



STRATEGIC PLANNING COMMITTEE

Monday, 14 December 2020

PLANNING APPEALS REPORT

EXECUTIVE SUMMARY

This report provides an update on all appeal decisions received from the Planning Inspectorate between 25 August 2020 and 30 November 2020.

Is the report Open or Exempt?	Open
Wards Affected:	All
Cabinet Member:	Councillor David Ritchie Cabinet Member with responsibility for Planning and Coastal Management
Supporting Officer:	Liz Beighton Planning Development Manager 01394 444778 Liz.beighton@eastsoffolk.gov.uk

1 INTRODUCTION

- 1.1 This report provides a summary on all appeal decisions received from the Planning Inspectorate between the 25 August 2020 and 30 November 2020.

2 APPEAL DECISIONS

- 2.1 A total of 31 planning appeals and eight appeals against enforcement notices have been received from the Planning Inspectorate since the 25 August 2020 following a refusal of planning permission from either Suffolk Coastal District Council, Waveney District Council or the newly formed East Suffolk Council.
- 2.2 A summary of all the appeals received is appended to this report.
- 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% success rate for major applications, 27.25% success rate for minor applications and 39.25% success rate for householder applications. Taken as a whole that means that slightly over 36% (or 1 in 3) of app planning appeals are successful.
- 2.5 29 of the planning applications appealed were delegated decisions determined by the Head of Planning and Coastal Management. Two of the decisions (Pilgrims Way, Bungay and St Mary's, Westerfield) were determined by the respective Planning Committee – one was dismissed and one was allowed. One appeal was determined via a Public Inquiry (Rendlesham), two via a Hearing (Wood Farm, Otley) and the remaining 28 via the written representations procedure.
- 2.6 Of the appeals against planning permission 21 of the decisions were dismissed (approximately 67.7%) and ten allowed (approximately 32.3%). These statistics show that the Council's success rate in defending appeals is above the national average and provides confidence that the Council is able to robustly defend against unacceptable development and has a suite of policies available to assist defence.
- 2.7 There were no appeal decisions on enforcement notices during the reporting period.
- 2.8 There are no areas of concern raised in any of the appeals. The majority of the decisions which have been allowed are on the grounds of a difference of opinion on design and are not in relation to any significant applications. In regards of the appeal relating to Nourish café, at the time of determination the change was contrary to policy, however the subsequent introduction of changes to the Use Classes Order meant that both the existing and proposed uses fell within the new class E and hence planning permission was not required for the change of use, and therefore the appeal was allowed.
- 2.9 The Council has successfully defended its decision on a number of significant applications on grounds of principle of development and design. Two decisions have (Kelsale and Benhall) have sought to provide the Council with some clarification of the new policy on clusters contained in the Suffolk Coastal Local Plan.

2.10 There have been four costs claims made – three by appellants and one by the council. There was a part award of costs in favour of the appellant and the other claims were dismissed.

3 REASON FOR RECOMMENDATION

3.1 This report is for information only.

RECOMMENDATION

That the content of the report is noted.

BACKGROUND PAPERS - None

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

Application number	DC/19/4879/FUL
Appeal number	APP/X3540/W/20/3253064
Site	Land south of Summer Lane, Bromeswell IP12 2QA
Description of development	Building of one single storey dwelling and detached garage, extensive planting of shrubs, trees, wild flower meadow, hedges and hedgerow and change of use from current agricultural
Committee / delegated	Delegated
Appeal decision date	26 th October 2020
Appeal decision	Dismissed
Main issues	<ul style="list-style-type: none"> • Whether the site is in a suitable location for a new dwelling; and • The effect of the proposed development on the character and appearance of the area.
Summary of decision	<p>The inspector has confirmed that the site appears as the edge of the settlement rather than being located within an existing gap, and would be separated from the existing properties which gives the appearance of being beyond the extent of the built up area., as such the proposal would not comply with Policy SCLP5.4 (Cluster). When considering the sustainable nature of the site, the inspector paid attention to the narrowness of the roads, and lack of footpaths in the village, which when combined with the lack of facilities and minimal public transport concluded that the site was not within a sustainable location as journeys would predominantly be made by private transport in order to gain access to services in other settlements.</p> <p>The inspector confirmed that the limited design detail of the proposed dwelling provides little visual interest and combined with the asymmetrical hipped roof, would be incongruous and fail to make a positive contribution to the overall character of the area. Furthermore the use of pink render and solar slate roof would not when used together, be sympathetic to the area which is characterised by rendered dwellings with pantiled roofs. As such, the proposed development would have a harmful effect on the character of the area. The inspector has included paragraph 130 of the Framework in terms of poor design.</p> <p>The Inspector did consider that the planting of a wild flower meadow along with additional hedges and trees would mitigate against some of the harmful affects of domestic paraphernalia in terms of the creation of the curtilage.</p>
Learning point / actions	The inspector did make reference to a positive pre-app for holiday lodges on the site, and noted that had these been approved would be considered as a fallback position.

Application number	DC/20/1444/FUL
Appeal number	APP/X3540/W/20/3255265
Site	Marsh End, 283 Ferry Road, Felixstowe, Suffolk IP11 9RX
Description of development	New dwelling

Committee / delegated	Delegated
Appeal decision date	27 October 2020
Appeal decision	Dismissed
Main issues	This is whether the proposal would be appropriate in this location, with particular regard to the level of accessibility to services, the living conditions offered to future occupiers and the character and appearance of the area.
Summary of decision	<p>The Inspector has confirmed that the proposals are contrary to the cluster policy where the scheme conflicts with the terms of Policy SCLP5.4 b) as it would not consist of infilling within a continuous built up frontage, nor a clearly identifiable gap within an existing cluster or be otherwise adjacent to existing development on two sides. Even if argued to the contrary, the proposal would still harm the overall character and appearance of this area and be a discordant visual intrusion, in conflict with part d) of Policy SCLP5.4. This policy also requires particular care be exercised given the sensitive location within the AONB/Heritage Coast. The harm found to the character and appearance of the area would also conflict with LP Policy SCLP5.7, which requires that garden development causes no harm in this regard, and Policy SCLP10.4, insofar as this protects the landscape quality of the AONB.</p> <p>The design of the host dwelling contributes positively to this. Whilst the design of that proposed would be equally satisfactory when considered in isolation, where sited it would be harmfully out of character, for the reasons already explained. The Council's recent decision to permit five contemporary dwellings opposite on the golf clubhouse site, evidently to be quite evenly and spaciously arranged, would not overcome the concerns with this rather cramped and incongruous proposal.</p> <p>There would be small social and economic benefits from the development proposed, in respect of housing supply and the local economy. However, these would be insufficient to outweigh the significant environmental harm identified.</p>
Learning point / actions	This is a good decision in relation to upholding the councils cluster policy SCLP10.4.

Application number	DC/19/3773/FUL
Appeal number	APP/X3540/W/20/3251395
Site	Rivendell, Church Road, Mutford, Suffolk, NR34 7UZ
Description of development	Erection of a single storey dwelling, drive access, fencing, materials.
Committee / delegated	Delegated
Appeal decision date	28 September 2020
Appeal decision	Dismissed
Main issues	The effect of the proposed development on the character and appearance of the area.
Summary of decision	The principle of residential development within the garden area is considered acceptable in planning policy terms because it is situated within the defined settlement boundary. This is, however, a starting point for determining if a proposal is acceptable when considered against the policies of the development plan as a whole.

