



STRATEGIC PLANNING COMMITTEE

Monday, 08 January 2024

Subject	Appeals Performance Report – 12 September 2023 to 7 December 2023
Cabinet Member	Councillor Kay Yule Cabinet Member with responsibility for Planning and Coastal Management
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Is the report Open or Exempt?	OPEN
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Category of Exempt Information and reason why it is NOT in the public interest to disclose the exempt information.	Not applicable
Wards Affected:	All Wards

Purpose and high-level overview

Purpose of Report:

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 following refusal of planning permission by East Suffolk Council.

Options:

None.

Recommendation/s:

That the content of the report be noted.

Corporate Impact Assessment

Governance:

Not applicable.

ESC policies and strategies that directly apply to the proposal:

Not applicable.

Environmental:

Not applicable.

Equalities and Diversity:

Not applicable.

Financial:

Not applicable.

Human Resources:

Not applicable.

ICT:

Not applicable.

Legal:

Not applicable.

Risk:

Not applicable.

External Consultees:	None
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Strategic Plan Priorities

Select the priorities of the Strategic Plan which are supported by this proposal: <i>(Select only one primary and as many secondary as appropriate)</i>		Primary priority	Secondary priorities
T01	Growing our Economy		
P01	Build the right environment for East Suffolk	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P02	Attract and stimulate inward investment	<input type="checkbox"/>	<input type="checkbox"/>
P03	Maximise and grow the unique selling points of East Suffolk	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P04	Business partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P05	Support and deliver infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
T02	Enabling our Communities		
P06	Community Partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P07	Taking positive action on what matters most	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
P08	Maximising health, well-being and safety in our District	<input type="checkbox"/>	<input type="checkbox"/>
P09	Community Pride	<input type="checkbox"/>	<input checked="" type="checkbox"/>
T03	Maintaining Financial Sustainability		
P10	Organisational design and streamlining services	<input type="checkbox"/>	<input type="checkbox"/>
P11	Making best use of and investing in our assets	<input type="checkbox"/>	<input type="checkbox"/>
P12	Being commercially astute	<input type="checkbox"/>	<input type="checkbox"/>
P13	Optimising our financial investments and grant opportunities	<input type="checkbox"/>	<input type="checkbox"/>
P14	Review service delivery with partners	<input type="checkbox"/>	<input type="checkbox"/>
T04	Delivering Digital Transformation		
P15	Digital by default	<input type="checkbox"/>	<input type="checkbox"/>
P16	Lean and efficient streamlined services	<input type="checkbox"/>	<input type="checkbox"/>
P17	Effective use of data	<input type="checkbox"/>	<input type="checkbox"/>
P18	Skills and training	<input type="checkbox"/>	<input type="checkbox"/>
P19	District-wide digital infrastructure	<input type="checkbox"/>	<input checked="" type="checkbox"/>
T05	Caring for our Environment		
P20	Lead by example	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P21	Minimise waste, reuse materials, increase recycling	<input type="checkbox"/>	<input type="checkbox"/>
P22	Renewable energy	<input type="checkbox"/>	<input type="checkbox"/>
P23	Protection, education and influence	<input type="checkbox"/>	<input type="checkbox"/>
XXX	Governance		
XXX	How ESC governs itself as an authority	<input type="checkbox"/>	<input checked="" type="checkbox"/>
How does this proposal support the priorities selected?			
To provide information on the performance of the enforcement section			

Background and Justification for Recommendation

1 Background facts	
1.1	The report is presented to Members as rolling reporting mechanism on how the Council is performing on both the quality and quantity of appeal decisions received from the Planning Inspectorate.

2 Current position	
2.1	A total of 24 planning appeal decisions, have been received from the Planning Inspectorate since the 12 September 2023 following a refusal of planning permission or the serving of an Enforcement Notice by East Suffolk Council.
2.2	A summary of all the appeal decisions received is appended to this report (Appendix A).
2.3	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.
2.4	Very few planning refusals are appealed (approximately 20%) and nationally on average there is a 42% appellant success rate for major applications, 27% success rate for minor applications and 39% success rate for householder applications.
2.5	All of the appeal decisions related to applications which were delegated decisions determined by the Head of Planning and Coastal Management.
2.6	Of the 19 planning appeals (i.e. those against the refusal of planning permission), 18 of the decisions were dismissed (94.7 %) and one of the decisions was allowed (5.3%) by the Planning Inspectorate.
2.7	One of the planning application appeals was for Major Applications, and it was dismissed. (Page 2 of the appendix).
2.8	12 of the planning application appeals were for minor applications and they were all dismissed (summaries start on Page 6 of the appendix).
2.9	Seven of the appeals were for other applications and six were dismissed (85.7%), with the other case being a split decision (summaries start on Page 26 of the appendix).
2.10	There was one appeal against the refusal of an application for a Variation of Condition. It was conditionally allowed, which means the hours of activity on site would be increased from those in the original condition. However, the hours permitted by the Inspector were not what the applicant was originally seeking. With the exception of allowing activity of Bank and Public Holidays, the hours

