



**East Suffolk House, Riduna Park, Station
Road, Melton, Woodbridge, IP12 1RT**

Strategic Planning Committee

Members:

Councillor Paul Ashdown (Chairman)
Councillor Debbie McCallum (Vice-Chairman)
Councillor Melissa Allen
Councillor Stuart Bird
Councillor Chris Blundell
Councillor Jocelyn Bond
Councillor Norman Brooks
Councillor Jenny Ceresa
Councillor Tony Cooper
Councillor Linda Coulam
Councillor Mike Deacon
Councillor Graham Elliott
Councillor Tony Fryatt
Councillor Andree Gee
Councillor Colin Hedgley
Councillor Malcolm Pitchers
Councillor David Ritchie
Councillor Craig Rivett
Councillor Kay Yule

Members are invited to a **Meeting** of the **Strategic Planning Committee**
to be held on **Monday, 14 December 2020** at **10.30am**

This meeting will be conducted remotely, pursuant to the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020.

The meeting will be facilitated using the Zoom video conferencing system and broadcast via the East Suffolk Council YouTube channel at <https://youtu.be/5heVx2l4nk0>

An Agenda is set out below.

Part One – Open to the Public

	Pages
1 Election of a Chairman To elect a Chairman for the 2020/21 municipal year.	
2 Election of a Vice-Chairman To elect a Vice-Chairman for the 2020/21 municipal year.	
3 Apologies for Absence and Substitutions	
4 Declarations of Interest Members and Officers are invited to make any declarations of Disclosable Pecuniary or Local Non-Pecuniary Interests that they may have in relation to items on the Agenda and are also reminded to make any declarations at any stage during the Meeting if it becomes apparent that this may be required when a particular item or issue is considered.	
5 Minutes To confirm as a correct record the Minutes of the Meeting held on 14 September 2020.	1 - 7
6 Judicial Challenges of Planning Decisions - Review and Lessons Learnt ES/0594 Report of the Cabinet Member with responsibility for Planning and Coastal Management	8 - 142
7 Enforcement Performance Report - July to September 2020 ES/0596 Report of the Head of Planning and Coastal Management	143 - 145
8 Development Management Performance Report ES/0597 Report of the Cabinet Member with responsibility for Planning and Coastal Management	146 - 148
9 Planning Appeals ES/0595 Report of the Cabinet Member with responsibility for Planning and Coastal Management	149 - 179

10	Annual Monitoring Report 2019/20 ES/0598 Report of the Cabinet Member with responsibility for Planning and Coastal Management	180 - 324
11	Strategic Planning Committee's Forward Work Programme To consider the Committee's Forward Work Programme	

Part Two – Exempt/Confidential

There are no Exempt or Confidential items for this Agenda.

Close



Stephen Baker, Chief Executive

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Unconfirmed



Minutes of a Meeting of the **Strategic Planning Committee** held Remotely on **Monday, 14 September 2020 at 10.30am**

Members of the Committee present:

Councillor Melissa Allen, Councillor Paul Ashdown, Councillor Stuart Bird, Councillor Chris Blundell, Councillor Jocelyn Bond, Councillor Norman Brooks, Councillor Jenny Ceresa, Councillor Tony Cooper, Councillor Linda Coulam, Councillor Tony Fryatt, Councillor Andree Gee, Councillor Colin Hedgley, Councillor Debbie McCallum, Councillor Malcolm Pitchers, Councillor David Ritchie, Councillor Craig Rivett, Councillor Kay Yule

Other Members present:

Councillor TJ Haworth-Culf

Officers present: Liz Beighton (Planning Manager - Development Management), Sarah Carter (Democratic Services Officer), Matt Makin (Democratic Services Officer), Desi Reed (Planning Policy and Delivery Manager), Ben Woolnough (Major Sites and Infrastructure Manager)

1 Apologies for Absence and Substitutions

Apologies for absence were received from Councillors Deacon and Elliott.

Councillor Byatt attended the meeting as substitute for Councillor Deacon.

Councillor Thompson attended the meeting as substitute for Councillor Elliott.

2 Declarations of Interest

For reasons of openness and transparency, Councillors Ashdown, Ceresa, Fryatt and McCallum declared a Local Non-Pecuniary Interest in Agenda Item 4 as being members of the Referral Panel by virtue of being Chairmen and Vice-Chairmen of Planning Committee North/South.

3 Minutes

RESOLVED

That the Minutes of the Meeting held on 4 June 2020 be confirmed as a correct record and signed by the Chairman.

4 Structure and Process of the Referral Panel

The Cabinet Member with responsibility for Planning and Coastal Management introduced report ES/0483 which provided Members with an update on the Referral Process following the last meeting of the Strategic Planning Committee (SPC) in June 2020. He explained that, as a result of the review, Ward Councillors were now more involved in the process and were now receiving an automatic email if the Panel was considering an application in their Ward.

The Planning Manager reminded Members that, at the SPC meeting, they had endorsed the referral process and agreed that a yearly report on the process would be presented to the Committee. She confirmed that all Ward Members were now notified of items within their wards in advance of the meeting and were invited to attend and listen to the meeting should they wish. A Member Training Session had been held in August and Members were positively encouraged to engage in the consultation process. Some 20-25 Members had attended remotely and the video recording of the training session was being made available for all Councillors to view. Remote training had also been provided to all Town and Parish Councils on how best they could frame their consultation responses. Since then, more Members had been attending the Referral Panel, their comments in advance of the meeting were brief but that would improve.

Members raised questions relating to the timescale between receiving notifications and the time to submit comments within the 21 day consultation period. It was not always possible to track all applications in a particular Ward so any opportunity to streamline the process would be welcome. The Planning Manager explained the application notification via Uniform and how the process worked. Ward Members were notified of items on a Referral Panel at the same time as the reports were sent to the Panel Members, usually 2-3 days before the meeting. Any review of the consultation period given to Ward Members could be debated at the next yearly update. Some members commented that Ward Members should be more involved and be able to speak at a Referral Panel because of the importance of matters in their own Wards. The Chairman explained that the Chairman of the Referral Panel could ask questions of the Ward Members on an application on matters of fact or their local knowledge; they were there as an observer. He reminded Members that they had the opportunity to comment on applications in advance of the Referral Panel meeting.