	<p>The proposed access to the site is situated outside of the settlement boundary in the designated countryside, where the principle of residential development is not generally supported.</p> <p>The proposed dwelling, to the rear of Rivendell, would appear as a tandem form of development, at odds with the predominant linear form of development in this part of the village. It would also appear cramped within its plot.</p> <p>The proposal would require a new access, through agricultural land, onto Beccles Road that would necessitate the removal of at least one semi-mature Oak tree, a section of hedgerow and a lowering of the bank. The result would be a visually intrusive and contrived residential access which would appear at odds with the rural character of this part of the road.</p> <p>The proposal would cause unacceptable harm to the character and appearance of the area.</p>
Learning point / actions	None to note

Application number	DC/19/3662/FUL
Appeal number	APP/X3540/W/20/3244496
Site	Land adjacent to Mallards, 5 St Mary's Way, Westerfield, IP6 9BQ
Description of development	Erection of 2 no. new dwellings (one detached chalet bungalow and one detached bungalow) with detached garages, and extension of vehicular access driveway.
Committee / delegated	Committee
Appeal decision date	26 October 2020
Appeal decision	Allowed
Main issues	Whether this would be an appropriate site for two dwellings, with particular regard to securing acceptable living conditions for existing and future occupiers in respect of privacy and outlook.
Summary of decision	<p>Whilst outside of the settlement boundary for Westerfield, the Inspector in dealing with the previous decision on this site found no harm in terms of accessibility to services and facilities or the effect on the character and appearance of the area. The sole reason for the dismissal of a scheme for five dwellings, over the harmful effects on residential living conditions, has been addressed in this substantially reduced and re-designed scheme for just two dwellings. Given the relationship of the appeal site and that of the five dwellings approved to the rear of The Mount, the circumstances exist to countenance this small development rounding off the settlement boundary, without establishing any universally applicable precedent.</p> <p>Contrary to the Council's refusal reason, I consider that the reduction from five to two dwellings, both now orientated to face onto an extended cul-de-sac and laid out so as to reflect the present spacious grain of housing on St Mary's Way, would avoid any material harm to the living conditions of any existing occupiers.</p> <p>The scale, siting and design of the two dwellings would secure</p>

	acceptable living conditions for both future occupiers and neighbouring households, including in respect of maintaining adequate privacy and outlook, such that there would be no conflict with LP Policy SCLP11.2 in respect of any harm to residential amenity.
Learning point / actions	When refusing on grounds of impact of residential amenity, it must be ensured that there the development will not cause an unacceptable loss of amenity for existing or future occupiers of development in the vicinity A site visit in this instance may have reduced concerns raised in respect to neighbouring amenity.

Application number	DC/20/0213/PN3
Appeal number	APP/X3540/W/20/3251883
Site	Plot 1, Woodhall Farm, Saxtead, Woodbridge IP13 9QA
Description of development	Prior Notification to convert to a dwelling
Committee / delegated	Delegated
Appeal decision date	11 August 2020
Appeal decision	Allowed
Main issues	Whether or not the proposed changes of use would be permitted development under the provisions of Part 3, Class Q of Schedule 2 to the GPDO.
Summary of decision	The Inspector concluded that the site was in agricultural use, without any tenancy or agricultural holdings for the times set out within the order (Q.1a, e and f). Officers had previously considered that there was insufficient evidence has been provided to confirm these aspects. These points aside, the Council acknowledges that Plot 1 meets the relevant requirements in Q1(b, c, d, g, h, i, j, k, l, m). The Inspector was satisfied that the criterion of Class Q2 and with the findings of the structural survey as the Council did not have substantial evidence which would doubt the findings of the structural survey. The conversion of Plot 1 would satisfy the relevant requirements of Class Q and is therefore development permitted by it.
Learning point / actions	Where possible it would be useful for the Building Control team to provide a view on all prior-approvals for changes of use to dwelling house where there is doubt over the structural stability of the development.

Application number	DC/20/0395/PN3
Appeal number	APP/X3540/W/20/3252967
Site	Plot 2, Woodhall Farm, Saxtead, Woodbridge IP13 9QA
Description of development	Prior Notification to convert to a dwelling
Committee / delegated	Delegated
Appeal decision date	11 August 2020
Appeal decision	Dismissed
Main issues	Whether or not the proposed changes of use would be permitted development under the provisions of Part 3, Class Q of Schedule 2 to the GPDO.
Summary of decision	In terms of the demolition proposed for the development, the Appellants

	<p>point out that the “demolition relates to other buildings on the site not to the subject buildings”. However, that statement is patently at odds with the information provided with the applications. The existing block plan shows that the floor area of Plot 1 is 316m² , Plot 2 - 174m² and Plot 3 - 249m² . Whilst the increase to Plot 1 arises from the creation of a new upper floor, there would be 74m² and 49m² of demolition to Plots 2 and 3 respectively. The Appellants state that only a minor amount of demolition is required to Plot 2 but no further details have been provided.</p> <p>In respect of paragraph Q.1(i), the proposed partial demolition to Plot 2 and 3 would appear to sit outside the list of specified works. The Inspector noted the Appellants view that the required demolition would not constitute ‘development’ under Section 55 of the Town and Country Planning Act 1990 and could therefore be undertaken at any time. Whilst that maybe so, if the buildings were altered in such a way, this might well bring the scheme into conflict with the requirements of Q.1(g). The Inspector concluded that the partial demolition in respect of Plots 2 and 3 would fall outside those works specified under Class Q. Based on the existing and proposed floor areas provided by the Appellants, and the lack of information regarding exactly how the buildings would be reduced in size, it was not considered the amount of demolition could reasonably be described as ‘minor’. Plots 2 and 3 therefore failed to meet the requirements of Class Q.</p>
Learning point / actions	None to note

Application number	DC/20/0396/PN3
Appeal number	APP/X3540/W/20/3252980
Site	Plot 3, Woodhall Farm, Saxtead, Woodbridge IP13 9QA
Description of development	Prior Notification to convert to 2 dwellings
Committee / delegated	Delegated
Appeal decision date	11 August 2020
Appeal decision	Dismissed
Main issues	Whether or not the proposed changes of use would be permitted development under the provisions of Part 3, Class Q of Schedule 2 to the GPDO.
Summary of decision	<p>In terms of the demolition proposed for the development, the Appellants point out that the “demolition relates to other buildings on the site not to the subject buildings”. However, that statement is patently at odds with the information provided with the applications. The existing block plan shows that the floor area of Plot 1 is 316m² , Plot 2 - 174m² and Plot 3 - 249m² . Whilst the increase to Plot 1 arises from the creation of a new upper floor, there would be 74m² and 49m² of demolition to Plots 2 and 3 respectively. The Appellants state that only a minor amount of demolition is required to Plot 2 but no further details have been provided.</p> <p>In respect of paragraph Q.1(i), the proposed partial demolition to Plot 2</p>

	and 3 would appear to sit outside the list of specified works. The Inspector noted the Appellants view that the required demolition would not constitute 'development' under Section 55 of the Town and Country Planning Act 1990 and could therefore be undertaken at any time. Whilst that maybe so, if the buildings were altered in such a way, this might well bring the scheme into conflict with the requirements of Q.1(g). The Inspector concluded that the partial demolition in respect of Plots 2 and 3 would fall outside those works specified under Class Q. Based on the existing and proposed floor areas provided by the Appellants, and the lack of information regarding exactly how the buildings would be reduced in size, it was not considered the amount of demolition could reasonably be described as 'minor'. Plots 2 and 3 therefore failed to meet the requirements of Class Q.
Learning point / actions	None to note

Application number	DC/19/3435/OUT
Appeal number	APP/X3540/W/20/3245440
Site	Wood Farm, Helmingham Road, Otley IP6 9NS
Description of development	A phased development of nine self-build dwellings.
Committee / delegated	Delegated
Appeal decision date	10 November 2020
Appeal decision	Dismissed
Main issues	<p>The main issues raised by these appeals are:</p> <p>a) Whether the appeal site is an appropriate location for new residential self build development having regard to the spatial strategy of the development plan and the Self-build and Custom Housebuilding Act 2015 (as amended) (the 2015 Act);</p> <p>b) Accessibility and highway safety;</p> <p>c) The effect of the proposed developments upon ecology and in particular Great Crested Newts; and</p> <p>d) The effect of the proposed developments upon Suffolk Coast European designated sites.</p>
Summary of decision	The appeal site would not be an appropriate location for residential self-build development. However, self-build plots "will be supported where in compliance with all other relevant policies of this Local Plan", which the Inspector agreed would not be the case. Whilst the mechanism the Council uses to secure the permissions as self-build development may be open to scrutiny, the evidence presented to the Inspector did not substantively indicate that the Council is not meeting its requirement under the 2015 Act or that the Council is failing in its duty to permit an appropriate number of suitable planning permissions. Therefore, little weight was attributed to the proposals being self build schemes to justify departure from recently adopted development plan policy that resists

