

Appendix A

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

Planning Appeals

Application number	DC/20/3514/FUL
Appeal number	APP/X3540/W/21/3267667
Site	Admirals Head Inn, Sandy Lane, Little Bealings
Description of development	Change of use of a vacant public house to residential use
Committee / delegated	Delegated
Appeal decision date	03 December 2021
Appeal decision	Allowed
Main issues	Whether the change of use of the public house to residential use would be justified having regard to local and national policy.
Summary of decision	<p>The site is the former Admirals Inn public house. Its upper floor is in residential use with the ground floor being the area associated with the public house, including a kitchen, dining and bar areas. It ceased trading in 2012 and was nominated as an Asset of Community Value (ACV) in February 2018.</p> <p>Policy SCLP8.1 (Community Facilities and Assets) indicates that proposals to change the use, or redevelop for a different use, a facility registered as an asset of community value will not be permitted. The policy does not otherwise set out any means via which evidence can be submitted to change the use of a designated ACV. It was on this basis that DC/20/3514/FUL was refused.</p> <p>Conversely, the supporting text of SCLP8.1 clearly indicates that the designation of an ACV does not provide protection against the change of use or redevelopment of an asset.</p> <p>Evidence contained within a feasibility report submitted by the applicant showed that the Admirals Head has not positively contributed to the local economy as a viable business since 2012.</p> <p>Based on available evidence, the Inspector found there would be significant challenges in seeking to reopen the pub again after such an extended period of closure and against the backdrop of very strong levels of local competition within its catchment.</p>

	<p>It was also found that attempting to retain the public house in anticipation of a commercially viable business being re-established would not be justified and the Inspector attached significant weight to the evidence in this regard.</p> <p>The community exercised a right to bid during the marketing period; however, their offers were not accepted by the owners as they were not sufficiently close to the marketed price.</p> <p>Therefore, while the NPPF generally seeks to retain public houses, given the lack of viability, length of closure and scale of investment required to re-establish the pub, it would not be justified to seek to retain the site as a pub that would be unlikely to viably trade and contribute to the economy in the foreseeable future.</p> <p>As a result, the Inspector concluded that there was no realistic prospect that the site is going to be reused as a public house and the other material considerations justified taking a decision not in accordance with the development plan.</p>
Learning point / actions	<p>There is a perceived contradiction between the wording of policy SCLP8.1 and the supporting text as to its intentions, particularly in relation to the supporting text's description of the role of ACV legislation which does not provide protection against change of use or redevelopment.</p> <p>There may be evidential circumstances where it is justified to take a decision contrary to policy SCLP8.1 despite its wording indicating that proposals to change the use or redevelop an AVC will not be permitted and no provision within the policy as to the means via which evidence can be submitted to change the use of a designated ACV that has become unviable.</p>

Application number	DC/21/0261/FUL
Appeal number	APP/X3540/W/21/3275223
Site	Hungate Court, Beccles, Suffolk, NR34 9TR
Description of development	Change of use from B1 to 2 bedroom flat.
Committee / delegated	Delegated
Appeal decision date	14 December 2021
Appeal decision	Allowed with conditions
Main issues	The main issue in this appeal was the effect of the proposed development on the living conditions of adjoining occupiers at Huntgate Court and future occupiers of the proposed flat with particular regard to privacy.

Summary of decision	The inspector concluded that there was no substantive difference in overlooking between the existing office use and proposed flat, and that future and current occupiers would have expectations for privacy, including that it may be prudent at times to take the normal precaution of closing blinds or curtains.
Learning point / actions	That without substantive limitations the overlooking from office space and residential is similar, and that expectations of overlooking on future occupiers is a consideration.

Application number	DC/21/0781/OUT
Appeal number	APP/X3540/W/21/3274709
Site	Kersey Croft Kennels, Strugglers Lane, Witnesham IP6 9HS
Description of development	The development proposed is described as an "outline planning application (all matters reserved) for the erection of one dwelling at Kersey Croft Kennels, Strugglers Lane, Witnesham IP6 9HS
Committee / delegated	Delegated
Appeal decision date	16 December 2021
Appeal decision	Allowed
Main issues	The main issue in this appeal is whether the appeal site is an appropriate location for the development having regard to the development plan and accessibility to services, facilities and sustainable transport options.
Summary of decision	<p>The Inspector considered this application under policy SCLP5.4 in terms of clusters.</p> <p>The previous Inspector stated at paragraph 8 that the five properties do not constitute a cluster as they are accessed from Strugglers Lane and The Street, and that there is a very limited sense of connectivity between the site and the properties along The Street. However, the Inspector stated that previous appeal decision did not state unequivocally that the group of properties did not form a cluster and notwithstanding the limited sense of connectivity stated within the previous appeal, it is evident that the group of properties identified by the appellant adjoin one another by its respective garden area.</p> <p>Whilst the Inspector notes that the properties forming this cluster adjoins the settlement boundary of Witnesham, given that the five dwellings denoted as a cluster are beyond the settlement boundary it constitutes a cluster.</p> <p>The Inspector noted that there was nothing to suggest that the properties all need to form a cluster in their own right or that</p>