A Member further commented on the number of applications being considered by Planning Committee North/South; in the South, some meetings had only two or three applications and one meeting had been cancelled due to lack of business. Whilst not doubting the process, the public should be able to observe the consideration of planning applications. The Chairman advised that the applications reviewed at a Referral Panel were usually because of a difference between the officer's recommendation and the views of the relevant Town/Parish Council and the Panel needed to weigh up any significant differences. The Chairman of Planning Committee South (PCS) explained that business was light; there were just less applications coming forward to PCS.

Whilst the Committee were mainly content with the process, some Ward Members believed that, with their local knowledge, they should be in a position to comment or correct something that might be misleading. The Planning Manager advised she would raise Members' concerns at the next Portfolio Holders meeting. She reminded the Committee that the Referral Panel was not making a decision on a report; it just looked at the issues and considered the responses to consultation which should improve the process following the training that had been undertaken.

There being no further discussion, it was

RESOLVED

That the content of the report relating to the Structure and Process of the Referral Panel be noted.

5 Enforcement Performance Report - April to June 2020

The Committee received report ES/0484 which provided information on the performance of the Enforcement Section covering the period April to June 2020.

The Planning Manager explained that the quarterly summary gave details of the cases logged and closed and made specific reference to the enforcement notices served. The statistics were self-explanatory and satisfactory. There had been one notice served in the period and that related to a site in Woodbridge.

Following a proposal, which was duly seconded, to accept the report, it was

RESOLVED

That the report concerning Enforcement Team statistics be received and noted.

6 Development Management Performance Report

The Cabinet Member with responsibility for Planning and Coastal Management introduced report ES/0485 which provided an update on the planning performance of the Development Management Team in terms of the timescales for determining planning applications. He confirmed the performance indicated that decisions were being made in a timely manner with all targets being met. The Cabinet Member praised the Team for their work under such difficult circumstances with the Covid19 restrictions in place.

The Planning Manager was pleased the target figures were so high and thanked the Team for their hard work and the good quality decisions that were being made.

RESOLVED

That the content of the Development Management Performance report be noted.

7 Planning Appeals

The Cabinet Member with responsibility for Planning and Coastal Management introduced report ES/0486 which provided an update on all appeal decisions from the Planning Inspectorate between 13 May and 24 August 2020. He was pleased to report that the majority of appeals had been dismissed, resulting in the Council achieving a higher than national average. It was a satisfactory situation.

The Planning Manager updated Members to advise that following the Rendlesham public inquiry, the appeal had been dismissed.

Members made particular reference to the Inspector's ambiguous statement with regard to Rosery Cottage in Great Bealings, the case at Pier Avenue in Southwold and the appeal relating to Alderlee in Kelsale Cum Carlton. The Planning Manager explained that the case at Great Bealings was a complicated site which could have gone either way. The case at Southwold related to amenity issues as such a large house could have been used as a party house. In Kelsale, the site was just outside the settlement boundary, therefore had not complied with the relevant policy tests. Whilst the removal of some less attractive dilapidated buildings might be considered to be beneficial, it had not been sufficiently demonstrated that the proposal would not harm the protected species.

Members thanked the Planners for their diligence and there being no further discussion, it was

RESOLVED

That the content of the report relating to Planning Appeals be noted.

8 Planning Policy and Delivery Update

The Cabinet Member with responsibility for Planning and Coastal Management presented report ES/0487 which provided an update on the work of the Planning Policy and Delivery Team with regard to the Local Plan for the former Suffolk Coastal area and progress on Neighbourhood Plans. In addition to those Plans, there were a number of key projects that supported the delivery of the East Suffolk Strategic Plan. The North Lowestoft HAZ Design Guide had been adopted by Full Council and the Housing Action Plan had been published. In addition, consultation on the template to be used for preparing Residential Development Briefs had been completed. Paragraph 4.3 of the report detailed some of the key projects and milestones that would be coming forward in the next three months.

The Cabinet Member advised that the final draft Suffolk Coastal Local Plan had originally been submitted to the Secretary of state on 29 March 2019 and, having undergone the normal processes, the Inspector's report had been received on 8 September which found the Local Plan to be sound subject to some modifications. It was expected that the final versions would be presented to Cabinet on 17 September and then considered for adoption by Full Council on 23 September 2020.

The Team had supported a number of Neighbourhood Plans across the district, with the Plans for Kesgrave, Bredfield and Reydon recently progressing successfully through examination.

The Planning Policy and Delivery Manager highlighted specific details relating to the work programme as things moved forward post the adoption of the Local Plan. The forthcoming four to five consultations would be managed effectively to avoid consultation overload for consultees. One joint initial public consultation on development and coastal change, covering the area from North Norfolk to Felixstowe was currently underway, having commenced on 4 September with a closing date of 16 October.

Members were also advised that the Covid19 lockdown had impacted on the delivery of housing. In the first quarter of 2019/20, 210 dwellings were completed compared with a figure for the first quarter of 2020/21 of 91.

In response to a Member's question on bringing the two Local Plans together to form one for the East Suffolk district, the Planning Policy and Delivery Manager advised that both Plans would be kept under review in the usual way. However, the Government White Paper was now proposing fundamental changes to the current plan making process so any review would be subject to a new system coming into place. The proposed new legislation was suggesting that a new Local Plan would need to be produced within 42 months of any new legislation given both current plans would be classed as recently adopted; that was now in the hands of the Government. The Cabinet Member with responsibility for Planning and Coastal Management added that whilst the existing Local Plans were separate, they were up to date and entirely suitable for East Suffolk and would run for several years before being replaced.

Members congratulated the Planning Policy and Delivery Manager and her Team on producing such good documents and there being no further discussion, it was unanimously

RESOLVED

That the content of the Planning Policy and Delivery Update report be noted and endorsed.

9 Strategic Planning Committee's Forward Work Programme

The Committee noted its Work Programme as circulated and comments were invited.

The Democratic Services Officer advised that two items were to be added to the programme; the Annual Report of the Referral Panel and, at the December meeting, Appointment of Chairman and Vice-Chairman of the Committee as this would be required following the Annual Meeting of the Council in September.