	<p>residential development in the countryside. The proposals would conflict with Policies SCLP3.3, SCLP5.3, SCLP5.4 and SCLP5.9.</p> <p>The proposed developments would not provide its future occupiers with suitable and safe pedestrian access to services and facilities within Otley village. The proposals would, therefore, conflict with Policies SCLP3.5 and SCLP7.1 of the Local Plan and the provisions of the Framework.</p> <p>The appellant proposed to set aside an off-site area of land adjacent and south of the appeal site that is within his ownership and control as terrestrial habitat for Great Crested Newts. Following discussion at the hearing it became clear that the Council's Ecological adviser considered that whilst an area on-site would be an added benefit for Great Crested newts, the land off-site would be acceptable to mitigate developing the appeal site; this could be secured either by means of the appellant's suggested planning condition or the Unilateral Undertaking's provided by the appellant. As such, the proposed developments would not materially conflict with Policy SCLP10.1 of the Local Plan and the provisions of the Framework that seek to minimise impact on biodiversity.</p> <p>The applicant had also paid the required RAMS contribution prior to the second application being submitted, which would cover both this or the below proposal should either be permitted. Non-payment of RAMS was not included as a reason for refusal on the second application. The Inspector did not make an assessment in respect of the impact of either of the proposed developments upon European designated sites or to undertake an appropriate assessment to assess the development's effect upon the integrity of the protected habitats; as the appeals were being dismissed on the above reasons.</p>
Learning point / actions	None to note

Application number	DC/20/1726/OUT
Appeal number	APP/X3540/W/20/3256782
Site	Wood Farm, Helmingham Road, Otley IP6 9NS
Description of development	A phased development of nine self-build dwellings. (resubmission of DC/19/3435/OUT – held as joint appeal hearings)
Committee / delegated	Delegated
Appeal decision date	10 November 2020
Appeal decision	Dismissed
Main issues	As above
Summary of decision	As above
Learning point / actions	None to note

Application number	DC/20/0651/FUL
Appeal number	APP/X3540/D/20/3252166
Site	61 London Road Pakefield, Lowestoft NR33 7AD
Description of	Provision of dropped kerb and parking to front garden space.

development	
Committee / delegated	Delegated
Appeal decision date	29 September 2020
Appeal decision	Dismissed
Main issues	<ol style="list-style-type: none"> 1. Highway safety and 2. Impact on the character and appearance of the area.
Summary of decision	<p>The Inspector highlighted the concerns raised by officers, the Town Council and an objector in respect of highway safety issues in such close proximity to two schools, where any vehicle using the proposed access would cause harm by needing to reverse across the footway close to the busy pedestrian crossing. He describes SCC's response and lack of objection as deeply troubling, overly prescriptive and a box ticking exercise and went on to say that most significantly for the appeal scheme, the Manual for Streets emphasises the need to put pedestrians at the top of the user hierarchy.</p> <p>The Inspector acknowledged that the eastern side of London Road retained more of its original character and that surfacing the majority of the frontage would allow little room for any meaningful landscaping, having a lasting adverse effect on the streetscene.</p>
Learning point / actions	Officers should not rely solely upon the SCC Highway recommendation in all cases and may use highway safety as a valid reason for refusal in policy terms even where not backed up with the formal consultation response.

Site	Bent Ridge, High Farm, Brightwell
Description of development	Single storey rear and front extensions. Extension to detached garage block.
Committee / delegated	Delegated
Appeal decision date	7 October 2020
Appeal decision	Allowed
Main issues	The effect of the proposed development on the character and appearance of the host property, Bent Ridge, and the surrounding area.
Summary of decision	<p>The Council considered that the host dwelling had already been extended such that the appeal proposal, in combination with the previous extensions, would result in the loss of the dominance of the original building.</p> <p>A condition attached to the original planning permission for the host dwelling (stating that 'The floor area of the dwelling shall not exceed 167 square metres, unless otherwise agreed in writing with the local planning authority' - to ensure the dwelling remains an appropriate size) also informed this reasoning. Notwithstanding, the Inspector found that the policy basis used to inform this condition was outdated.</p> <p>Otherwise, the Inspector found that the proposed rear extension would follow the unique crescent shape of the host dwelling's floor plan and that the height of the proposed 'green' roof would be clearly subservient to the original roofline. Further, the extension would not be visible from the front of the property and would thus not compromise the original design to such an extent as to unacceptably undermine the dominance of the original building.</p>

	<p>The Inspector also found that an extension to an existing double garage positioned towards the front of the dwelling would continue the existing design and would bring the garage closer to the dwelling. It would also not be visible from outside of the site, nor would it result in any significant loss of garden area. It would be well related to and compatible with the existing built form. As such it would not be harmful to the character or appearance of the host property or the surrounding countryside.</p> <p>It was concluded that the proposal would not have a harmful effect on the character and appearance of the host property or the surrounding area. Thus, it would be consistent with LP Policies SCLP11.1 and SCLP10.4 which together and amongst other matters seek high quality design which protect the special qualities and features of the area.</p>
Learning point / actions	<p>*Exercise greater scrutiny of planning conditions that may, as a result of changing policy, now be outdated and hold less weight than when they were originally written.</p> <p>*Positioning of proposal and its visibility outside the site given greater emphasis than overall aesthetic quality.</p>

Application number	DC/19/3299/COU
Appeal number	APP/X3540/W/20/3249082
Site	Nourish, 25B Mill Road, Newbourne
Description of development	Change of use from A1 (Farm Shop) to A3 (Café)
Committee / delegated	Delegated
Appeal decision date	21 October 2020
Appeal decision	Allowed
Main issues	The main issue in the appeal is whether the café is in a suitable location having regard to its accessibility by sustainable modes of transport and to the Council's settlement hierarchy.
Summary of decision	<p>The building subject to this appeal was previously used as a farm shop and is currently used as a café.</p> <p>The Inspector did not consider that the amount of people travelling to the café by car would be significantly different from its previous use as a farm shop. Further, as was demonstrated by comments from the parish council, that the café is currently used by local people who would not necessarily need to travel to the site by car. Given the café meets the needs of the local community, provides some employment opportunities and accords with the scale of the settlement, the Inspector did not consider any significant harm would be caused to the settlement hierarchy by the development.</p> <p>Notwithstanding, the Inspector found that the proposal did not accord with Policies SCLP3.2, SCLP3.3, SCLP4.8, SCLP4.12 which seek to prevent town centre development in the countryside and direct retail development to accessible town centre sites.</p> <p>However, recent changes to the Town and Country Planning (Use Classes) Order 1987; which recategorise both A1 (shops) and A3 (restaurants and cafes) as Class E (commercial, business and service) (as</p>

	<p>of 1 September 2020) means that the change from shop to café is not development and would therefore not require planning permission.</p> <p>In conclusion, although the proposal would be contrary to some policies within the Council's Local Plan, the conflict with these policies is outweighed by the changes to the Use Classes Order which sets out that a change from a shop to a café is no longer development.</p>
Learning point / actions	*The proposal no longer represents development due to recent changes to the Use Classes Order which categorise both shops and cafes under the new Class E (commercial, business and service) Use.

Application number	DC/19/4860/FUL
Appeal number	APP/X3540/W/20/3249768
Site	Whiteleigh House Main Road Martlesham
Description of development	New Residential Access
Committee / delegated	Delegated
Appeal decision date	29 th October 2020
Appeal decision	Allowed
Main issues	The main issue is the effect of the proposed development on the character and appearance of the area.
Summary of decision	The proposed development would not result in harm to the character and appearance of the area. As such, it would comply with policies SCLP10.4, SCLP11.1 and SCLP11.2 of the SCLP which state respectively that development proposals will be expected to demonstrate their location, scale, form, design and materials will protect and enhance distinctive landscape elements including hedgerows, that permission will be granted where proposals take account of any important landscape or topographical features and retain and/or enhance existing landscaping and natural and semi-natural features on site and that development will provide for adequate living conditions for future occupiers and will not cause an unacceptable loss of amenity for existing or future occupiers of development in the vicinity.
Learning point / actions	New accesses for properties specifically designed with a shared access can be granted so long as they do not cause substantial harm to the character and appearance of the area.