	<p>they need to be sited along the same highway, rather that they are a close group of existing dwellings adjacent to an existing highway and contains five or more dwellings.</p> <p>It was concluded that the development was an infill given that development exists to the north in the form of Long Acre and to the east in the form of Kersey Croft and would not extend beyond the existing building up area of the surrounding countryside.</p> <p>The decision acknowledged that Strugglers Lane is not ideal for pedestrians and cyclists, given the banking on one side and the lack of refuge areas for those with low mobility, those with children, and cyclists. However, there are bus stops in the vicinity and a footpath on The Street into Witnesham which one could reasonably walk to. Furthermore, although as a small village it does not offer a broad range of services and facilities, there are nonetheless opportunities to walk to those that do exist and opportunities to maximise sustainable transport options to access areas where such facilities do exist.</p>
Learning point / actions	Interpretation of cluster policy SCLP5.4.

Application number	DC/21/0745/FUL & DC/21/0746/LBC
Appeal number	APP/X3540/Y/21/3275101 & APP/X3540/W/21/3275102
Site	34 The Street, Brandeston
Description of development	Proposed single storey rear extension
Committee / delegated	Delegated
Appeal decision date	21 December 2021
Appeal decision	Dismissed
Main issues	The main issue in both appeals is whether the proposal would preserve the Grade II listed building known as 34 The Street or any features of special architectural interest that it possesses.
Summary of decision	<p>The existing cottage was deemed to function adequately as a dwelling with a pleasant flow and different internal spaces. Whilst it may not have met the needs of the appellant, who was seeking a family sized home, it was not demonstrated that the property had not been undesirable to others because of its size.</p> <p>The proposal was unnecessary to secure the use of the building as a dwelling or to improve substandard accommodation.</p> <p>When giving considerable importance and weight to the desirability of preserving the listed building, the Inspector found that the serious overall harm that would arise from the proposal</p>

	<p>would not be outweighed by its limited public benefits. It was also considered that, there would be a conflict with Paragraph 200 of the Framework as harm to a designated heritage asset would not have clear and convincing justification.</p> <p>The proposal was considered to fail to preserve the listed building and that there were no other considerations or public benefits that would outweigh this harm. The proposal was deemed to fail to satisfy the requirements of the Act, the Framework and development plan policies insofar as relevant.</p>
Learning point / actions	None

Application number	DC/20/3362/FUL
Appeal number	APP/X3540/W/21/3280171
Site	Land West of Chapel Road, Grundisburgh
Description of development	Erection of 70 dwellings, including affordable dwellings, together with public open space, roads, accesses, parking, garages, drainage and associated infrastructure.
Committee / delegated	Committee/Non determination Appeal
Appeal decision date	21st December 2021
Appeal decision	Appeal allowed and planning permission granted subject to conditions.
Main issues	<p>Whether or not the proposal would harm the settlement pattern of the area with regard to local and national policies for housing; and</p> <p>Whether or not the proposal would have an unacceptable impact on highway safety or have a severe cumulative impact on the road network.</p>
Summary of decision	<p>The proposal would not harm the settlement pattern of the area with regard to local and national policies for housing. The proposal accords with policy SCLP12.51 of the SCLP and Section 5 of the NPPF which supports the Government's objective of significantly boosting the supply of homes.</p> <p>The proposal would not have an unacceptable impact on highway safety or have a severe cumulative impact on the road</p>

	<p>network, and complies with policy SCLP7.1 of the SCLP and paragraphs 110 and 111 of the NPPF.</p> <p>The proposal complies with the locational site allocation policy SCLP12.51 and with other relevant policies including affordable housing policy SCLP5.10, sustainable transport policy SCLP7.1, biodiversity policy SCLP10.1, and design quality policy SCLP11.1. Whilst there was considered to be a limited conflict with NDHA policy SCLP11.6, the Inspector concluded that the proposal accords with the development plan when taken as a whole.</p>
Learning point / actions	Significant weight should be given to Local Plan in decision taking.

Application number	DC/21/3697/FUL
Appeal number	APP/X3540/D/21/3285944
Site	9 Gunton Church Lane, Lowestoft NR32 4LE
Description of development	Front garage extension
Committee / delegated	Delegated
Appeal decision date	04 January 2022
Appeal decision	Dismissed
Main issues	The main issue is the effect of the proposed garage extension on the character and appearance of the locality.
Summary of decision	<p>The overall scale and massing of the extension would result in a bulky and conspicuous projection forward of the relatively uniform building line.</p> <p>This would result in a jarringly awkward visual effect, harmfully interrupting and eroding the otherwise open character at the front of dwellings in this part of Gunton Church Lane. Given the position of the appeal site close to the principal junction with Yarmouth Road, the harmful impact of the garage in the street scene would be highly conspicuous.</p>
Learning point / actions	Using Policy WLP8.29 and valuing the importance of responding to the local context and the form of surrounding buildings in terms of layout and the relationship between buildings and spaces and the wider street scene. In addition, conflict with the fundamental objectives of the planning and development process to create high quality places and secure developments that add to the overall quality of an area, as set out at paragraphs 126 and 130 of the National Planning Policy Framework.