A Member sought clarification as to the number of planning permissions granted, compared to work starting on site; the Chairman advised that he should contact the Planners direct for such information relating specifically to his Ward.

In response to a question relating to the work of the Planning Committees, the Planning Manager advised that this was currently work in progress and listed on the Work Programme to be reported at a future meeting.

10 Use Classes Order and Permitted Development

The Committee received a presentation from the Planning Manager which gave an update to the General Permitted Development Order (GDPO) and Use Classes Order (UCO) and covered the following:

GPDO

Regulations under the Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020 come into force between 25 June and 1 August 2020.

Part 3 Class M, N, O, P, PA and Q

- now include the requirement for the provision of adequate natural light in all habitable rooms of the dwelling houses.
- allows applications to be refused if natural light is not provided.

Part 3, paragraph W

- for validation purposes, applications are invalid now if a plan with certain requirements is not submitted.

Schedule 2 Part 1

- class AA, enlargement of a dwelling house by construction of additional storeys and subject to conditions

Schedule 2 Part 20

- class ZA, allows for demolition of buildings and construction of dwelling houses, subject to conditions and also prior approval
- class AA, new dwelling houses on detached buildings in commercial or mixed use and subject to prior approval and conditions
- class AB, new dwelling houses on terrace buildings in commercial or mixed use and subject to prior approval and conditions
- class AC, new dwelling houses on terrace buildings in use as dwelling houses subject to prior approval and conditions
- class AD, new dwelling houses on detached buildings in use as dwelling houses subject to certain criteria

Use Classes Order

'Sui generis' - term given to the uses of land or buildings not falling into any of the use classes identified by the UCO. The non-exhaustive list is expanded by the Amendment Regulations to include various classes.

New use classes F1 relating to learning and "non-residential institutions" and F2 relating to "local community" uses.

The Planning Manager drew attention to the chart at the end of the presentation which contained a Guide to Use Classes Order Changes in England from 1 September 2020. There would be ramifications under Class E for the high street and out of town shops. The slides were available on the Council's website via CMIS and in response to a Member's question, she confirmed that a copy of the chart could be provided to Members of the Committee. The Cabinet Member with responsibility for Planning and Coastal Management stated there was a great deal to take on board with these changes to permitted development and use classes.

Members further commented on the need for a definitive map of AONB boundaries and the Conservation Areas and it was confirmed the information was on the main policies map in the Local Plan. Concern was expressed that the changes might result in windows and ugly roof changes occurring in a Conservation Area but welcomed the fact that the Government was trying to get houses built. The Planning Manager confirmed the proposals related to development outside of those protected areas and would not apply to Listed Buildings. At the request of Members, the Planning Manager advised that the presentation was published on the website with the Agenda papers and could be circulated to all Members of the Council and to the Town and Parish Councils too.

The Cabinet Member with responsibility for Planning and Coastal Management explained that the changes had been announced and introduced from 1 September, without prior consultation, and he thanked the Planning Manager for a very informative presentation.

The meeting concluded at 12.07pm.

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Chairman



STRATEGIC PLANNING COMMITTEE

Monday 14 December 2020

JUDICIAL CHALLENGES OF PLANNING DECISIONS – REVIEW AND LESSONS LEARNT

EXECUTIVE SUMMARY

1. The Council has successfully defended four legal challenges during 2020 against planning decisions the Council has made. Whilst this is excellent news, and testimony to the detailed consideration of all material planning issues in making those planning decisions this report assesses whether there are any lessons to be learnt from the process to improve further the decision making procedures.
2. The Strategic Planning Committee is asked to note the content of the report.

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:	Philip Ridley Head of Planning and Coastal Management 01394 444432 Philip.Ridley@eastsoffolk.gov.uk

1. INTRODUCTION

- 1.1 East Suffolk Council has successfully defended four legal challenges against decisions the council, as Local Planning Authority, has made in recent months.
- 1.2 The four challenges were against the following decisions.
- DC/19/1022/FUL – Creation of a Lake for recreation purposes at Bawdsey Manor – considered by Planning Committee South and permission issued 21st November 2019
 - DC/19/1637/FUL – Relocation of Sizewell B Power Station facilities – considered by the Strategic Planning Committee and permission issued on 13th November 2019
 - DC/19/2641/FUL – Redevelopment of former council offices at Melton Hill, Woodbridge – considered by the Planning Committee South and permission issued on 29th November 2019
 - DC/19/5049/FUL- New Club House and associated works, including the erection of 5 dwellings for Felixstowe Ferry Golf Club – considered by the Planning Committee South and permission issued on 29th May 2020
- 1.3 The Court’s Judgments can be found at Appendix A.
- 1.4 Whilst applicants who submit a planning application have a right to appeal against a refusal of planning consent to the Planning Inspectorate, the results of which are reported to this Committee at each meeting, there are no third-party rights of appeal through the planning system against a decision of a local planning authority.
- 1.5 However, third parties can challenge the lawfulness of a planning decision via Judicial Review through the Courts. This is dealt with by the Administrative Court and can review the lawfulness of a decision, action or failure to act in relation to the exercise of a public function - in this case, a planning decision. If permission is granted to proceed, the Judicial Review will be decided by a judge at the High Court.
- 1.6 The procedures for making a challenge are set out in the Civil Procedure Rules. An application for Judicial Review of a planning decision must be made within six weeks of the planning decision being made (that is the date of issuing the permission and not the date of the Planning Committee meeting). Leave to proceed with a Judicial Review will not be granted by the Court unless there is evidence that a potentially arguable legal mistake may have been made. This could include where the local authority failed to fully set out and consider differing opinions or the procedures in dealing with the application were flawed.
- 1.7 A Judicial Review will not be allowed to proceed if it is based solely on a difference of opinion on the outcome of the application.
- 1.8 The submission of a potential Judicial Review is thankfully not a regular occurrence and so to receive four in a short period supported a review when concluded. Given the short timescales for responding to challenges and the specialist nature of the matters to be considered the Head of Planning and Coastal Management and the Head of Legal and Democratic Services work together and engage the services of specialist legal counsel to advise and draft responses and for any subsequent submissions to the Court if a challenge is made and subsequently allowed to proceed.
- 1.9 If the legal review is indicating that the prospects of successfully defending a challenge are low it can be agreed that we consent to quash the original planning decision. If that does

occur, or a legal challenge subsequently is found against the council, then the planning application becomes “live” again and the Council will need to be redetermine it, and in the process ensure that any procedural or other errors previously identified have been rectified. Therefore, it does not follow that a successful legal challenge results in stopping the development that was originally consented.

