DC/22/3427/FUL
<b>Appeal number</b>	APP/X3540/D/23/3315179
<b>Site</b>	Church Farm Barns, Church Road, Ringsfield, Beccles, Suffolk NR34 8LF
<b>Description of development</b>	Extension to north elevation, dormer to south elevation
<b>Committee / delegated</b>	Delegated
<b>ESC Decision Date</b>	9 November 2022
<b>Appeal valid date</b>	30 January 2023
<b>Appeal start date</b>	27 April 2023
<b>Appeal decision date</b>	29 November 2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Fast Track (Householder Written Representations)
<b>Main issues</b>	
The effect of the proposals on the character and appearance of the building.	
<b>Summary of decision:</b>	
<p>The building has a simple appearance representing a sympathetic conversion of a former barn with limited public facing openings resulting in a building of substantial character. That character is further embellished inside the building, with a non-standard upstairs room and stair arrangement that has been fitted around the limitations of the building.</p> <p>Whilst appropriately limiting its openings and being set down beneath the main ridgeline, the extension to the north-west elevation would be a dominant feature in views when approaching the site from the north-west along Church Lane, encompassing much of and obscuring further sections of the dual pitched roof which contributes significantly to understanding the building as a former barn.</p> <p>The dormer would further consume the roof-slope and would introduce an additional domestic style feature which would be detrimental to the appearance and understanding of the building as a converted barn.</p> <p>Both aspects of the scheme would be likely to result in the loss of traditional material and fabric within the existing roof-slopes, further undermining the character and quality of the building. The additional/enlarged openings, particularly those proposed to the south-east facing roof-slope would further compound the harm.</p>	

The proposals would, when considered together, have a significant adverse impact on the character and appearance of the building. The proposal would subsequently conflict with policies WLP 8.9 and WLP 8.29 of the Waveney Local Plan (2019).

**Learning point / actions:**

This decision confirms our approach to the conservation of the character and fabric of barns that have been converted to dwellings.

Appeals against conditions included on a Planning Permissions

There were no appeal decisions of this type during this quarter

[Appeals against the refusal of Variation or Removal of Conditions](#)

<b>Application number</b>	DC/22/2020/VOC
<b>Appeal number</b>	APP/X3540/W/22/3313677
<b>Site</b>	Old Engineering Works Unit E, The Street, Pettistree, Suffolk, IP13 0HP
<b>Description of development</b>	Variation of Condition 4 of DC/19/3826/FUL to enable the business to operate 9.00am until 5.30pm Monday to Friday and 8.00am until 4.00pm Saturdays, Sundays and Bank Holidays
<b>Committee / delegated</b>	Delegated
<b>ESC Decision Date</b>	11 August 2022
<b>Appeal valid date</b>	13 March 2023
<b>Appeal start date</b>	30 May 2023
<b>Appeal decision date</b>	18 October 2023
<b>Appeal decision</b>	Conditionally Allowed
<b>Appeal Procedure</b>	Written Reps
<b>Main issues</b>	
The impact on residential amenity of neighbouring residents.	
<b>Summary of decision:</b>	
The original relevant condition was	
<p style="text-align: center;"><i>“No activities shall be carried out on the site other than between the hours of 08h00 and 17h00 Monday to Friday, unless otherwise agreed in writing with the local planning authority.”</i></p>	
The applicant proposed to increase these hours until 17h30 Monday to Friday and 8.00am until 4.00pm Saturdays, Sundays and Bank Holidays.	
The Council accepted that there was no objection to the mid-week increase in hours, or to Saturday opening which was in line with other units on the site however not to Sundays or Bank Holidays.	
Conditionally allowed to	
<p style="text-align: center;"><i>“No activities shall be carried out on the site other than between the hours of 0900hrs and 1730hrs Monday to Friday, 0800hrs and 1600hrs on Bank and Public Holidays, and 0800hrs and 1300hrs on Saturdays. No activities shall be carried out on the site on Sundays.”</i></p>	

With the exception of being able to open on Bank and Public Holidays, the decision reflects what the local planning authority were seeking.

**Learning point / actions:** The Inspector recognised that the rural location of the site and proximity of neighbouring residential uses justified the need for some 'respite' on Saturday afternoons and Sundays from activities that are not particularly noisy but were considered to cause disturbance to residential amenity.