Application number	DC/20/1666/FUL
Appeal number	APP/X3540/W/21/3273329
Site	Former Itron Factory, Carr Road, Felixstowe IP11 2ER
Description of development	The development proposed is demolition of ancillary buildings and plant and the change of use and subdivision of main building from B1I business use to mixed business uses, including B1(a) office, B1(c) light industrial, B8 storage and ancillary A3 café. Creation of new vehicular access onto Carr Road, new car parking and alterations to elevations to existing building to create new openings.
Committee / delegated	Committee
Appeal decision date	6 January 2022
Appeal decision	Allowed
Main issues	The main issue is the suitability of the location for the proposed B8 storage use, with particular regard to development plan policies concerning such uses; and, related to this, the effect on the living conditions of nearby residents related to heavy goods vehicle (HGV) movements to and from the appeal site.
Summary of decision	<p>The B8 element accounts for 28% of the total floorspace and the units would be used as trade counters, where the primary use is storage with an ancillary trade counter element. Trade counter warehouses are generally stocked with materials, tools or similar supplies and service local trades which typically have accounts and order online and collect. Stock is replenished mostly in vans and occasionally by lorry. Based on the amount of floorspace and by comparison with similar operations elsewhere, it is estimated that typically one to three HGV movements each week might be expected.</p> <p>The Inspector gave weight to the history of HGV movements to and from the site during its previous use; it was noted that the Highway Authority did not object and the Inspector considered that the limited number of HGV movements would not be of sufficient frequency to result in material harm Through noise, disturbance or other inconvenience to local residents or other road users, including those related to nearby tourist locations.</p>
Learning point / actions	Policy background for SCLP12.9 is unclear where it directs B8 use to land allocated under Policy SCLP12.4 which discusses residential development.

Application number	DC/21/1902/OUT
Appeal number	APP/X3540/W/21/3277757
Site	Land adjacent to 295 High Road, Trimley St Martin IP11 0RJ
Description of development	The development proposed is residential development with associated works.

Committee / delegated	Delegated
Appeal decision date	6 January 2022
Appeal decision	Dismissed
Main issues	The main issues are the effect of the proposal on the character and appearance of the surrounding area; and the effect on the living conditions of future occupiers of the proposed dwelling on Plot 1, with regard to privacy.
Summary of decision	<p>The Inspector discusses the general character and appearance of the surrounding area and found that the proposal was in contrast to that noting that the two proposed dwellings would be sited on much smaller plots with little set-back from the plot frontages. Both dwellings would also be sited close to the side boundaries, resulting in a cramped and overdeveloped appearance, both in their own right and particularly by comparison to the layout of properties in the surrounding area. Moreover, both dwellings would be positioned considerably further forward than the neighbouring dwellings with frontages on High Road and the access road behind the appeal site. The Inspector confirmed that the any landscaping would not sufficiently screen the site to mitigate against its impact.</p> <p>The Inspector agreed that the living conditions of the proposed plots would be impacted by the relationship with No.295 whose first-floor bedroom windows face into the site at close proximity. It was concluded that the proposal is contrary to Policy SCLP11.2 where it would harmfully compromise the reasonable use and enjoyment of the proposed dwelling's garden through the loss of privacy.</p>
Learning point / actions	None

Application number	DC/20/4555/FUL
Appeal number	APP/X3540/W/21/3276252
Site	Land south of Low Road, Hasketon IP13 6JG
Description of development	Erection of 3no. new dwellings and associated shared vehicular access and driveway
Committee / delegated	Delegated
Appeal decision date	7 January 2022
Appeal decision	Dismissed
Main issues	The main issue is the suitability of the location for the proposed dwellings, with particular regard to the development plan's spatial strategy, access to local services and facilities, and the effect on the character and appearance of the appeal site and surrounding area.

Summary of decision	<p>The Inspector considered this application under policy SCLP5.4 in terms of clusters.</p> <p>As Hasketon is a designated small village, it follows that the existing dwellings within the settlement cannot be classified as part of a cluster. The only dwellings that could form part of a cluster as defined in Policy SCLP5.4 are the property immediately to the west, Lantern House, and those north of the appeal site. It is not clear that this small number of dwellings amount to 5 in total and would, therefore, numerically constitute a cluster. Furthermore, the extent of the substantive gap between these dwellings, particularly Lantern House and the next property to the north, Paddock View, means that they cannot reasonably be described as being located in a continuous line or close group. Rather, these dwellings represent a loose-knit and informal grouping of dwellings that has occurred over time outside the more tightly-defined built form of the settlement.</p> <p>The Inspector found above that the proposal constitutes development in the countryside and, as such, it would undermine the planned spatial strategy in the development plan.</p> <p>It was found that the appeal site in its undeveloped form made a positive contribution to the surrounding area by marking the distinct settlement edge and provided separation from the limited development outside the boundary. The proposal would continue the linear residential development along the south side of Low Road, harmfully extending the village's built form into the countryside.</p>
Learning point / actions	Interpretation of cluster policy SCLP5.4