- 1.10 In the four cases considered this year only the Felixstowe Ferry Golf Club case didn’t proceed to a Court hearing, but was dismissed “on the papers” and the Claimant did not seek an oral hearing to challenge that decision. The Sizewell B case was granted leave to challenge the decision but only on one of their original grounds and they subsequently sought to challenge this outcome in the Court of Appeal. The Court of Appeal subsequently allowed the Claimant’s challenge, and the grounds of challenge were rectified accordingly.
- 1.11 The Claimant in the Sizewell B case sought to challenge the decision of the High Court to dismiss the case in the Court of Appeal, but this was recently dismissed. In the other two cases the Claimant accepted the High Courts ruling.

2. KEY LESSONS FROM THE FOUR CASES

- 2.1 This report is to look at the procedural issues to be considered from these cases and not the planning issues raised in the cases themselves. Officers will be able to answer questions on the actual cases if Members wish to raise any points.
- 2.2 The procedures for determining planning applications, and the roles of Officers and Members at East Suffolk Council are set out in the Constitution and in particular in the Code of Good Practice/Guidance for Members - Planning and Rights of Way. These were reconsidered when East Suffolk Council was formed in 2019 and are considered sound in setting out how procedures are undertaken and what is expected of Officers and Members, in their roles, in the process. Having regard to the Code of Practice a review of these four legal challenges provide reassurance that the decision making processes of the council on planning matters is robust.
- 2.3 Three of the cases were the subject of Court hearings, which in addition to the council having legal counsel in attendance, were also attended by the relevant officers, but were also observed by Cllr Ritchie and several other members of the Strategic Planning Committee as they were held remotely.
- 2.4 In each of the cases it will be noted that the Court, and all parties responding to the cases go in to incredible forensic detail, both in their written submissions, and in the Court hearing itself, in order to make or rebut points being made. However, to provide reassurance to this Committee it is generally accepted that the Court “must keep in mind that the function of planning decision-making has been assigned by Parliament, not to judges, but at a local level to elected councillors with the benefit of advice given to them by planning officers, most of whom are professional planners, and on appeal, to the Secretary of State and his inspectors.”
- 2.5 It is also accepted that Planning Officers' reports to committee are not to be read with undue rigour, but with reasonable benevolence, and bearing in mind that they are written for councillors with local knowledge. Unless there is evidence to suggest otherwise, it may reasonably be assumed that, if the members followed the officer's recommendation, they did so on the basis of the advice that the officer gave. Alternatively, if a decision is made contrary to officer advice clear planning reasons must

be set out to establish the reason for the alternative decision. This audit will be made clear in the Minutes.

- 2.6 It will be noted in reviewing each of the Judgements the Officer Report, as set out above, was scrutinised in significant detail alongside the Minutes of each meeting to establish the chronology of events leading to the eventual decision. This included the information provided by Public Speakers and the response to any questions raised of both speakers, Members and Officers. In the Bawdsey Manor case there was also significant scrutiny of the Update Sheet, provided to Members in accordance with the Code of Practice, the day before the meeting. It was reviewed in detail and it correctly included all subsequent information received post the publication of the Committee report. In the Felixstowe Ferry case, their claim also included a detailed review of the filming of the actual Committee meeting, that is publicly available on YouTube, to prepare their challenge. Members should therefore be aware of, but not concerned by, the scrutiny decisions are put under but be satisfied that procedures adopted, and advice provided by Officers is sound.
- 2.7 Therefore, having regard to the Code of Practice/Guidance for Members – Planning and Rights of Way and the conclusions to be drawn from these decisions that first and foremost, we need to ensure we have well trained professional officers providing sound and lawful advice to the Planning Committees. This includes not just Planners but the whole range of allied professions from across the Council. This also includes the advice we receive from other statutory consultees such as the Highway Authority. East Suffolk Council has a strong and experienced team and all reports to Planning Committee are reviewed in detail by senior officers to provide that quality assurance check and assessment. In assessing these reports part of the review is to assess the potential risk for possible judicial challenge especially in the more controversial cases. There is also a strong training and development culture in the council to “grow our own” as part of good succession planning.
- 2.8 The need for well-resourced planning teams was a matter that the Council responded to in its response to the recent consultation on the Planning White Paper. However, if it is considered that additional input is required and that is not available in the Council, we will bring that expertise in on a consultancy basis as required (recent examples include the need for Viability advice).
- 2.9 It will also be noted in the Bawdsey Manor case there was a difference of opinion on noise matters between officers but the Judge properly concluded that the Planning Officer was entitled to come to a different view in drafting the report on the application when balancing all the other material planning issues needing to be considered. This is a key point to note as with most, if not all, planning applications there will be differences of opinion that have to be properly balanced in order to make a sound recommendation and subsequent decision.
- 2.10 It will also be noted in that case that the Judge also referred to the fact that the Planning Committee had undertaken a site visit to fully understand the circumstances on the ground. This was an important point in confirming to him that the decision made was sound and that the Planning Committee had understood the noise issues in detail to balance the competing views. Therefore, alongside the recruitment and training of Officers there needs to be ongoing training and briefing of Councillors on Planning Matters in accordance with our Member Training Programme. This is in place but is

under regular review and is a matter that the Head of Planning and Coastal Management will discuss with the Cabinet Member and Chairs of the Planning Committees.