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

<b>Application number</b>	DC/22/3475/P3MA
<b>Appeal number</b>	APP/X3540/W/23/3318024
<b>Site</b>	Unit 21, Earl Soham Business Centre, The Street, Earl Soham, Woodbridge, IP13 7SA
<b>Description of development</b>	Notification of prior approval for the change of use of former canine hydrotherapy centre (Unit 21) to a single residential dwelling.
<b>Committee / delegated</b>	Delegated
<b>ESC Decision Date</b>	27 October 2022
<b>Appeal valid date</b>	02 May 2023
<b>Appeal start date</b>	13 June 2023
<b>Appeal decision date</b>	31 October 2023
<b>Appeal decision</b>	Allowed
<b>Appeal Procedure</b>	Written Representations
<p><b>Main issues</b></p> <p>This appeal relates to Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order [2015] (GPDO). There appears to be no dispute between parties that the proposed use would accord with the limitations and restrictions imposed by paragraphs MA.1 and MA.2. I see no reason, within the submitted evidence, to disagree with this assertion. Consequently, the appeal relates solely to the matter of whether the proposal would fall within the definition of Class E (commercial, business and service) within the Town and Country Planning (Use Classes) Order [1987] as amended (UCO).</p> <p>The main issue is therefore whether the proposal would comply with the requirements of Class MA of the GPDO.</p>	
<p><b>Summary of decision:</b></p> <p>There was no dispute from either parties that the last use of unit 21 was that of a Canine Hydrotherapy Centre. Officers had however considered that the use did not fall within Class E use, rather a sui generis use thus would not fall within the use classes permitted to change use under Class MA.</p> <p>Since the introduction of Class E some uses which would have previously been considered as sui generis, now fall under Class E. This includes a broad and diverse range of uses which principally serve the needs of visiting members of the public and are appropriate in a commercial, business or service locality. There is no definitive view that a canine hydrotherapy use falls within Class E or that it is a use which is sui generis. The UCO includes a list of uses to be regarded as sui generis, and the list does not include canine hydrotherapy. However, it is clear from the UCO that the list is not exhaustive and other uses may also be sui generis.</p>	

The appellant stated that canine hydrotherapy is a water-based physiotherapy and/or performance testing and that there is no surgical, clinical or medicinal use. They go on to state that clinics, health centres, indoor sport and recreation are all considered to fall under Class E and there is no distinction that these uses are exclusive to humans only; the former use was open to visiting members of the public and to that extent the use falls within Class E because it provides a 'service to visiting members of the public'.

The Inspector therefore concluded that the canine hydrotherapy use meets the description in Class E of a 'service which is appropriate to provide in a commercial, business or service locality' as set out under Class E. There was no other conflict with the requirements, conditions or limitations set out by Class MA raised by either parties prior to the appeal, thus the appeal was allowed.

**Learning point / actions:**

Officers are aware that since the changes to the Use Class Order in 2020, some uses which were previously sui generis, are now considered to fall within an E Class use, such as veterinary surgeries, however this may be broader than initially anticipated. There will need to be consideration of other uses which may previously have fallen within a sui generis use, that could now be considered Class E on a case-by-case basis, with particular regard to more unusual uses.

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

There were no appeal decisions of this type during this quarter

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

<b>Application number</b>	DC/21/5032/LBC (Also associated appeal in <a href="#">Appeals against Refusal of applications for Planning Permission for 'Other' developments</a> )
<b>Appeal number</b>	APP/X3540/Y/22/3298523
<b>Site</b>	Brampton Hall, London Road, Brampton NR34 8DS
<b>Description of development</b>	Listed Building Consent - Construction of orangery to replace conservatory to side and replacement of side ground floor window.
<b>Committee / delegated</b>	Delegated
<b>ESC Decision Date</b>	21 February2022
<b>Appeal valid date</b>	10 June 2022
<b>Appeal start date</b>	31 August 2022
<b>Appeal decision date</b>	5 October 2023
<b>Appeal decision</b>	Split Decision
<b>Appeal Procedure</b>	Written Representation
<b>Main issues</b>	Whether the proposed orangery would preserve a Grade II listed building, 'Brampton Hall', and any features of special interest that it possesses. The proposal also includes replacement of the modern ground floor bay window to the northeast flank wall of the Hall which was not resisted during the planning process.
<b>Summary of decision:</b>	<p>The inspector considered the orangery would be disproportionately larger than the ground floor rooms in the Hall and the kitchen in the rear wing. It would also be of greater depth than the latter and obscure a large part of its northeast façade. Hence, the orangery would exacerbate the awkward bolt-on effect already experienced with the existing conservatory and disrupt the hierarchy of the scale of the component parts of the listed building.</p> <p>The statutory duties in Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) are matters of considerable importance and weight, as are the aims of paragraphs 197, 199 and 200 of the Framework. The Inspector confirmed that the orangery would be harmful to the special architectural and historic interest of the Grade II listed building, which would harm its significance as a designated heritage asset. For these reasons, they concluded that the proposed orangery would fail to preserve the Grade II listed building. Hence, it would not satisfy the duties of the Act, and would conflict with the design and heritage aims of Framework paragraphs 197 and 199; Policies WLP8.29 and WLP8.37 of the Council's Local Plan and its Historic Environment Supplementary Planning Document. This would equate</p>