Application number	DC/20/4000/OUT
Appeal number	APP/X3540/W/21/3270208
Site	Land adjacent Newstead, The Street, Pettistree IP13 0HP
Description of development	outline planning permission for 1no. dwelling and vehicular access
Committee / delegated	Delegated
Appeal decision date	10 January 2022
Appeal decision	Dismissed
Main issues	Whether the appeal site is an appropriate location for the development having regard to the development plan, and,

	The effect of the development on European designated sites.
Summary of decision	<p>The Inspector considered this application under policy SCLP5.4 in terms of clusters.</p> <p>The majority of properties that surround the appeal site are within the settlement boundary of Pettistree and thus, are not within the countryside as defined by Policy SCLP3.3. The properties to the east, whilst outside the settlement boundary are dispersed and separated by fields and open areas as such do not constitute a close group.</p> <p>Given the Inspector found the proposal contrary to SCLP5.4 a) it was not considered necessary to see if it complied with the remaining policy criterion.</p> <p>The Inspector drew on similarities of the Kelsale appeal where it was sited beyond its defined settlement boundary and relied upon dwellings within the settlement boundary to form a cluster.</p>
Learning point / actions	<p>Interpretation of cluster policy SCLP5.4</p> <p>Properties located within the settlement boundary cannot be counted as part of the cluster. All five properties must be located outside the settlement boundary.</p>

Application number	DC/20/2953/FUL
Appeal number	APP/X3540/W/21/3272411
Site	Land Adjacent Dormy House, Peace Place, Thorpeness, IP16 4NA
Description of development	Erection of single storey dwelling with associated landscaping
Committee / delegated	Delegated
Appeal decision date	10 January 2022
Appeal decision	Dismissed
Main issues	<p>Whether the development would preserve or enhance the character or appearance of the Thorpeness Conservation Area and the setting of surrounding listed buildings, and</p> <p>The effect of the development on Protected European Sites.</p>
Summary of decision	The development would fail to preserve or enhance the character and appearance of the Thorpeness Conservation Area. It would be in conflict with Policy SCLP11.5 and paragraphs 199 and 202 of the NPPF which seek, amongst other things, to

	<p>ensure that developments preserve or enhance the character and appearance of a conservation area.</p> <p>As Appeal was dismissed the Inspector did not consider whether RAMS payments could be subject of a negatively worded condition.</p>
Learning point / actions	Protection of character and appearance must be given utmost significance in Conservation Area.

Application number	DC/21/2191/FUL
Appeal number	APP/X3540/D/21/3280180
Site	329 London Road South, Lowestoft, NR33 0DY
Description of development	Change front windows
Committee / delegated	Delegated
Appeal decision date	18 January 2022
Appeal decision	Dismissed
Main issues	Whether the development would preserve or enhance the character or appearance of the Lowestoft Conservation Area and the setting of surrounding character area and any listed buildings
Summary of decision	<p>The inspector assessed the application against Policy WLP8.39, section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 and the NPPF. The Conservation Area in this location is characterised by residential properties, whilst some timber sash windows have been replaced with non-timber products for instance aluminium and UPVC, timber windows of a sliding sash design are a predominant feature in the area. Timber sash windows play a role in defining the historic character of the area which is part of the Conservation Area's significance as a heritage asset.</p> <p>The appellant indicated that replacement and maintenance costs associated with timber windows are prohibitive, however this was not presented with demonstrable evidence to support this. The appellant considers that the replacement of windows with UPVC will have carbon reduction benefits, whilst this maybe the case they were not provided with demonstrable evidence which would persuade the inspector that the replacement with UPVC is the only solution for improvements to thermal performance. There are no public benefits which would outweigh the harm caused by the proposed development.</p>

Learning point / actions	Protection of character and appearance must be given utmost significance in Conservation Area.
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Application number	DC/21/1817/FUL
Appeal number	APP/X3540/D/21/3280092
Site	7 Anchor Way, Carlton Colville, Lowestoft, Suffolk NR33 8GR
Description of development	Two storey front extension plus single storey front extension to garage
Committee / delegated	Delegated
Appeal decision date	19 January 2022
Appeal decision	Dismissed
Main issues	The main issues in this appeal are the effect of the proposed development on (i) the character and appearance; and (ii) highway safety.
Summary of decision	<p>The existing property is set forward from the adjacent property, No. 5 Anchor Way). Due to this relationship, along with the road layout and building orientation the existing property is prominent within the streetscene. The proposed two storey extension would add further mass to this prominent elevation.</p> <p>The proposed single storey extension to the garage is inconspicuous and would not be a dominant addition to the property. Notwithstanding this I find that the proposed development would be incongruous to the streetscene and would harm the character and appearance of the area.</p> <p>No demonstrable evidence confirming the exact extent of the proposed driveway and therefore not confident that adequate parking could be achieved. The proposed development would lead to vehicles overhanging the shared access drive which would be detrimental to the safety of other highway users which conflicts with the Technical Guidance.</p>
Learning point / actions	The remaining driveway would be less than the 6m required by the Suffolk Guidance for Parking, Technical Guidance (May 2019) relating to the development of garages with parking spaces in front. The appellant contends that this does not account for roller shutter doors and that the driveway could be reduced in this situation. Noted that the Technical Guidance at section 4.1.2 (1) does reference a reduction of 0.5m when a roller shutter door is installed on a garage. Whilst this relates to deterring inappropriate parking the Inspector saw no reason why this reduction could not apply to the appeal site, yet still