- 2.11 Reports to Planning Committee, especially for the more contentious cases are often long. It will be noted that at least one Claimant cited that the report's contents mislead the committee by not including the full transcript of a response. Whilst this was rightly rebutted it is a matter, that having reviewed further, we need to be mindful of. It is considered that the current process in drafting reports is appropriate but there may be occasions where it is important to attach the full (and often long) response from key consultees as an appendix to the report to enable Members to read those details in full to provide the full context. This occurred in the Melton Hill case with the response from the Senior Design and Conservation Officer provided as an appendix. It should also be noted that all the responses are available to view on line and the links are provided in the Committee reports.
- 2.12 Another key learning point is the need to have quality Minutes provided after each meeting. Again, whilst the Minutes are often long their drafting has significantly helped in rebutting these challenges. The Minutes set out the detailed chronology to make clear how the decision made was arrived at. This will be further aided by the recording of Committee meetings. This is currently taking place, due to Covid 19 reasons, with meetings presented and available to view on YouTube. The recording of meetings, and the ability to join/view a meeting remotely, is likely to continue and become the norm. This further emphasises the need for appropriate training for Officers and Members, including on presentation techniques in meetings to ensure that the meetings are conducted to the highest standards to provide that further confidence.
- 2.13 In the Bawdsey Manor case, as set out above, there was some discussion regarding the Update Sheet provided to Committee Members the day before the actual meeting. As background, reports to Planning Committee are generally written at least two weeks ahead of the actual meeting to ensure their publication to the agreed timescales. In many instances there are material changes to the application, and/or additional information is provided, or responses received, between drafting and the meeting. These need to be reported and our procedures in the Code of Good Practice/Guidance for Members - Planning and Rights of Way in the Constitution at para 6.3 states that anything provided at least 24 hours ahead of the meeting will be reported to Members. Sometimes the level of additional information to report is significant and always the option is available to potentially defer a case until the next meeting. That is a judgement call and officers will advise but Members may also consider that a deferral is necessary. However, if the case is heard the Committee Members need to be satisfied that they have understood the content of all additional information provided. The Committee Chairman may decide to have a short adjournment to enable Members to read any late submissions.
- 2.14 Notwithstanding the commentary in the case regarding the Update Sheet it is considered that the process must be in place given the nature of the procedural timings and the need to make timely planning decisions. It works well and it will be for the Chairman at each meeting, in discussion with Officers to seek confirmation that Members have read the Update Sheet and to ask whether there are any matter arising from them.
- 2.15 Public Speaking procedures at Planning Committee are set out in the Code of Practice and the process allows speakers to be questioned, in addition to Members being also able to ask Officers questions. These legal cases confirm the benefit of having this

process in place and that we have a sound and robust process that enables the salient points to be heard and differing opinions understood by the Committee.

- 2.16 In concluding, Members should be satisfied that the procedures adopted through the Code of Practice provide a strong framework for determining planning applications. Additionally, having an on going training programme in place for both Members and Officers is also crucial to ensure we have the best trained representatives in providing advice and making decisions. East Suffolk can be rightly pleased with the outcomes of these decisions but must be always vigilant in determining any application as the process is always open to detailed scrutiny.

3. FINANCIAL AND GOVERNANCE IMPLICATIONS

- 3.1 It is accepted and understood that planning decisions should be open to proper and full scrutiny. This provides the reassurance to the public of a sound and thorough set of procedures and therefore outcomes. This helps with public confidence in what is often seen as a controversial area of local government.
- 3.2 The general principles of legal challenges on planning decisions are that the loser pays the costs of the other party. However in these type of environmental cases costs are capped such that the Council would be liable to pay a maximum of £35k per case to the Claimant if it lost a case, but the Claimant would be limited to £5k per case, if the case is made by an individual, or £10k on behalf of a group. If a case is dismissed before proceeding to Court reasonable costs are recharged. It should be noted therefore if the Council were to lose it would pay £35k in costs to the Claimant plus our own legal costs as well as significant officer time.
- 3.3 In these cases the Council recovered/is in the process of recovering £10k for the Sizewell B case, £5k for each of Bawdsey Manor and Melton Hill and has recovered £1600 for the Felixstowe Ferry case. The council incurred costs well exceeding the funds recovered. The cumulative fees for counsel for all three cases that went to court are in excess of £70k and there will be significant additional costs of officer time. This is a significant cost differential for the council to bear but Members should be reassured that notwithstanding there were four challenges through 2020 the rigour and assessment by the council in making planning decisions minimises these risks.

4. REASON FOR RECOMMENDATION

- 4.1 Strategic Planning Committee are required to be fully informed of the planning functions and processes of the Council and this report has been provided to update them on these important legal matters.

RECOMMENDATION

That Strategic Planning Committee note the contents of this report and that the matters raised in section 2, following dialogue with the Cabinet Member and Planning Committee Chairman, will be incorporated in to the training plans for Officers and Members to ensure the Council continues to make sound planning decisions.

APPENDIX A

1	Sizewell B
2	Sizewell B
3	Bawdsey Manor
4	Melton Hill
5	Felixstowe Ferry Golf Club

BACKGROUND PAPERS

DC/19/1022/FUL – Creation of a Lake for recreation purposes at Bawdsey Manor, Bawdsey

DC/19/1637/FUL – Relocation of Sizewell B Power Station facilities, Sizewell, Leiston-cum-Sizewell

DC/19/2641/FUL – Redevelopment of former council offices at Melton Hill, Woodbridge

DC/19/5049/FUL – New Club House and associated works, including the erection of 5 dwellings for Felixstowe Ferry Golf Club, Cliff Road, Felixstowe

All can be found on the Council's website at <https://www.eastsuffolk.gov.uk/planning/planning-applications/publicaccess/>



[2020] EWHC 2579 (Admin)

Case No: CO/5052/2019

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
PLANNING COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 01/10/2020

Before:

THE HON. MR JUSTICE HOLGATE

Between:

Joan Girling	<u>Claimant</u>
- and -	
East Suffolk Council	<u>Defendant</u>
- and -	
(1) EDF Energy Nuclear Generation Limited	<u>Interested</u>
	<u>Parties</u>
- and -	
(2) NNB Generation Company (SZC) Limited	

David Wolfe QC and Ashley Bowes (instructed by Leigh Day) for the Claimant
Andrew Tait QC and Isabella Tafur (instructed by East Suffolk Council) for the Defendant
Hereward Phillpot QC (instructed by Herbert Smith Freehills LLP) for the Interested Parties

Hearing date: 8 September 2020

**Judgment Approved by the court
for handing down**

Covid-19 Protocol: This Judgment was handed down remotely by circulation to the parties' representatives by email and released to Bailii.