to less than substantial harm to the asset. In such circumstances, paragraph 202 of the Framework identifies this harm should be weighed against the public benefits of proposals. The inspector was not persuaded there would be wider public benefits of sufficient magnitude to outweigh the great weight to the asset's conservation and considerable importance and weight to the less than substantial harm identified to the special interest of the asset.

The side window however was found acceptable by the inspector and therefore the inspector was minded to issue a split decision allowing the window with conditions but not allowing the orangery.

**Learning point / actions:**

The inspector agreed with officers that the harm caused by the orangery outweighed the public benefit and therefore officers were right not to allow it. The inspector however issued a split decision allowing the replacement window but disallowing the orangery.

[Applications relating to Enforcement Notices](#)

<b>Enforcement Case Number</b>	ENF/2019/0307/COND
<b>Appeal number</b>	APP/X3540/C/21/3287645 & APP/X3540/C/21/3287646
<b>Site</b>	Land at Wangford Road/Reydon Lane, Reydon, Suffolk IP18 6SJ
<b>Description of development</b>	Non compliance with conditions 2, 4 and 8 of DC/18/0335/FUL.
<b>Committee / delegated</b>	Delegated
<b>Date of Enforcement Notice</b>	21/10/2021
<b>Appeal valid date</b>	06/12/2021
<b>Appeal start date</b>	10/12/2021
<b>Appeal decision date</b>	16 October 2023
<b>Appeal decision</b>	The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the development of the land under planning permission ref DC/18/0335/FUL, without compliance with conditions 2, 4 and 8 thereto, on land at Wangford Road/Reydon Lane , Reydon, Suffolk IP18 6SJ referred to in the notice, subject to the conditions set out in the attached Schedule.
<b>Appeal Procedure</b>	Written Reps
<b>Main issues</b>	The main issues were the non compliance with conditions 2, 4 and 8 of planning permission DC/18/0335/FUL relating to design of the building, retail sales and landscaping.
<b>Summary of decision</b>	<p>The Inspector made the following comments</p> <p><i>“As regards conditions, in order to safeguard the area’s character I am imposing a condition restricting the hours of operation. Although the Council suggested that there should be no Sunday or Bank Holiday opening this is against the norm for commercial concerns such as this, whether or not the site lies within a rural location. Sundays and Bank Holidays are popular days for customers. Further, this is not a large commercial concern and precluding such opening would amount to undue restraint of trade.</i></p>

*Visual character will also be safeguarded by a condition requiring for the laying out of an identified permeably surfaced car park area, one prohibiting the external storage of goods and produce, and another stipulating that the polytunnel shall be used only for the growing of flowers.*

*A condition will also be imposed requiring the implementation of the approved landscaping scheme to both enhance the site's appearance and add to the site's vegetative screening. In this connection a condition is also imposed to stipulate the replacement of any hedgerow, should this be required.*

*No condition regarding the use of external materials and finishes is necessary as, in this regard, the development has already been completed. However, in addition to the condition in respect of the external lighting, a condition is also imposed regarding completion of the development in accordance with the drawings hereby approved in terms of landscaping and the provision of a properly surfaced and defined car park area."*

**Learning point / actions**

It should be noted that Planning Inspectorate took almost 2 years to determine this appeal. In the two years since the notice was served, the business has had the opportunity to establish itself significantly further on the site. The situation the LPA assessed and the Inspector assessed were therefore different, which may have had some influence. It remains a significant concern to East Suffolk that enforcement appeals are considerably slow, compared to other planning appeals.