	concluded the development would be harmful to highway safety.
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Application number	DC/21/1523/FUL
Appeal number	APP/X3540/D/21/3276346
Site	14 Borrow Lane, Lowestoft, NR32 3PN
Description of development	Rear extension and replacement attached garage
Committee / delegated	Delegated
Appeal decision date	19 January 2022
Appeal decision	Dismissed
Main issues	The overdevelopment of the residential site and its impact on visual appearance and residential amenity
Summary of decision	The inspector concluded that the proposed development would harm the living conditions of the occupants of No. 12 Borrow Road. There is conflict with Policy WLP8.29 of the Local Plan which seeks amongst other things to protect the living conditions of the occupants of neighbouring properties. There is also conflict with the National Planning Policy Framework (2021) which seeks to ensure developments maintain a high standard of amenity for existing and future users.
Learning point / actions	Significant weight should be given to Local Plan in decision making, especially in relation to residential amenity.

Application number	DC/21/2652/FUL
Appeal number	APP/X3540/D/21/3285169
Site	Heath Farm Barn, London Road, Kessingland, NR33 7PQ
Description of development	Proposed single, two storey and first floor extensions.
Committee / delegated	Delegated
Appeal decision date	26 January 2022
Appeal decision	Allowed
Main issues	The main issue is the effect of the proposed extensions on the character and appearance of the host dwelling and surrounding area, as well as overdevelopment and overlooking.
Summary of decision	<p>The existing dwelling has a relatively large footprint but is of modest height. The proposed extensions would add to the footprint to a limited extent, while the principal change would be to the height of the building.</p> <p>The two storey elements would materially change the dwelling's character and appearance by creating a substantially larger building of greater bulk and mass.</p>

	<p>However, while not unattractive, the existing building has little architectural merit in its own right and the drawings show that the proposed extensions would result in a proportionate and well-designed dwelling using materials matching the original.</p> <p>In these circumstances, despite the change in height, there would be no conflict with one of the principal purposes of Policy WLP8.9, which is to ensure that there is no adverse effect on the character and appearance of the building.</p> <p>Heath Farm Barn is set well back from the road frontage behind the dwellings with which it forms a group. Views of it from the public realm are only available between the large, detached dwelling, Poppy Dale Farm, and the four dwellings that comprise Heath Terrace. Both buildings are two storey and of substantial size. As such, the extended dwelling would be seen as characteristic of the predominant built form in the small group. Moreover, its overall size seen in passing views from the road frontage would be diminished by its distance behind the buildings framing it to either side.</p> <p>The appeal property is set within a large residential curtilage with an extensive garden to the rear. Consequently, the extended building would not be readily visible from open land beyond this.</p>
Learning point / actions	Weigh up the harm of massing against separation distances of buildings and location in relation to being obscured from the public realm

Application number	DC/21/0749/VOC
Appeal number	APP/X3540/D/21/3275974
Site	Pakefield Caravan Park, Arbor Lane, Lowestoft, NR33 7BE
Description of development	Variation of Condition No 2 of W8089/7 - Use of approx 7.1 acres as static holiday caravan site and the construction of roads, drains and hardstandings for reorganised layout ("The Bushes Site") - Allow 12 month, all year round holiday occupation
Committee / delegated /	Delegated
Appeal decision date	3 February 2022
Appeal decision	Allowed
Main issues	That the removal of a closed period would be contrary to policy WLP8.15, and reduce the effectiveness of officers to monitor for year round occupation.

Summary of decision	The inspector concluded that given the context with part of the site already having year occupation, the part of the site subject to this permission have a closed period policy lower than policy dictating, and that policy WLP8.15 did not expressly seek to retain a closed period, that the allowance of year round occupation would not be harmful. They were also not satisfied that substantive evidence to persuade them otherwise that a closed period offers the only or most efficient and effective way to control non-residential use of the site.
Learning point / actions	That variation of condition of a closed period would not directly conflict with the requirement of policy WLP8.15, which seeks to apply a closed period to only new tourist accommodation.