Application number	DC/19/3900
Appeal number	APP/X3540/W/20/3251575
Site	Part side garden of 5 South Close, Melton, Suffolk IP12 1QR
Description of development	Construction of 2 dwellings, garaging, associated works (existing garaging to be removed).
Committee / delegated	Delegated
Appeal decision date	12 October 2020
Appeal decision	Dismissed
Main issues	Whether the proposal would be acceptable in this location with regard to the character and appearance of the area and accessibility to services.
Summary of decision	The proposal would result in harm by virtue of the inherent conflict with

	<p>the LP policies and a plan-led approach for the location of housing. Proposal would fail to comply with policy SCLP5.3 in respect of housing in the countryside and fails to meet any of the exceptions, including policy SCLP5.4 relating to housing in clusters in the countryside. It was considered the proposal fails to meet criterion b) and c) of the policy as the development does not consist of infilling within a continuous built up frontage but results in an extension of the built up area into the surrounding countryside.</p> <p>The Inspector considered the scheme does not follow the spacious arrangement of the existing semi-detached houses and so would appear cramped and out of keeping. He stated it would be a rather incongruous incursion into an area partly naturalised by vegetation. As such the visual impact would be of significant harm to the character and appearance of the countryside and thus fail to meet criterion d) of policy SCLP5.4.</p> <p>There would be further conflict with LP policies SCLP11.1 and SCLP10.4 which seek locally distinctive and high quality design, including by requiring proposals to protect and enhance the special qualities and features of the area and the visual relationship and environment around settlements and their landscape settings.</p> <p>The proposal was also considered contrary to policy SCLP7.1 as the site is not close to services and facilities and would not provide a safe pedestrian access to the village as it would be via narrow, unlit, country lanes with no footways.</p>
Learning point / actions	This is a good decision in relation to upholding the councils cluster policy and recognising harm to the character of the countryside.

Application number	DC/19/3279/VOC
Appeal number	APP/X3540/W/19/3241973
Site	43A Park Road, Aldeburgh IP15 5EN
Description of development	Removal of condition 12 of planning permission C00/0893 to enable managers dwelling to be used independently of The Garrett House Residential Care Home.
Committee / delegated	Delegated
Appeal decision date	3rd September 2020
Appeal decision	Allowed
Main issues	<p>The effect of the development upon:</p> <ul style="list-style-type: none"> • the use and operation of the care home; • the living conditions of care home residents by way of noise and disturbance from vehicular movements.
Summary of decision	<p>No 43A is in use as a residence only and is physically and functionally independent from the care home and not critical for the effective operation of the care home. Other accommodation options are available within the care home and the Inspector considered the loss of the dwelling for managerial staff would not significantly impact upon the ability to run the premises as a care home.</p> <p>The vehicular access and use of the premises was not considered to result in significant additional impact upon the amenity of residents of the home.</p> <p>It was therefore concluded that the removal of the condition to allow unrelated occupancy of No 43A would not have an adverse impact on the use or operation of the care home and would not adversely affect</p>

	the living conditions of care home occupiers by way of noise and disturbance.
Learning point / actions	Disturbance from vehicular movements from a single dwelling to the rear of existing property is not considered to be of a magnitude to justify the refusal of planning permission.

Application number	DC/20/0645/OUT
Appeal number	APP/X3540/W/20/3253425
Site	Land adjoining Ivydene, School Lane, Benhall IP17 1HE
Description of development	Outline Application (Some Matters Reserved) - Construction of two storey residential dwelling and all associated works.
Committee / delegated	Delegated
Appeal decision date	30/10/20
Appeal decision	Dismissed
Main issues	Whether the site is in a suitable location for a new dwelling; the effect of the proposed development on highway safety having regard to visibility; and the effect of the proposed development on the character and appearance of the area.
Summary of decision	<p>The site lies in the countryside on the outskirts of Benhall village and the Inspector considered that the site would not be a suitable location for the new dwelling and thus contrary to policies SCLP3.2; SCLP3.3; SCLP5.3 and SCLP5.4. With regard to Policy SCLP5.4 relating to housing within clusters, it was considered that the site being at the end of a short terrace with no housing to the rear and west, albeit there was a house opposite, did not represent infilling within an existing built up frontage but resulted in an extension of the built development in School Lane, and as such would fail to meet criteria b) and c) of policy SCLP5.4. It was also considered an unsuitable location for a new dwelling because many of the trips to access day to day services and facilities in Saxmundham would be by private transport.</p> <p>On the second issue the Inspector considered there would be harm to highway safety on the basis of insufficient evidence that appropriate visibility was achievable from the access; and because of the sites corner position at the junction of the B1121 and School Lane and the limited width of the road (two cars cannot pass) traffic exiting the site would likely conflict with vehicles entering School Lane from the B1121 resulting in the risks of vehicle collisions. The development would thus be contrary to policy SCLP7.1 and paragraph 108 of the NPPF.</p> <p>Proposal also considered to cause harm to rural character and appearance of area by virtue of the layout being more urban in character by incorporating an open frontage taken up by parking of vehicles which failed to relate to its surroundings where property frontages had softer or more verdant boundary treatments. The development, by virtue of the house spanning the full width of its plot, would also appear cramped and again failing to assimilate positively with the rural character of the area.</p>
Learning point / actions	Consistency with other appeal decisions relating to the interpretation of the cluster policy

Application number	DC/20/0542/FUL
Appeal number	APP/X3540/W/20/3251869

Site	70 Wangford Road, Reydon IP18 6NX
Description of development	Construction of a new 3 bedroom detached dwelling (Use Class C3)
Committee / delegated	Delegated
Appeal decision date	14 September 2020
Appeal decision	Dismissed
Main issues	<ul style="list-style-type: none"> • the effect of the proposal on the character and appearance of the street scene; • whether the proposal would provide satisfactory living conditions for future occupiers in relation to outlook and outdoor amenity space; and • whether the proposal would be likely to adversely affect Suffolk Coast European Sites as a result of recreational disturbance
Summary of decision	<p>The Inspector did not consider the design and scale of the building to be out of place and the plot to build ratio of 31% would be within local range. However, because the new dwelling was orientated to extend the full length of the plot and only about half its width with parking and amenity space to one side and with principal elevation facing Number 70 Wangford Road, it would be out of character with the existing residential area consisting of properties that addressed the road and were set back behind front gardens with private amenity space to the rear. The new dwelling would significantly breach the building line along the road projecting well beyond the properties both sides and would result in an incongruous end elevation facing the road which would be a discordant feature in the street scene. It was thus considered the proposal would significantly harm the character and appearance of the street scene in conflict with Policies WLP8.29 and WLP8.33, and Policy RNP10 of the Reydon Neighbourhood Plan.</p> <p>The Inspector did not consider the concerns of the Council regarding poor outlook, being overlooked and limited amenity space for future occupants were serious enough to warrant dismissal on the grounds of poor living conditions for future occupants.</p> <p>Given that no financial contribution had been made towards RAMS and the lack of any S106 obligation the proposal would be likely to adversely affect Suffolk Coast European Sites as a result of recreational disturbance in conflict with Policy WLP8.34.</p>
Learning point / actions	None to note

Application number	DC/19/3538/FUL
Appeal number	APP/X3540/W/20/3252415
Site	11 Cautley Road, Southwold
Description of development	Three storey extension to the north of the property, new single storey rear extension, internal alterations and construction of new two-bedroom end of terrace dwelling
Committee / delegated	Delegated (13 November 2019)
Appeal decision date	08 October 2020
Appeal decision	Dismissed
Main issues	<p>Effect of the application on:</p> <ul style="list-style-type: none"> • Effects of the proposal on the character and appearance of the surrounding built environment, including the setting of the Conservation and nearby NDHA's.