	permitted by the Inspector were as the Local Planning Authority had been willing to permit.
2.11	There was also at an appeal against a Prior Approval application. It related to Class MA of Part 3 of Schedule 2 of the General Permitted Development Order 2015 (as amended) and was allowed (Page 39 of the appendix). The scheme had been refused on the basis that the Local Planning Authority did not consider the previous use of the building (for dog hydrotherapy) to fall within Use Class E, so did not think the 'Permitted Development Rights' and this Prior Notification Process could be used. The inspector was of the view that the use of the building did fall within Use Class E, despite it previously being a 'Sui Generis' (i.e. outside any use class) prior to the introduction of Use Class E.
2.12	There was also an appeal against a refusal of Listed Building Consent, which was partially allowed as a split decision (Page 42 of the appendix).. The Inspector dismissed the element of the appeal relating to the erection of an orangery, but allowed the element of the scheme for the insertion of a side window in the existing building.
2.13	There were also two appeals against an Enforcement Notice which was allowed, so the notice was not upheld. It related to non-compliance with conditions on a planning permission. The Inspector applied conditions to the development (Page 44 of the appendix).
2.14	There was also an appeal against the refusal of a Certificate of Lawfulness, which was dismissed. It related to the Tingdene North Denes Caravan Site, and to whether the use for the land for the siting and human habitation of caravans and motorhomes for holiday purposes was lawful. It was dismissed, with the Inspector agreeing with the Local Authorities view that permission would be required (Page 47 of the appendix).
2.15	There were no appeal decisions in relation to appeals against conditions included on planning permissions, appeals against applications for Advertisement Consents, appeals against Community Infrastructure Levy (CIL) decisions, and appeals for applications for the award of costs (submitted alongside one of the appeals reported above).

2.16	<p>In terms of key outcomes of the appeals, these matters are of particulate note:</p> <ul style="list-style-type: none"> In terms of the appeal decision relating to Victoria Mill Road, Framlingham, (page 2 of the appendix) the Inspector gave significant weight to the fallback position of the scheme ESC had granted for 35 dwellings which would result in the realignment of the road and the loss of the asset of community value (ACV) (the grass verge). The Inspector concluded that the loss of the ACV was necessary to facilitate the development and the conflict between Neighbourhood Plan Policy FRAM25 and Local Plan Policy SCLP8.1 was resolved in favour of the sites allocation under Policy FRAM25 when taking into account the fallback position. However, the appeal was still dismissed with the Inspector affording more weight to the non-conformity of the proposed development with the allocation policy, than to the social, economic and environmental benefits arising, including the delivery of additional affordable housing and self-build and custom-build housing. 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. Although all cases for rural workers dwellings are unique, the appeal decision at Hillside Farm, Wangford reconfirms the approach of applicants needing to have and be able to demonstrate a functional and essential need for an overnight presence on site (page 22 of the appendix). This concurs with the two appeal decisions that were summarised in the appendix to the Appeals Performance Report to the October 2023 Strategic Planning Committee. Also of particular note is the decision relating to Land South Side of A14, Felixstowe Road, Levington, which sought to change agricultural land to a mixed use of B2 and B8 (page 29 of the appendix). The Inspector agreed with the Local Planning Authority that this location was not suitable for such commercial uses, and that in terms of the required sequential test, the appellants had failed to provide sufficient evidence/justification to support their discounting of sites, enquiries made or the considerations of other locations amongst other things.
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3 How to address current situation

3.1	Quarterly monitoring
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4 Reason/s for recommendation

4.1	That the report concerning the appeals decisions received is noted
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Appendices

Appendices:	
Appendix A	Summary of all appeal decisions received

Background reference papers:	
None.	