Application number	DC/20/1036/FUL
Appeal number	APP/X3540/W/21/3279958
Site	Land East & West of the Square, Eagle Way, Martlesham Heath, Suffolk, IP5 3SL
Description of development	Construction of retirement apartments for the elderly, a new public car park, access, landscaping and ancillary development.
Committee / delegated	Committee
Appeal decision date	3 February 2022
Appeal decision	Withdrawn
Main issues	n/a
Summary of decision	n/a
Learning point / actions	n/a

Application number	DC/21/1716/FUL
Appeal number	APP/X3540/D/21/3281691
Site	Wilmar, Market Lane, Blundeston, NR32 5AW
Description of development	Proposed external stair and creation of first floor balcony, along with associated balustrade and privacy screening
Committee / delegated	Delegated
Appeal decision date	4 February 2022
Appeal decision	Dismissed
Main issues	The main issue in this appeal is the effect of the proposed staircase on the living conditions of the occupants of the neighbouring property, Philcot
Summary of decision	The Inspector concluded that the proposed development would harm the living conditions of the occupants of the neighbouring property, Philcot.

	<p>There is conflict with Policy WLP8.29 of the Local Plan which seeks amongst other things to protect the living conditions of the occupants of neighbouring properties.</p> <p>There is also conflict with the National Planning Policy Framework (2021) which seeks to ensure developments maintain a high standard of amenity for existing and future users.</p>
Learning point / actions	Liaison with Building Control was a relevant factor in this particular case and can have a bearing on the planning decision.

Application number	DC/21/0352/FUL
Appeal number	APP/X3540/W/21/3282800
Site	Orwell Park Gardens, Church Road, Nacton, Ipswich, IP10 0EP
Description of development	Erection of a new 3-bed detached bungalow with detached double garage.
Committee / delegated	Delegated
Appeal decision date	7 February 2022
Appeal decision	Dismissed
Main issues	Principle of development in the countryside. Possible cluster
Summary of decision	<p>Appeal dismissed as site was not considered to be within a cluster as there were only two other dwellings close by (not five as required by the policy). The school buildings opposite were not considered to form part of the group as they are not dwellings.</p> <p>The site is walkable to Nacton village however in the absence of pavements and streetlights would not provide a safe route. The limited range of services and facilities would mean future occupiers would likely be reliant on the private car to access many day to day needs.</p> <p>The modest economic and social benefit of one additional dwelling is not considered sufficient to permit the proposal contrary to the Local Plan.</p>
Learning point / actions	<p>Non-residential buildings do not 'count' as being within a cluster.</p> <p>The Local Plan takes into consideration limited public transport provision in more rural areas and the overall strategy addresses this, in line with the NPPF.</p>

Application number	DC/21/1781/FUL
Appeal number	APP/X3540/D/21/3284073
Site	16 Lakeside Avenue, Thorpeness, Aldringham Cum Thorpe, IP16 4NJ
Description of development	Proposed alterations and extensions
Committee / delegated	Delegated
Appeal decision date	7 February 2022
Appeal decision	Allowed with conditions
Main issues	The effect of the proposal on the living conditions of its occupants and adjacent occupants; and its design.
Summary of decision	<p>The Inspector concludes that because the dwelling is about 1.5m lower than the nearest part of the adjacent garden and that the height of the extension would be limited to 1.5 storeys and that it would be 5m from the boundary, it would not be dominant or overbearing in relation to the neighbouring dwelling or its garden (Mill House).</p> <p>The Inspector concluded that the relationship between the development and that dwelling would avoid unacceptable overlooking of it, due to the separation distance (27m) and offset positioning.</p> <p>The Inspector acknowledged that the rear facing window would overlook the neighbours garden, stating that it is usual that overlooking of gardens in residential areas cannot be avoided altogether, and given the size of the rear garden of Mill House, the proposed first floor windows would not represent an unacceptable level of overlooking.</p> <p>The Inspector also considered that the relationship between the proposed window facing 18 Lakeside Avenue was acceptable due to the separation distance.</p> <p>The Inspector also concluded that due to the raised bank within the area of the garden proposed to accommodate the additions, the scheme would not unacceptably reduce the amount of useable private garden area at the appeal property.</p> <p>In terms of the design, the Inspector considered that the proposal central extension and gabled elements would be in keeping with the existing building and the Arts and Crafts style of the locality. The flat roofed element would be on the rear and not on a prominent elevation, so the Inspector concluded the projection above the eaves level would not be unacceptably</p>

	disruptive to the original design; or the character of the Conservation Area; or nearby Listed Buildings; or the AONB.
Learning point / actions	This appeal was determined on matters of judgement relating to residential amenity and visual amenity. Each proposal and each site is different and therefore it is difficult to draw conclusions that can be directly applied elsewhere, other than to say that careful consideration should be given to overlooking whilst accepting that some overlooking is accepted in residential areas, and therefore it is not always appropriate to refuse a scheme where there is a significant back to back separation distance between the proposal and neighbouring dwelling.