	<ul style="list-style-type: none"> • Amenity of surrounding neighbours
Summary of decision	<p>The inspector noted that the terrace of which the proposal would be attached retains a coherent period character and a pleasing architectural integrity overall. He concluded that the design of the property with the lower ridge height, contrasting form and somewhat unremarkable modern appearance would be entirely at odds with the historic terrace, with its more coherent form, finer architectural character and subtly varying yet complimentary detailed appearance.</p> <p>He concluded that the proposal would fail to preserve or enhance the character and appearance of the Conservation Area and that the harm would be less than substantial and should be given considerable importance and weight. The benefits of the proposal would be limited and would not outweigh the harm as required by paragraph 196 of the NPPF. The harm to the adjacent NDHA's would further weigh against the proposal.</p> <p>In terms of neighbour amenity, the inspector concluded that there would be no material harm to the living conditions of neighbouring occupiers.</p>
Learning point / actions	None to note

Application number	DC/18/4104/OUT
Appeal number	APP/X3540/W/20/3250664
Site	Land off Pilgrims Way, Bungay, NR35 1HL
Description of development	Outline Application (All Matters Reserved) - Residential development for up to 40 dwellings with open space, landscaping, access and associated infrastructure.
Committee / delegated	Committee (14 February 2020)
Appeal decision date	22 September 2020
Appeal decision	Dismissed
Main issues	<ul style="list-style-type: none"> • Whether the proposed development would be acceptable in respect of risk from flooding.
Summary of decision	<p>Although the site was within Flood Zone 1 the Strategic Flood Risk Assessment identified it to be within Flood zone 2 when considering climate change. The appellant sought to challenge the findings of the SFRA by carrying hydraulic modelling of the river.</p> <p>Although the model had initially been independently assessed, this assessment highlighted a number of 'fails'; although an amended report was submitted that sought to address these flaws it was not subsequently independently verified by a specialist.</p> <p>On the basis of the conflict between the findings of the 2008 SFRA and the unverified findings of the appellant's revised modelling, the inspector did not consider that it could be determined with any degree of certainty that the development would be contained wholly within Flood Zone 1 or that it would be safe for its lifetime taking into account the vulnerability of its users, and would not increase flood risk elsewhere.</p>

Learning point / actions	<p>In this case the appellant was given the opportunity to fund the independent re-assessment of the hydraulic modelling. This was not done as they did not consider it was their responsibility to fund this assessment on behalf of the Council.</p> <p>This decision suggests that the Council can expect an applicant to fund independent assessment of specialist reports such as this. The associated application for costs was refused.</p>
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Application number	DC/19/2784/FUL
Appeal number	APP/X3540/W/20/3251113
Site	Bridge Cottage (Proposed), Little Becks Farm, Becks Green, Ilketshall St. Andrew NR34 8NB
Description of development	New dwelling to replace boatshed (Class B1C) with a fall back change of use B1C to C3.
Committee / delegated	Delegated (18 October 2019)
Appeal decision date	28 September 2020
Appeal decision	Dismissed
Main issues	<ul style="list-style-type: none"> • The main issues are whether the proposal would be an appropriate form of development in this location, with particular regard to whether it would provide satisfactory access to services and facilities and its effect on the character and appearance of the site and the surrounding area. • Fallback position for change of use under Class PA of the GPDO.
Summary of decision	<p>The inspector agreed that due to the location outside of any settlement boundary the proposal would not comply with the LP, the rural location has limited access to services and facilities and the occupiers of the property would be heavily reliant on travelling by car. Thus, it would conflict with LP Policies WLP1.1, WLP1.2, WLP7.1 and WLP8.7.</p> <p>The site currently comprises a B1 (c) light industrial unit which has prior approval under Class PA of the GPDO for its change of use to C3 and further planning permission for alterations to enable this change of use to take place including an enlarged residential curtilage.</p> <p>However, the inspector concluded that the proposed dwelling would be a significant increase in built form within this parcel of land, this, along with the associated domestic paraphernalia and activity at the site and the subdivision of the wider parcel of land by the proposed dwelling's necessary new boundary treatment, would fundamentally alter the character and appearance of the site.</p> <p>Contrary to the view of the Council the inspector considered that the 'fallback' was realistic and whether the appeal succeeded or failed, there could reasonably be a dwelling on the appeal site. However, the proposal was fundamentally different to the 'fallback' scheme and this would not outweigh the harm arising from the appeal scheme.</p>
Learning point / actions	A differing view from other appeals on whether a 'fallback' scheme is a realistic prospect. However, this is consistent with other appeals in that

	the appeal scheme was found to be more harmful than the potential fallback position.
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Application number	DC/20/0577/FUL
Appeal number	APP/X3540/W/20/3255837
Site	Land South East of White House Lodges, Heveningham Long Lane, Heveningham, Suffolk, IP19 0EE
Description of development	Retrospective Application - Retention of a static caravan (for a period of time deemed acceptable by the local planning authority), providing accommodation for an elderly gentleman.
Committee / delegated	Delegated (18 October 2019)
Appeal decision date	05 February 2020
Appeal decision	Dismissed
Main issues	<ul style="list-style-type: none"> • The main issue is whether the site is in a suitable location for residential accommodation. • Weight to be given to personal circumstances
Summary of decision	<p>The inspector highlighted that as the site was it is outside of any defined settlement or physical limits boundary the proposal was contrary to SCLP3.2 and SCLP3.3 did not meet any of the exceptions within Policy SCLP5.3 "Housing development in the countryside".</p> <p>The caravan's appearance and materials appear stark and angular when viewed alongside the adjoining development at White House Lodge and appear incongruous in the landscape harming the character of the area.</p> <p>Due to the location of the caravan with no access to day-to-day services and facilities other than by private vehicles the site would not be in a suitable location for a new dwelling.</p> <p>The inspector noted that there was no indication within the evidence that providing alternative accommodation for the occupant would be harmful to his existing health conditions and the appellant's desire to live an isolated lifestyle would not be harmed if this took place elsewhere and no evidence has been put forward as to why this is required to take place only on the appeal site.</p> <p>The inspector referred to the Public Sector Equality Duty (the PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination. Notwithstanding that the occupant has a protected characteristic in relation to age the inspector was satisfied that due to the specific circumstances of this appeal there would be no harm to any individual with a protected characteristic.</p> <p>It was not considered that the personal circumstances of the occupant outweighed the conflict with the Development Plan</p>
Learning point / actions	Highlights that personal circumstances are given limited weight.

Application number	DC/19/2018/FUL
Appeal number	APP/X3540/W/20/3250557

Site	Land adjacent to and south of Sitwell Gardens, Station Road, Framlingham
Description of development	4 new 3 bedroom dwellings with associated parking and amenity space
Committee / delegated	Delegated
Appeal decision date	29/09/20
Appeal decision	Dismissed
Main issues	Whether the proposal is acceptable in principle having regard to the location of the appeal site in an area with a medium probability of flooding and, secondly, the effect of the proposal on trees
Summary of decision	<p>On the first issue, the Inspector considered that the Council's argument that there were sufficient allocated sites to enable a five year supply of housing and so no need to permit housing on this site liable to flood was inconsistent with the Framework which did not contain blanket ban on all sites at risk from flooding where the Council can demonstrate an adequate supply of housing. Regard should be given to "reasonably available sites appropriate for the proposed development". Thus as an example he stated a site allocated for say 100 houses in the Local Plan, would not be appropriate for a development of four houses.</p> <p>Commenting on the applicants Sequential Test he considered the screening criteria used was unduly restrictive because restricting the size of alternative sites to between 0.25 and 0.4 hectares was unreasonable given the site itself was 0.4 hectares and that the standard approach is to consider a range of 15 or 20% either way. Also, he stated it would not be unreasonable to expect consideration to be given to sites larger than 0.4ha parts of which might be available for the development of the scale proposed.</p> <p>It was concluded the proposal fails the Sequential Test and would be contrary to Policy DM28 of the Core Strategy as well as paragraphs 157 and 158 of the Framework.</p> <p>In respect of impact on trees one of which is covered by a Tree Preservation Order, it was accepted the dwelling could be built in a way that safeguards the health of the trees. However, it was identified that the creation of the residential curtilages extending towards the trees would inevitably bring with it a risk of pressure to fell the trees, given that the outlook of all the dwellings would be heavily dominated by the trees, and in the summer months when in foliage, the trees would result in an oppressive amount of shading. There would also be pressure to fell as a result of the perceived safety risk by future residents from falling branches together with the inconvenience of seasonal leaf litter. Consequently the development would not secure the long term future of the trees contrary to Policies SP15, DM7, and DM21 and Framlingham Neighbourhood Plan Policies FRAM 1 and FRAM 2 insofar as they seek high quality design that protects the character of its surroundings and existing site features of landscape value.</p> <p>Whilst it was noted the development would make efficient use of land and be built to high design standards, these benefits were not considered to outweigh the harm identified in terms of flood risk and trees.</p>
Learning point / actions	Inappropriate to place reliance on allocated sites that provide a five-year supply of housing when undertaking the Sequential Test, consideration needs to be given as to whether they are reasonably available site for the proposed development.