Mr Justice Holgate :

Introduction

1. The Sizewell B (“SZB”) power station in Suffolk is expected to continue in operation until 2035. It may then be licensed to operate for a further 20 years. It currently generates about 3% of the UK’s electricity. The adjacent Sizewell A (“SZA”) station is in the process of being decommissioned.
2. For a number of years there have been proposals to develop a further nuclear power station, Sizewell C (“SZC”). At the time of the decision under challenge it was envisaged that, subject to obtaining all necessary consents, construction on this project would begin in 2022 and last for some 9 to 12 years. An application for a development consent order under the Planning Act 2008 (“PA 2008”) for SZC was submitted to the Planning Inspectorate on 27 May 2020. On 24 June 2020 the Secretary of State accepted the application for examination. Once the Examining Authority makes its initial assessment of the principal issues arising on the application and holds a preliminary meeting in public under s. 88 of PA 2008, it will be under a duty to complete the examination process within 6 months of the date of that meeting and to make its report to the Secretary of State within a further 3 months (s.98). The Secretary of State must then determine the application within the following 3 months (s.107).
3. The SZC project would involve the use of land currently needed for the operation of SZB, namely a substantial outage store, laydown area and associated facilities. Every 18 months or so it is necessary for a planned outage to take place at SZB for maintenance. This lasts for about 2 months. The reactor is taken off-line, fuel rods are removed or installed, and other essential works carried out. A typical planned outage requires between 600 to 1300 workers on site in addition to the 500 or so who routinely work there. Before these parts of the SZB site may be used for the SZC project, it is necessary for the facilities to be relocated, so that the normal operational cycle of SZB is maintained and the conditions of the nuclear site licence satisfied. These facilities are also necessary for dealing with any unplanned outages that may occur.
4. The first Interested Party, EDF Energy Nuclear Generation Limited, is the owner and operator of SZB. The second Interested Party, NNB Generation Company (SZC) Limited, is the promoter of SZC. Both interested parties form part of the EDF Energy Group.
5. On 18 April 2019 the first Interested Party applied to the Defendant, East Suffolk Council (“the Council”), for planning permission to provide replacement facilities for SZB. The development related to the demolition of the existing outage store, laydown area, operations training centre, technical training centre, visitor centre and a garage, the removal of some 676 parking spaces and the provision of a new outage store (2,778 sq. m.), laydown area (11,990 sq. m.), training centre (4,032 sq. m.), and 688 parking spaces, access roads and landscaping. The proposal is for the relocation works for these facilities at SZB to begin in advance of a decision on whether to grant development consent for SZC, so as to reduce the delay to the SZC project that would occur if these relocation works could not be carried out until the whole scheme is consented. This was said to be in the national interest because national policy supports the development and deployment of additional nuclear power capacity as soon as possible. EDF informed

the Council that these advance relocation works needed to start at the beginning of 2020 and would take 4 to 4.5 years.

6. It was common ground that the application relating to the relocation works was properly made under the Town and County Planning Act 1990, It was not required to be dealt with under PA 2008.
7. The Claimant is a resident of Leiston and lives about 2 miles from SZB. She is the Secretary and a member of an unincorporated association, “Together Against Sizewell C” (“TASC”), which comprises about 300 supporters. The group was formed because of concerns about the sensitive nature of the environment around Sizewell and the effects of the SZC project, to which it is opposed.
8. It is important to emphasise that although the proposals for the advance works permitted by the Council and for the SZC project give rise to strongly held views, both in favour and against, this court is only concerned with whether the decision being challenged was flawed by any error of law. These proceedings are not concerned with the merits, the pros and cons, of the proposals.
9. The existing SZA and SZB stations have frontages to the North Sea. SZB lies to the north of SZA. SZC would lie to the north of SZB. The application site has an area of nearly 31 hectares. It is a long site running north south and generally to the west of the buildings on SZA and SZB but it also continues further north and south beyond those two stations. The site lies within the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (“AONB”) and the Suffolk Heritage Coast. The Sizewell Marshes Site of Special Scientific Interest (“SSSI”) lies immediately west and north of the site. Within the western boundary of the site lies Coronation Wood, a mixed plantation just over 100 years old, mainly comprising semi-mature and mature pines, with some mature broadleaf trees. The proposal would involve the loss of 229 trees, but there would be a substantial amount of new planting, albeit much younger specimens.
10. The key policy for the protection of the AONB is to be found in paragraph 172 of the National Planning Policy Framework (“NPPF”), which states: -

“Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding National Beauty, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

- a) the need for development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;

- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.”

It is common ground that the Council correctly treated the proposal as involving “major development” in the AONB.

11. The application was considered by the Strategic Planning Committee on 9 September 2019. The officer’s report to the members was a very careful and detailed document which helpfully summarised the views of consultees and those who made representations. It set out the various policy and technical issues in clear terms. The committee discussed the application at some length after having had the benefit of presentations from officers and interested parties, including the Claimant. The approved minutes provide a detailed and helpful record of the process.

12. The committee resolved to approve the application in the following terms: -

“That **AUTHORITY TO APPROVE** be granted subject to:

- receipt of additional bat survey information including impacts and mitigation measures;
- receipt of a Shadow Habitat Regulation Assessment (HRA) report providing sufficient detail for this Authority to undertake the necessary assessment in accordance with the habitats regulations;
- the signing of a section 106 legal agreement requiring a payment in relation to residual impacts on the AONB; and
- the inclusion of appropriate conditions including those detailed below.”

13. The additional bat survey information and a “shadow” HRA were provided by the developer to the Council. Mr Meyer the Council’s ecologist confirmed that the Council was satisfied with those materials. A s.106 agreement was entered into with which the Council was satisfied. Accordingly, on 13 November 2019 the Council granted planning permission for the relocation development. The Council considered the possibility that this development might be carried out but the application for development consent in respect of SZC refused. To address that potential outcome Condition 16 provides: -

“In the event that Sizewell C Nuclear Power Station is not permitted by the Secretary of State, a scheme of restoration in accordance with details first submitted to and agreed in writing by the Local Planning Authority will occur at Pillbox Field and any other areas previously vacated by Sizewell B buildings and not to be re-used.