Application number	DC/20/5052/OUT
Appeal number	APP/X3540/W/21/3280779
Site	Land north of Snipe Farm Road, Clopton, IP13 6SQ
Description of development	The development proposed is for the erection of 2no. dwellings with cart lodges.
Committee / delegated	Delegated
Appeal decision date	8 February 2022
Appeal decision	Dismissed
Main issues	The main issues in this case are whether the site is suitable for new housing and the effect of the development on biodiversity.
Summary of decision	<p>The development is proposed under Local Plan Policies SCLP5.3 (b) and SCLP5.4 for new residential development in clusters in the countryside. The Inspector also notes that whilst not directly mentioning it, the appellant's case also suggests that it would meet exception (g) of LP Policy SCLP5.3 which allows residential development consistent with the National Planning Policy Framework in regard to housing in the countryside.</p> <p>There are a number of buildings nearby to the appeal site, including some residential dwellings. However, these are predominantly separated from each other, and from the appeal site, by fields or otherwise open land. In particular, the appeal site is separated by what appears to be an equestrian paddock from the closest dwelling on Snipe Farm Road. There are two dwellings on the opposite side of Manor Road which are close to the appeal site, and the Inspector considered their proximity close enough to contribute towards a cluster. However, as they comprise only two dwellings, they cannot be considered a cluster for the purposes of Policy SCLP5.4 of the LP. As such, the appeal site is not within a cluster of dwellings and does not meet exception (b) of Policy SCLP5.3. Therefore, even if the proposal were to meet the requirements set out in points (b) to</p>

	<p>(d) of Policy SCLP5.4 it would still not be an exception as Policy SCLP5.4 requires that all points are met. The Inspector did not review the proposal against the other criteria of SCLP5.4 due to non-compliance in principle.</p> <p>The Inspector also concluded that due to the limited services and facilities in Clopton, future residents would likely be heavily reliant on the use of private motor vehicles to satisfy their daily needs. For this reason, the site would not meet any exception within the development plan, it is not within a suitable location for a new dwelling and future occupants would not support the local community. The proposal is contrary to the locational strategy set out in policies SCLP3.2, SCLP3.3, SCLP5.3 and SCLP5.4 of the LP. It would also be in conflict with the housing strategy set out under Section 5, including Paragraph 79, of the Framework.</p> <p>The appellant's Preliminary Ecological Assessment (PEA) identifies a number of species, including bats, nesting birds, reptiles and great crested newts, which could make use of the site to varying degrees. The PEA therefore requested that additional surveys were undertaken in order to determine the presence of protected species, which were not undertaken as part of the application. Officers did not request additional information/surveys at the applicant's expense given the 'in-principle' conflict with the Local Plan Policies for housing. The Inspector noted the applicants willingness to provide the additional information by condition should the appeal be allowed, however this would result in permission being granted before it is established that either significant harm to wildlife and biodiversity would not occur or an appropriate level of mitigation would be possible. The proposal would therefore conflict with LP Policy SCLP10.1 which requires that development maintains, restores or enhances existing green infrastructure or, where harm is found, the benefits outweigh the biodiversity loss. The proposal would also conflict with Section 15, including Paragraph 174, of the Framework which, amongst other matters, seeks to protect and enhance the natural environment.</p>
<p>Learning point / actions</p>	<p>Each 'cluster' site must be considered on its own merits and setting rather than on previous decisions, as different circumstances are relevant to each site.</p> <p>Additional ecological surveys should always be submitted upfront to ensure that there is no harm to protected species or habitats through the creation of new development.</p>

Application number	DC/21/2171/FUL
Appeal number	APP/X3540/W/21/32881862
Site	Archway Piggeries, Butts Road, Playford, IP6 9DP
Description of development	Erection of a detached dwelling
Committee / delegated	Delegated
Appeal decision date	9 February 2022
Appeal decision	Dismissed
Main issues	Whether the fallback position of a Class Q permitted conversion, followed by approval for full planning permission for the conversion and extension of the building with all conditions discharged was sufficient to justify a 'replacement dwelling' located elsewhere on the site.
Summary of decision	<p>Although the existing approval had discharged all relevant conditions such that the development could commence (the applicant stated that it had commenced although this point was not discussed), the building was clearly not a dwelling such that the 'replacement dwellings' reference in SCLP5.3 applied.</p> <p>The proposed curtilage, design and siting of the new dwelling would result in the dwelling more prominent from the public footpath and would result in landscape harm contrary to SCLP10.4.</p> <p>Although some benefits were referenced e.g. design of new dwelling, siting away from neighbouring boundaries and some public access, this wasn't considered to outweigh the conflict with the development plan as a whole.</p>
Learning point / actions	An existing permission cannot be considered to be a dwelling/fallback position for consideration as a replacement dwelling if the dwelling does not yet exist.