Application number	DC/19/2104/OUT
Appeal number	APP/X3540/W/19/3238214
Site	Land at Mill House, Mill Street Middleton IP17 3NG
Description of development	Outline Application (With Some Matters Reserved) - Construction of dwelling and associated works, including provision of a new vehicular access
Committee / delegated	Delegated
Appeal decision date	28 September 2020
Appeal decision	Allowed with conditions
Main issues	The main issues are the effects regarding housing in the countryside, and the effect on the character and appearance of the area.
Summary of decision	<p>The inspector concluded that whilst the site is outside of the defined settlement, it is ultimately on the edge of Middleton and surrounded by neighbouring development, and although Mill Street is substandard in a number of respects, it does not represent a significant impediment to walking or cycling. Furthermore, the Inspector noted that there was a range of facilities in Middleton including a primary school, shop, and public house all of which are within walking distance of the site. It was therefore considered that the number and distance of car-borne trips by future occupants would not exceed that envisaged in paragraph 103 of the Framework.</p> <p>The inspector further considered that the development would not cause unacceptable harm to the character and appearance of the area given the site's high level of visual containment and close relationship to the existing built form of Middleton. As such there would be no conflict with the aims and objectives of policy to protect the countryside.</p>
Learning point / actions	Development in the countryside has to be weighed against the sustainability of the site and the impact that it would potentially have on the character and appearance of the street scene and surrounding area.

Application number	DC/19/4464/FUL
Appeal number	APP/X3540/D/20/3246271
Site	6 Langdale Close, Felixstowe, Suffolk IP11 9SR
Description of development	The development proposed is a front extension (revised scheme).
Committee / delegated	Delegated
Appeal decision date	17 November 2020
Appeal decision	Dismissed
Main issues	The main issue is the effect of the proposal on the character and appearance of the building and the streetscene.
Summary of decision	<p>The Inspector considered that the proposed extension would appear overly large, prominent, and intrusive in relation to the host building and the streetscene because of its size, scale, and massing - harmful to the character and appearance of the building and surrounding area, contrary to Coastal Local Plan policy SCLP11.1.</p> <p>The inspector also identified conflict with the Council's Supplementary Guidance for House Extensions (2003) which advises that extensions should respect the character and design of the original building; in addition, the Inspector concluded that the proposal would, on balance,</p>

	not constitute sustainable development as it would fail to meet the environmental objective of paragraph 8, and the aim of good design, of the National Planning Policy Framework.
Learning point / actions	That the SPG on house extensions, despite its relative age, is still a material consideration and valuable design guidance for householder development.

Application number	DC/19/3264/FUL
Appeal number	APP/X3540/W/20/3245184
Site	799 Foxhall Road, Ipswich, Suffolk IP4 5TJ
Description of development	The development proposed is severance of part garden and erection of detached dwelling.
Committee / delegated	Delegated
Appeal decision date	26 October 2020
Appeal decision	Dismissed
Main issues	Whether this proposal would be appropriate in this location, with particular regard to the character and appearance of the area and the outlook and privacy of neighbouring occupiers.
Summary of decision	<p>The inspector considered that the site was located within a space that helps provide necessary back to back separation between the respective dwellings on Foxhall Road and Glemham Drive, and that the proposed three-bedroom chalet bungalow would comprise a cramped and contrived form of development. This, the Inspector concluded, would be harmful to the character and appearance of the area and to the living conditions of immediate neighbours. Those adverse impacts identified were deemed to outweigh the benefits to housing supply of an additional dwelling, where this might otherwise have been acceptable in principle.</p> <p>The appeal scheme was deemed to be contrary to the Local Plan as a whole, and in particular policies SCLP11.1, SCLP11.2 and SCLP5.7.</p>
Learning point / actions	None to note

Application number	DC/19/3269/FUL
Appeal number	APP/X3540/D/20/3244259
Site	Pond View, Grundisburgh Road, Hasketon, Woodbridge, Suffolk IP13 6HT
Description of development	The development proposed is proposed alterations and extensions.
Committee/ delegated	Delegated
Appeal decision date	12 October 2020
Appeal decision	Allowed
Main issues	The main issue is the effect of the proposal on the character and appearance of the host building and the surrounding area.
Summary of decision	<p>The Inspector concluded that the resultant building would be of a similar height to the neighbouring properties and the footprint of the building would remain largely the same as existing. The introduction of dormer windows was considered to reflect those present in the neighbouring properties.</p> <p>Although the Inspector identified that the increase in height and scale of the dwelling would result in the dwelling being more prominent within</p>

	<p>its plot, its form and massing was judged to be well related to that of the neighbouring properties and fit comfortably within the site.</p> <p>The Council raised concerns about the impact of development on the Special Landscape Area (SLA); however, the Inspector concluded that because of the position of the building, set back from Grundisburgh Road, in the context of an established small cluster of dwellings of similar scale, there would be limited views of the development. In any case, the Inspector felt the design was acceptable, therefore concluding that no harm to the SLA would arise.</p>
Learning point / actions	None to note

Application number	DC/19/2021/FUL
Appeal number	APP/X3540/D/19/3239709
Site	5 Youngs Yard Victoria Street Southwold IP18 6JE
Description of development	Creation of first floor and internal alterations
Committee / delegated	Delegated
Appeal decision date	16 September 2020
Appeal decision	Allowed
Main issues	The main issue is the effect of the proposal on the setting of nearby listed buildings and the character and appearance of the Southwold Conservation Area (CA).
Summary of decision	<p>As the proposed extension would result in the building remaining visually subservient to nearby listed building it would not significantly affect its setting.</p> <p>Seen in the context of an adjacent buildings mono-pitched roof there would be a design improvement and given the building would appear modest compared to the bulkier buildings in the High Street the Council's argument that the proposals would not reflect the traditional stepping down of rear outbuildings is unfounded. The proposed three dormer windows are well proportioned and relate to others in the area. It was therefore considered the proposal would not cause significant harm to the setting of nearby listed buildings and would preserve the character and appearance of the Southwold CA in accordance with the Local Plan.</p> <p>Inspector noted the proposal would affect the outlook from neighbour's kitchen window but as this was not a principle living room and given the tight urban grain the relationship was acceptable. Regarding pressure on parking as a result of extending the accommodation the Inspector considered that similar properties in Southwold are without parking and this is part of the inherent character of the town centre. Standard of accommodation and amenity space was considered acceptable.</p>
Learning point / actions	A different conclusion was reached with regard to whether the proposals would cause significant harm to designated heritage assets.

Application numbers	DC/20/0541/OUT and DC/20/0540/OUT
Appeal numbers	APP/X3540/W/20/3253049 and APP/X3540/W/20/3253509
Site	3 Ivy Cottages, The Street, Darsham IP17 3QA
Description of development	Proposed New Build Dwelling (x2: Appeal A and Appeal B)

Committee / delegated	Delegated
Appeal decision date	22 September 2020
Appeal decision	Appeal A: ALLOWED Appeal B: DISMISSED
Main issues	The effect of the proposals on the character and appearance of the area.
Summary of decision	<p>Appeal A related to an infill dwelling. Appeal B related to a backland dwelling. The appeals were conjoined, with the Inspector allowing the infill dwelling, but dismissing the backland dwelling.</p> <p>The Inspector concluded that there was a general character of road-facing development that appeal proposal A would accord with, but appeal proposal B (as a backland dwelling) would be contrary to.</p> <p>The Council had given a reason for refusal, on both schemes, regarding the access drive being too close to new and existing properties, causing amenity harm through noise and disturbance. However, given the limited scale of development, the Inspector did not agree with this reasoning and found no amenity harm from the schemes. The reason for dismissing appeal proposal B was solely regarding the impact on the character and appearance of the area.</p>
Learning point / actions	The backland dwelling would not be particularly visible from the street or wider view. However, the Inspector felt it would be a form of development out of character with the locality, and therefore harmful to the built environment generally. This is a useful reminder that 'seeing' development is not the only way it can be harmful, or out of character.