The Scheme shall be submitted to and approved in writing within 18 months of the date of the final decision by the Secretary of State to refuse consent for the Sizewell C Nuclear Power Station (or, if later, the date that any legal challenge to such decision is finally resolved).

All restorative works shall be carried out in accordance with a Restoration Scheme, including a timeframe for the restoration works, in accordance with details first submitted to and approved in writing by the Local Planning Authority.”

The claim for judicial review

14. The Claimant asks for an order quashing the grant of planning permission. At a hearing on 3 June 2020 Andrews J (as she then was) granted permission to apply for judicial review on ground 2 but refused permission on grounds 1(a) and (b). On 9 July 2020 Lewison LJ granted the Claimant permission to apply for judicial review additionally under ground 1(b). No further application was made in respect of ground 1(a) and Mr David Wolfe QC accepted that that could not be pursued. In other words, he did not seek to argue that the Council had erred in law by treating the designation in the National Policy Statement for Nuclear Power Generation (“EN-6”) of SZC as a potentially suitable site for a nuclear power station as amounting in itself to “exceptional circumstances” justifying major development in the AONB.

15. The two grounds now raised in this challenge are therefore: -

Ground 1(b)

The Council unlawfully failed to consider the need for, and alternatives to, the proposal for the purposes of paragraph 172 of the NPPF in addressing whether there were exceptional circumstances to justify development;

Ground 2

The Council failed to reach a lawful conclusion that the environmental information was “up to date” contrary to regulation 26 of the Town and County Planning (Environmental Impact Assessment) Regulations 2017 (SI 2017 No. 571) (“the 2017 Regulations”).

16. It is common ground between the parties that if the Claimant succeeds on either of these two grounds then the planning permission must be quashed. Section 31(2A) of the Senior Courts Act 1981 is not relied upon.

17. Bearing in mind the terms of the resolution passed by the Council, I should record that Mr Wolfe accepted that no complaint arises in relation to the way in which the Council applied the Conservation of Habitats and Species Regulations 2017 (SI 2017 No. 1012).

General legal principles

18. The principles on which the Court deals with an application for judicial review of a decision by a local planning authority to grant planning permission have been

established in a number of cases and are well-known. Relevant authorities include *R (Mansell) v Tonbridge and Malling Borough Council* [2019] PTSR 1452 [42]; *R (Luton Borough Council) v Central Bedfordshire Council* [2014] EWHC 4325 (Admin) at [90] to [95].

19. Where, as in this case, the members of the committee voted to accept the recommendation in the officer's report, it is a reasonable inference that they accepted the reasoning in the officer's report, in the absence of evidence to the contrary (*R (Palmer) v Herefordshire Council* [2017] 1 WLR 411 at [7]). Here, there is no contrary evidence. The parties agreed that this principle extends to include material in the minutes of the meeting. This is also relevant to the Court's assessment of the "main reasons and considerations on which the decision" was based (regulation 30(1)(d) of the 2017 Regulations).

Ground 1(b)

A summary of the submissions

20. Mr Wolfe QC submits that the Council was required by paragraph 172 of the NPPF to make an assessment of the matters referred to in sub-paragraphs (a), (b) and (c). He accepts that the Council discharged that obligation in relation to (a) the impact of granting or refusing the application on the local economy, (b) the cost of, and scope for, carrying out the development outside the designated area or meeting the requirement for the scheme in some other way and (c) any detrimental effect upon the environment, landscape and recreational facilities. But he submits that the Council failed to meet the requirement to assess the need for the advance works, as an essential component of the balance which they had to strike in order to determine whether there were "exceptional circumstances" and the development was in the public interest to justify granting the permission.
21. Mr Wolfe rightly submits that the need for the development was a relevant consideration which the planning authority was mandated by national policy to take into account. This legal concept has recently been explained by the Supreme Court in *Samuel Smith Old Brewery (Tadcaster) Limited v North Yorkshire County Council* [2020] PTSR 221 at [29] to [32] and encapsulated by the Court of Appeal in *Oxton Farm v Harrogate Borough Council* [2020] EWCA Civ 805 at [8] as follows: -

"In *R (Samuel Smith Old Brewery (Tadcaster)) v North Yorkshire County Council* [2020] PTSR 221 the Supreme Court endorsed the legal test in *Derbyshire Dales District Council* [2010] 1 P & CR 19 and *CREEDNZ Inc v Governor General* [1981] 1 NZLR 172, 182 which must be satisfied where it is alleged that a decision-maker has failed to take into account a material consideration. It is insufficient for a claimant simply to say that the decision-maker did not take into account a legally relevant consideration. A legally relevant consideration is only something that is *not* irrelevant or immaterial, and therefore something which the decision-maker is *empowered* or *entitled* to take into account. But a decision-maker does not *fail* to take a relevant consideration into account *unless he was under an obligation to do so*. Accordingly, for this type of allegation it is

necessary for a claimant to show that the decision-maker was expressly or impliedly required by the legislation (or by a policy which had to be applied) to take the particular consideration into account, or whether on the facts of the case, the matter was so “obviously material”, that it was irrational not to have taken it into account.”

22. The facilities required for SZB already exist. So, it is common ground that there is no need for the proposed works to enable SZB to continue to operate unless development consent is granted for SZC. However, the SZC proposal was not before the Council. Instead, the Council properly had regard to national policy statements on the importance of developing new nuclear power capacity as soon as possible and identifying a number of potential sites including Sizewell (subject to consent being obtained). Accordingly, the specific need for the works proposed in the application before the Council was to reduce delay in the carrying out of the SZC project in the event of that being authorised by a development consent order pursuant to national policy.
23. Paragraph 172 of the NPPF requires the need for “major development” in an AONB to be assessed but does not stipulate how that assessment is to be carried out, other than by the partial explanation in limb (a). The word “need” is an ordinary English word and it would be inappropriate in this case for it to be the subject of judicial interpretation. Mr Wolfe QC did not suggest otherwise. It is one of those broad expressions which are to be understood at a high level of abstraction, given the wide range of circumstances to which such policy is to be applied across the country.
24. In this case we are dealing with the *application* of policy. The application of the word “need” to the circumstances of each case is essentially left to the judgment of the planning authority. That judgment can only be challenged on the grounds of irrationality.
25. Mr. Wolfe QC relied upon the dictum of Lord Diplock in *Tameside Metropolitan Borough Council v Secretary of State for the Environment* [1977] AC 1014 at 1065B:
-

“... the question for the court is, did the Secretary of State ask himself the right question and take reasonable steps to acquaint himself with the relevant information to enable him to answer it correctly.”