Appeals against Community Infrastructure Levy (CIL) Decisions

There were no appeal decisions of this type during this quarter

[Appeals against Refusal of applications for Lawful Use Certificates](#)

<b>Application number</b>	DC/21/5671/CLP,
<b>Appeal number</b>	APP/X3540/X/22/3299754
<b>Site</b>	Phase 3 site, Tingdene North Denes Caravan Site, Lowestoft, Suffolk, NR32 1XG
<b>Description of development</b>	The use for which a certificate of lawful use or development is sought is for the use for the siting and human habitation of touring caravans and motorhomes for holiday purposes.
<b>Committee / delegated</b>	Delegated
<b>ESC Decision Date</b>	11/04/2022
<b>Appeal valid date</b>	26/05/2022
<b>Appeal start date</b>	27/05/2022
<b>Appeal decision date</b>	12/09/2023
<b>Appeal decision</b>	Dismissed
<b>Appeal Procedure</b>	Hearing
<b>Main issues</b>	
The main issue is whether the Council's decision to refuse to grant the LDC was well-founded	
<b>Summary of decision:</b>	
<p>The Inspector found that <i>“that caravans were permitted by the 1975 Permission it is then necessary to consider whether there was a subsequent event by which the lawful use rights were lost, be that a material change of use, either with the grant and implementation of the 1984 Permission or through another event.</i></p> <p><i>The Council argued that at some point during the early 2000s (and prior to the first Note on Implementation North Denes Caravan Site dated 7 September 2006) the use of the site for camping and caravanning permanently ceased. They state that from at least that date, when there was a public declaration of the Waveney District Council's intention to use the site as public open space, there was a material change of use which was further confirmed by the designation of the land as such in the subsequent Waveney Local Plan (adopted in 2011).”</i></p> <p>The Inspector stated that <i>“For a material change of use to have occurred, there must be some significant change in the character of the activities from what has gone on previously as a matter of fact and degree. A photo of Area A in the Note on Implementation, which shows part of the appeal site, shows a predominantly clear grassed area (although again only showing a snapshot in time). The land was open and access</i></p>	

*was possible onto the wider site which had previously been used for camping from various points including the coastal path, and this is not disputed by the appellant.*

*Whilst it is possible to have some public use of a caravan or camping site as open space alongside the residential holiday use, the overall character of the use of the appeal site would have been very different when it was used for tenting and caravanning (even seasonally) compared to when it was used solely as public open space. The character of the use would have changed in many ways. The appearance of the site would be very different without camping apparatus as would the effect on character and appearance of the area. The number of people visiting the site, the activities being undertaken (e.g. eating and socialising when in camping use) and the duration of the individual visits and hours of use would also be materially different. In addition, a camping use is likely to involve a higher number of vehicles parking for longer periods and an increase in the comings and goings in the vicinity during increased hours of the day and evening. The change from camping to public open space would be material based on the character of the use and impact on the surroundings, albeit that the effects on the surrounding area would be likely to be reduced when the site was used as public open space.”*

The Inspector concluded that *“Where there has been a material change of use, it is not lawful to revert to the previous use without a further permission unless there has been an enforcement notice issued.<sup>3</sup> This has not happened in this case. A reversion to the previous use in any other circumstances is still unauthorised and constitutes a further material change of use. Notwithstanding that the Council have said that they could themselves reinstate the use permitted by the 1984 permission, this is incorrect based on the facts of the case and the material change of use to public open space.*

*For the reasons as set out above, any use of the appeal site for camping now would be a further material change of use and would require express permission. This is the case irrespective of whether the 1975 or 1984 Permission was the last authorised camping use on the site. Whether the 1984 Permission was implemented and the effect of the seasonal condition restricting the camping use on the later condition is therefore not relevant in this determination. It also is irrelevant as to which local authority owns the freehold of the site or is the local planning authority for the area, as it is not possible to revert to the camping use irrespective of whether or not the 1984 enured only for the local authority.*

*For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the use for the siting and human habitation of touring caravans and motorhomes for holiday purposes was well-founded and that the appeal should fail.”*

**Learning point / actions:**

None



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

There were no appeal decisions of this type during this quarter