Application number	DC/19/4913/FUL
Appeal number	APP/X3540/D/20/3251192
Site	19 Puddingmoor, Beccles NR34 9PJ
Description of development	replacement of bay window with bi-fold doors and juliet balcony.
Committee / delegated	Delegated
Appeal decision date	25 August 2020
Appeal decision	Dismissed
Main issues	<ul style="list-style-type: none"> (i) the effect of the proposed development on the character and appearance of the host building; (ii) whether the proposal would preserve or enhance the character or appearance of the Beccles Conservation Area; and (iii) the effect of the proposal on the living conditions of the occupiers of neighbouring properties with particular regard to privacy.
Summary of decision	<p>The Inspector concluded that the fenestration changes would cause harm to the conservation area with no public benefit outweighing that harm. This was the reasoning the Council advanced in refusing the application. The Inspector was not persuaded by similar development having been undertaken to other properties nearby, because the appeal building was more prominent in the conservation area.</p> <p>The Inspector did not consider there to be significant amenity impacts arising from the proposed development, in terms of privacy.</p>
Learning point / actions	In addition to planning controls, there was also a restrictive covenant in place to prevent alterations to the external appearance of the building.

	However, the Inspector was clear that covenants are civil matters outside the control of the planning system; thus, it was not taken into account in the determination of the appeal.
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Application number	DC/19/4641/FUL
Appeal number	APP/X3540/W/20/3252036
Site	Land Off Rosemary Lane, Kelsale Cum Carlton, IP17 2QS
Description of development	Construction of a dwelling house and associated matters.
Committee / delegated	Delegated
Appeal decision date	12/10/2020
Appeal decision	Dismissed
Main issues	Whether the appeal proposal would be appropriate in the location, with particular regard to accessibility to services, the character and appearance of the area, a demand for self-build plots and highway safety.
Summary of decision	<p>The appeal site was located outside the defined settlement boundaries and is therefore considered the countryside. The Inspector concluded that the appeal site did not form part of a cluster (policy SCLP5.4) or meet any other exceptional circumstances outlined in policy SCLP5.3 and therefore the plot cannot be considered a suitable or sustainable location for new housing.</p> <p>Whilst noting that SCLP5.9 allows for self-builds where it would meet the relevant policies above, the Inspector acknowledged the Local Plan approach to self-build delivery, and therefore self-build housing was not deemed to be a of such benefit to outweigh the conflict with the principle policies for housing in the countryside.</p>
Learning point / actions	An important decision to endorse the new Suffolk Coastal area LP policies on housing in the countryside. An interesting policy interpretation was with regard to SCLP5.4. The Inspector concluded that the 'cluster' policy did not apply because the houses adjacent the appeal site were already within the settlement boundary; thus, the Inspector considered that the SCLP5.4 would not be applicable to a site that abuts the settlement boundary – and extends it out into the countryside. This is an interesting judgment because the appellant had advanced the argument that the site being adjacent the settlement boundary made the appeal proposal acceptable as a sustainable location. The Inspector disagreed and sided with the Council's position.

Application number	DC/19/1499/FUL
Appeal number	APP/X3540/W/19/3242636
Site	Land to the north and west of Garden Square and Gardenia Close, Rendlesham, Suffolk IP12 2GW
Description of development	The development proposed is a phased development of 75 dwellings, car parking, public open space, hard and soft landscaping and associated infrastructure and access.
Committee / delegated	Delegated
Appeal decision date	10 September 2020 (determined by Public Inquiry on 30 June to 2 July, 31 July and 3 August 2020)
Appeal decision	Dismissed

<p>Main issues</p>	<p>The public Inquiry focussed on evidence in respect of:</p> <ul style="list-style-type: none"> • Whether the proposal accorded with the development plan and the weight given to policy. • The poor design of the development – specifically the layout of the development site and the arrangement of its routes and plots. Despite this site being an allocated site. • The impact on living conditions of future residents between side facing windows. • The quality and quantity of Habitats Regulations Assessment mitigation required for the development. • The balance of harm through poor design against the benefit of 75 homes. • Linked to a costs claim but also the planning merits, the appellant focussed heavily in their case on citing claimed unreasonable behaviour by the Council.
<p>Summary of decision</p>	<p>This appeal was made against a refusal of planning permission with eight reasons for refusal. As a result of information submitted within the appeal and the consideration of the primary focus of the Council’s evidence for this public inquiry, three reasons for refusal were not defended and three were deemed to be satisfied subject to a section 106 agreement being signed. The inquiry was focussed on two design based reasons for refusal.</p> <p>The appellant pursued a case that the proposed development represented good design, with a great deal of reliance on the fact that it was very similar to the adjacent largely completed development consented in 2004. Whilst architecturally similar, the Council contended that appeal scheme had significant design failures in the layout of the development, the orientation of plots and the manner in which the properties would interact with the street, public spaces and each other.</p> <p>The Council successfully gave evidence through a combination of a cross examination and ‘round table sessions’ on this poor design and almost all of the Council’s design points were recognised by the inspector in dismissing the appeal. He concluded that:</p> <p><i>“These design deficiencies are significant, and the positive aspects of the design do not outweigh these. There is no convincing justification for the fixed orientation and rigid layout that gives rise to the deficiencies. The development would be unacceptably harmful in terms of its effect on the character and appearance of the area and its functioning.”</i></p> <p>Another key issue through the course of this appeal was the appellant’s reluctance to agree with the Council’s proactive suggestion on mitigation which would be necessary to ensure that the proposed development would not affect the integrity of the nearby Sandlings Special Protection Area (SPA). Because of the extremely deficient walking routes around Rendlesham a commitment to deliver an off-site public right of way was eventually agreed by the appellant as mitigation. Despite this agreement, the principle remained in dispute and both sides gave evidence on its</p>

	<p>necessity. The Inspector endorsed the Council’s position to secure this if he had been minded to allow the appeal.</p> <p>The impact resulting from unobscured side windows between properties, at points only a few metres apart, was considered by the inspector. He determined that the appellant’s position of there being no adverse impacts was wrong but he did conclude that if he was minded to allow the appeal then a form of condition could be placed upon a permission to require obscure glazing and fixed shut windows to mitigate the harm identified by the Council.</p> <p>The Inspector gave full weight to the Local Plan, and almost full weight to the (at the time) emerging Local Plan. He also made a very clearly concluding balance that poor design is an important material consideration in refusing planning permission and moderate and significant benefits (including 75 homes) would not outweigh that harm.</p>
<p>Learning point / actions</p>	<p>This is a valuable decision for the Council setting out very clearly that poor design is not acceptable and refusal on this ground is defensible against local and national policy and guidance. It shows that the Council should not be overly cautious in refusing poor design and specifically poor layouts even when a site may already be allocated or have an outline planning permission in place.</p> <p>The Council maintained a consistent position on poor design through two pre-application submissions and a previously refused application and this shows that developers should pay strong attention to the Council’s professional advice and decision making when shaping the design of their development. This appeal could have been avoided had the appellant and their consultants listened to the Council’s feedback and compromised in their leading design drivers.</p> <p>The appeal also sets a very clear position on the requirement for a demonstrated 2.7km dog walking route on developments of more than 50 dwellings for Habitats Regulation mitigation purposes. This was tested through expert witnesses and cross examination and the purpose was made very clear. It backs up the guidance that the Council has produced to inform its decision making and will help the Council to secure good quality and valued mitigation in the future.</p> <p>The appeal provides a good reference on the strength of weight in design policies of the new Suffolk Coastal Local Plan and the importance the government now places on achieving good design.</p> <p>This was also the Council’s first Virtual Public Inquiry, held through Microsoft Teams. It was one of 10 pilot virtual inquiries organised by the Planning Inspectorate over the summer and it was a very successful and almost flawless process. It had a strong public attendance and various public contributions. The virtual process was highly efficient with massive reductions in required Inquiry printing and reduced travel and expenses costs. It seems likely that virtual planning appeal inquiries and hearings will remain a long-term improvement to the planning process.</p>

