



Committee	Strategic Planning Committee
Date	08/07/2024
Subject	Appeal Performance Report - 11 March 2024 to 4 June 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	Ben Woolnough Head of Planning, Building Control and Coastal Management ben.woolnough@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
---	----------------

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 15 planning related appeal decisions, have been received from the Planning Inspectorate since 11 March 2024 following a refusal of planning permission or other planning related decision or the serving of a Planning 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. The national appeal figures published by the Planning Inspectorate for the April 2022 – March 2023 show a national appeal success rate for appeals related to applications for planning permission of approximately 29% or 71% dismissed (latest figures found published, [Planning Inspectorate Statistical Release July 2023.pdf](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/123456/Planning_Inspectorate_Statistical_Release_July_2023.pdf) (publishing.service.gov.uk)).
- 2.6. Of the 13 Planning Appeals (i.e. those against refusal of planning permission), there were no appeal decisions received against Majors, 9 against Minors and 4 against Others. Of these decisions 7 of the decisions were dismissed (54 %) and 6 of the decisions were allowed (46 %) by the Planning Inspectorate. Whilst these figures represent a lower dismissal rate than the national average, these figures are only for a relatively small number of cases received within a short period of time.
- 2.7. A longer-term view with more decisions should be taken in order to have a more accurate picture of appeal performance. That is provided in the section relating to appeals within the Planning Performance Report that is also on the agenda for this

meeting. As set out in paragraph 2.47 of that report, 89% of the appeal decisions received for the East Suffolk area during the 2023-24 financial year were dismissed, which is significantly above the national figures referred to above.

- 2.8. 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.
- 2.9. There were no appeals against conditions on Planning Permissions, and no appeals against the refusal of applications seeking to remove or vary conditions.
- 2.10. There was one appeal against the refusal of applications seeking Prior Notification Approval, which related to a change of use and physical works under Class R of Part 3 of the General Permitted Development Order. It was dismissed.
- 2.11. There were no appeals in relation to Prior Notification under other Parts of the General Permitted Development Order during this period.
- 2.12. In terms appeals against applications for Advertisement Consent, there was one appeal decision which was dismissed.
- 2.13. 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.
- 2.14. 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, which is consistent with the previous financial year, during which there were also no cost decisions.
- 2.15. In terms of the key outcomes of the reported appeals, the matters of particular note are:
 - There is a need for rural workers dwellings to demonstrate a functional need and meet a financial test, in order to be justified on sites in the countryside, even if the dwelling is in the form of a caravan (Red House Farm, Bucklesham on page 11 of Appendix A).
 - The appeal decision relating to replacement windows at 401 London Road South, Lowestoft (page 21 of Appendix A), and the remarks of the inspector regarding the Article 4 direction are of particular interest given the recent reviews that have been undertaken in relation to that Article 4 area. The Inspector agrees with the approach that the replacement of the timber sash windows with uPVC should be resisted and that the relevant local plan policy along with the Article 4 have the potential to real improvement to the character and appearance of the area over time.
 - The appeal decision relating to the Prior Notification under Class R of Part 3 of Schedule 2 of the General Permitted Development Order (page 30 of Appendix A) concludes that for the purposes of such applications, physical works undertaken towards the change of use of a building can amount to a change of use having

commenced even if the building isn't currently occupied. In such instances, works to alter the building in such a way mean that it can no longer be used for agricultural purposes, which breaches the conditions set out for the conversion of agricultural buildings as set out in the General Permitted Development Order.

- The appeal decision relating to the barn conversion at Little Kyson Barn is interesting in the weight it gives to the benefit to the landscape of retaining a rural building through its conversion, even though the barn is unobtrusive and largely hidden amongst woodland i.e. in the view of the Inspector the building in this context does not need to be visible to make a positive contribution to the landscape (page 8 of Appendix A). Whilst this approach contrasts with that of the Rural Development Supplementary Planning Guidance, it may be the direction in which the approach to the conversion of rural buildings is headed, given the recent changes to the Permitted Development Rights in Class Q of Part 3 of Schedule 2 of the General Permitted Development Order.

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:

The Section 151 Officer has received a copy of the report and has no further comments'

Monitoring Officer comments:

The Monitoring Officer has been consulted on this report and has 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.

Background reference papers:

None