Application number	DC/21/2292/ROC
Appeal number	APP/X3540/W/21/3281828
Site	Meadow View, Wash Lane, Beccles, NR32 8TP
Description of development	Removal of Condition Nos 1, 2 and 3 of W14887/1 - Construct new farmhouse Valley Farm Wash Lane London Road Beccles.
Committee / delegated	Delegated
Appeal decision date	11 February 2022
Appeal decision	Dismissed
Main issues	The main issue in the appeal is whether or not condition 2 (conditions 1 and 3 were not relevant to the consideration of the removal of the agricultural workers restriction) meets the

	tests set out in the National Planning Policy Framework (the Framework) with particular reference to the test of necessity.
Summary of decision	<p>Outline permission was granted in 1990 for a farmhouse, which was subsequently built. Condition 2 of that permission restricts its occupation to a person employed in the locality in agriculture or forestry, their dependants or a widow or widower of such a person. The house was occupied by a farmer until 2018; it has since been occupied by his widow who now requires alternative accommodation due to health problems. Most of the farm holding was sold in 2006. The property has been with an estate agent since 2017.</p> <p>Policy WLP1.2 of the LP restricts residential development in the countryside but Policy WLP8.8 allows for rural workers dwellings. That policy requires that occupancy is restricted by condition, but it also sets out requirements in respect of applications to remove occupancy conditions. Although the property has been with an estate agent since 2017, no details have been provided in respect of any marketing that has been undertaken. The agent has stated that only one person, who had no agricultural connection has expressed an interest. However, no information has been provided regarding any period(s) of active marketing, of the methods used, sales particulars, asking price or any discount applied to reflect the occupancy restriction. Neither is there any submitted evidence that the dwelling has been made available to Registered Providers in accordance with the policy.</p> <p>For these reasons the requirements of Policy WLP8.8 have not been met and it has not been adequately demonstrated that there is no longer a need for the dwelling to house a rural worker. The fact that the dwelling is no longer on a farm holding does not alter this planning policy requirement.</p>
Learning point / actions	Whilst the Inspector gave consideration to the current occupants needs, it was considered that these do not outweigh the need for affordable rural workers housing. The removal of condition 2 would be in direct conflict with WLP8.8 and guidance in appendix 4 of the Local Plan.

Costs Decisions

Application number	DC/20/4555/FUL
Appeal number	Costs application in relation to APP/X3540/W/21/3276252
Site	Land South of Low Road, Hasketon, IP13 6JG
Description of development	Erection of 3no. new dwellings and associated shared vehicular access and driveway.

Committee / delegated	Delegated
Appeal decision date	7 December 2021
Appeal decision	Allowed
Main issues	Ascertain whether the council has behaved unreasonably, and such behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
Summary of decision	<p>The Council's alleged unreasonable behaviour with regard to its refusal of planning permission following advice to the applicant that created a reasonable expectation that permission would be granted.</p> <p>The council noted within its delegated report on one of the previously refused application that a reduction in number of dwellings on the site would be acceptable. It also noted that the site was considered to be a cluster as identified within policy SCLP5.4. This was confirmed in further pre-app advice.</p> <p>The Inspector found the advice given on a number of separate occasions was consistent, clear and unequivocal in that an application as submitted would be supported, this application was then subsequently refused, due to a change in the approach to the interpretation of SCLP5.4 in view of appeal decisions on other sites within the district.</p> <p>The Inspector accepted the applicant's contention that the application was submitted in good faith and with a reasonable expectation that permission would be granted based on advice given by the Council in its delegated report and subsequent emails. Had that advice not been given, the applicant may well have not submitted the application and avoided any expenses by testing the Council's position through an appeal.</p> <p>The Inspector granted the full costs of the appeal proceedings, but also dismissed the associated appeal.</p>
Learning point / actions	<p>Whilst the approach taken by the LPA in their final decision was accepted by the Inspector as they dismissed the appeal on the basis that the site did not form part of a cluster, this change in approach to the interpretation of SCLP5.4 left the Local Planning Authority open to costs.</p> <p>Therefore, the key learning point is to ensure consistency in approach to the application of planning policy. However, it must also be recognised that the interpretation of planning policy should be informed by relevant appeal decisions. The LPA must adapt and thus not seek to pursue a particular interpretation of</p>

	a policy if it has been found to be inappropriate during relevant appeal decisions elsewhere in the district.
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Application number	DC/21/1523/FUL
Appeal number	Costs application in relation to APP/X3540/D/21/3276346
Site	14 Borrow Lane, Lowestoft, NR32 3PN
Description of development	Rear extension and replacement attached garage
Committee / delegated	Delegated
Appeal decision date	19 January 2022
Appeal decision	Dismissed
Main issues	Ascertain whether the council has behaved unreasonably by not applying provided shadow diagrams, and such behaviour has directly caused another party to incur unnecessary or wasted expense.
Summary of decision	<p>The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.</p> <p>The applicant believed that the Council failed to apply its own guidance documents to the application and therefore acted unreasonably and that this behaviour has caused them unnecessary expense.</p> <p>In the associate appeal decision the Inspector agrees with the Council and that there were sufficient grounds for refusing planning permission on grounds relating to the effect of the proposal on the living conditions of the occupants of a neighbouring property.</p> <p>The Inspector found that the Council had reasonable concerns about the effect of the proposed development which justified its decision. As a result, it was found that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.</p>
Learning point / actions	This decision confirms that if the LPA has reasonable and justifiable reasons for refusing consent, on the basis of an assessment of the proposals, and it has not acted unreasonably in any other respect, an award of costs to the appellant would be unreasonable.