Costs Claims

Application number	DC/19/1499/FUL
Appeal number	APP/X3540/W/19/3242636
Site	Land to the north and west of Garden Square and Gardenia Close, Rendlesham, Suffolk IP12 2GW
Description of development	The development proposed is a phased development of 75 dwellings, car parking, public open space, hard and soft landscaping and associated infrastructure and access.
Committee / delegated	Delegated
Appeal decision date	10 September 2020 (determined by Public Inquiry on 30 June to 2 July, 31 July and 3 August 2020)
Costs decision	Full award of costs – Dismissed Partial award of costs – partially allowed
Main issues	Whether the Council had acted unreasonably in refusing permission on the whole and without agreeing an extension of time to determine the application. Whether each reason for refusal individually had resulted in unnecessary expense for the appellant, including the withdrawn reasons.
Summary of decision	<p>The appellant pursued this appeal with a threat of a full costs claim prior to the refusal being issued. The appeal submission was very heavily based on the appellant and consultant's grievances at not being provided with an extension of time during the application and therefore being faced with an appeal. The Statement of Case was clear that they saw this appeal as a justification to pursue a full award of costs even before the Council had submitted its case and confirmed what reasons it intended to defend. The appellant therefore sought the award of costs for all reasons for refusal and went so far as to seek a public inquiry including claiming the necessity to cross examine the Council's planning witness for the purpose of informing their costs claim. The public inquiry unfortunately involved a lot of time devoted to this unnecessary direction led by the appellant.</p> <p>The Inspector stated: <i>"The applicant was given the opportunity to address the reasons for refusal of the previous application by means of pre-application engagement prior to submission of the application which was subject to the appeal. Some detailed design matters were resolved in this way. However, I have concluded in my decision on the appeal that the proposed fixed orientation of the dwellings causes significant design problems. Those problems were fundamental to both the Council's decision and my decision. On this basis I find no unreasonable behaviour on the part of the Council in not extending the determination period and in refusing permission."</i></p>
Learning point / actions	In respect of the pursuit of a full award of costs against the Council in refusing permission and not allowing an extension of time, this follows a number of other such unsuccessful claims from the agent responsible for this appeal. The Council has always been clear that the planning application process does not influence a costs claim within an appeal and

	<p>it is at the Council’s discretion on whether it may agree to such an extension. In this case an extension of time would not have aided in resolving fundamental failures in the design of the development and it was clear that that these were not likely to be compromised on by the appellant. The Inspector’s conclusion on this matter is valuable to the Council in sending a clear message to appellants and agents intent on pursuing such costs claims in the future.</p> <p>The partial award of costs granted against the Council is not disputed, though the Council followed the correct process in withdrawing the appropriate reasons for refusal at the Statement of Case stage, therefore keeping the appellant’s costs to an absolute minimum. The lacking information in respect of Reason 7 was of importance and would have been very influential if the viability of the development had come into question in the course of the appeal. In respect of reason 5, it is acknowledged that the reason for refusal did over reach in terms of the impacts that it identified and the Council explained its reasoning for dropping those clearly at the correct time as soon as it appraised its full case. A learning point therefore should be for the case officer to carefully assess the limit of harm before adding all potential impacts into a specific reason for refusal.</p>
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Application number	DC/18/4104/OUT
Appeal number	APP/X3540/W/20/3250664
Site	Land off Pilgrims Way, Bungay, NR35 1HL
Description of development	Outline Application (All Matters Reserved) - Residential development for up to 40 dwellings with open space, landscaping, access and associated infrastructure
Committee / delegated	Committee (14 February 2020)
Appeal decision date	22 September 2020
Costs decision	Refused
Main issues	Whether unreasonable behaviour has been demonstrated as highlighted in paragraph 49 of the Planning Practice Guidance
Summary of decision	<p>The applicant contended that by refusing planning permission the Council acted unreasonably by failing to follow the recommendation of its officers and by failing to produce any new technical evidence to support a refusal based on flood risk. The appellant further considers that the Council’s decision ran contrary to the advice of the Environment Agency and the Lead Local Flood Authority. Furthermore, that the council’s failure to withdraw its reason for refusal of the planning application, following receipt of the applicant’s appeal statement, has caused expense to be incurred.</p> <p>As can be seen from the appeal decision, the inspector did not consider that the Council acted unreasonably by rejecting the unverified results of the amended modelling.</p> <p>The inspector noted that due to the Council’s legitimate concerns based on the evidence provided, of which this position has been substantiated on appeal it was found that unreasonable behaviour resulting in</p>

	unnecessary or wasted expense, as described in the paragraph 49 of the PPG, has not been demonstrated.
Learning point / actions	<p>In this case the appellant was given the opportunity to fund the independent re-assessment of the hydraulic modelling, which they did not do as they did not consider it was their responsibility to fund this assessment on behalf of the Council.</p> <p>This cost decision and that of the dismissed appeal suggests that the Council can expect an applicant to fund independent assessment of specialist reports such as this.</p>

Application number	DC/19/2104/OUT
Appeal number	APP/X3540/W/19/3238214
Site	Land at Mill House, Mill Street Middleton IP17 3NG
Description of development	Outline Application (With Some Matters Reserved) - Construction of dwelling and associated works, including provision of a new vehicular access
Committee / delegated	Delegated
Appeal decision date	28 th September 2020
Appeal decision	Dismissed
Main issues	Whether unreasonable behaviour has been demonstrated as highlighted in paragraph 49 of the Planning Practice Guidance
Summary of decision	The inspector had concerns regarding reasons for refusal 1, 3 and 4; however, given the concerns officers had regarding the impact of development on the character and appearance of the area, the Inspector considered that an appeal was inevitable, and that little extra cost had been expended by the appellants in responding to those reasons in making the appeal. Therefore, the cost appeal was dismissed.
Learning point / actions	Ensure reasons for refusal are fully justified within appeal statements and officer reports. Where applicant's/appellants contend that Local Plan policies are out of date, it is necessary to rebut those statements and give clear weight to all relevant LP policies.

Application number	DC/19/1499/FUL
Appeal number	APP/X3540/W/20/3256782
Site	Wood Farm, Helmingham Road, Otley IP6 9NS
Description of development	A phased development of nine self-build dwellings. (resubmission of DC/19/3435/OUT – held as joint appeal hearings)
Committee / delegated	Delegated
Appeal decision date	10 November 2020
Costs decision	Refused
Main issues	<p>Whether the appellant had acted unreasonably in submitting a second application without resolving issues raised within the first appeal, which was still pending determination by the Planning Inspectorate at the point of submission and determination of the second application.</p> <p>It was considered that technical matters in relation to highways and ecology should have been resolved either in advance of the submission of the second planning application or within the appeal process of the first appeal. This resulted in two almost identical appeals which</p>

	<p>significantly increased administration and consideration by the Council. The second planning application did not include any substantive information relating to either highways or ecology matters. It was considered that there was sufficient time to clarify these matters through engagement with officers prior to the submission of the second planning application and/or the appeals. This had necessitated the Council to continue to defend these two reasons for refusal which has required technical officer attendance to support the Council's position when these matters could have been addressed.</p>
<p>Summary of decision</p>	<p>The Planning Practice Guidance indicates that all parties are expected to behave reasonably throughout the planning process. Whilst the appellant could potentially have taken a more proactive approach with respect to engaging with the Council following the determination of the first planning application, the Inspector saw no substantive evidence that would indicate that this might have resulted in the submission of further information that could or would have obviated the second appeal. Therefore, the potential requirement for technical officer attendance at the appeal to support the Council's position in respect of refusal reasons two (highways) and three (ecology) may not have been avoidable. For those reasons, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.</p>
<p>Learning point / actions</p>	