However, he also accepted that the apparent width of that statement has been qualified by the principle established in, for example, *R (Khatun) v Newham London Borough Council* [2005] QB 37 at [35] and *Flintshire County Council v Jayes* [2018] EWCA Civ 1089 at [14]. Accordingly, it was for the Council to judge how far to go into the question of need and to obtain information on that aspect. That judgment is only open to challenge on the grounds of irrationality. In the light of the *Samuel Smith* case, the question for the Court is whether the amount of time which would be saved in the construction of SZC by carrying out the advance works was an “obviously material” consideration, such that it was irrational not to take it into account.

26. The Claimant has to accept that, when applying the “exceptional circumstances” test, the officer’s report did rely upon reduction in delay to the completion of the SZC project

as the need for the advance works. However, it is submitted that because the focus of the enquiry had to be why those works are needed now, rather than as part of the SZC scheme if consented in future, it was “obviously material” for the Council to consider the implications of the advance works on the timings for the SZC project. Thus, it is said that it was necessary for the Council to know about the developer’s timeline for the construction of SZC and how the carrying out of the advance works would impact on those plans. How much time would they save in the development of SZC?

27. Mr Wolfe QC submitted that it was legally insufficient for the Council merely to have proceeded on the basis that some time would be saved, without having an assessment of how much that would be. He argued that without that information the Council could not rationally decide how much weight to give to this highly specific form of need so as to see whether the claimed benefits of the proposal outweighed any harm to the AONB identified, “great weight” being required to be given to that harm in accordance with paragraph 172 of the NPPF (see paragraph 50 of the Claimant’s skeleton).
28. It is common ground that no such estimate of the amount of time that would be saved was supplied by the developer to the Council or was estimated by the latter. There was, for example, no quantitative analysis of the effect of the advance works on the schedule for the construction of SZC. Instead the Council and the Interested Parties submit that the authority’s decision was based upon a “qualitative” appreciation of the benefit claimed in the context that it is national policy, and therefore in the national interest, that additional nuclear power capacity be developed as soon as possible. They also submit that because the Council’s overall assessment was that there would be no material adverse impact upon the AONB - rather the proposal would be beneficial - there was no legal requirement for a quantitative or numerical assessment of the time savings to be made so that the “exceptional circumstances” test could be lawfully applied. In the circumstances of this case, a quantitative assessment was not an “obviously material” consideration such that it was irrational for the Council to decide to grant planning permission for the advance works without it.

Discussion

29. The parties referred to *Calverton Parish Council v Nottingham City Council* [2015] EWHC 1078 (Admin) and *Compton Parish Council v Guildford Borough Council* [2019] EWHC 3242 (Admin), both of which were concerned with the “exceptional circumstances” test in paragraphs 136-7 of the NPPF for the alteration of a Green Belt boundary. The relevant principles were analysed and summarised in *Keep Bourne End Green v Wycombe Council* [2020] EWHC (Admin) at [146] to [155]. Thus, the concept of “exceptional circumstances” is deliberately broad and not susceptible to dictionary definition. The matter is left to the judgment of the decision-maker in all the circumstances of the case. In *R (Luton Borough Council) v Central Bedfordshire Council* [2015] 2 P&CR 19 Sales LJ pointed out at [56] that the “exceptional circumstances” test for the alteration of a Green Belt boundary is less onerous than the “very special circumstances” test for development control in relation to “inappropriate development” within the Green Belt.
30. Here we are dealing with the “exceptional circumstances” test in paragraph 172 of the NPPF for “major development” in an AONB. Nonetheless, I accept that in broad terms the approach summarised in *Keep Bourne End Green* at [146] may be read across to the present context. However, it should be remembered that in development control,

“inappropriate development” in the Green Belt is treated as being harmful in itself to Green Belt policy by reason of its inappropriateness (see paragraph 144 of NPPF), quite apart from any additional harm that would be caused by the impact of the particular proposal on the Green Belt and its purposes in that location. It is common ground between the parties that under AONB policy in the NPPF there is no notion of harm simply through development being treated as inappropriate in policy terms. Instead, the issue is what harm to the AONB (if any) would actually be caused by the development in the location proposed. AONB policy is also different from Green Belt policy in that (a) it explicitly requires consideration of whether the development would be in the public interest and (b) it sets out some of the factors which should be addressed, where relevant, in the assessment of whether “exceptional circumstances” exist.

31. I summarise first how the officer’s report approach the issue of need. For example, paragraph 8.1.8 of the officer’s report summarised the national policy position as follows: -

“National Policy Statement EN-1 – Energy and EN-6 – Nuclear Power identify a need for new nuclear power generation in England and Wales, EN-6 identifies Sizewell as a potential site for new nuclear development. Parts of the Sizewell B generating station are on the identified site for Sizewell C. In order to facilitate the efficient development of Sizewell C, it is of national importance for the B Station facilities to be moved to enable the B Station to continue operating and to avoid greater delay to the construction timetable for Sizewell C. EN-1 refers to there being an ‘urgent need for new electricity generation plant, including new nuclear power’ and EN-6 refers to there being an ‘urgent need for new nuclear power stations’. Once published the draft new NPS will also be a consideration – no timetable for this has yet been released by Government.”

No criticism is made of that summary.

32. National Policy Statements (“NPSs”) on nationally significant infrastructure projects are designated by the Secretary of State subject to strategic environmental assessment, sustainability appraisal, consultation, and consideration by Parliament. In July 2011 the Secretary of State designated the “Overarching National Policy Statement for Energy” (EN-1), along with the “National Policy Statement for Nuclear Power Generation” (EN-6). These policies remain extant, although the Government has undertaken consultation on “the siting criteria and process” for a new NPS on nuclear power.
33. There is no dispute that if SZC were to go ahead, the facilities at SZB the subject of the planning permission would need to be relocated and the Council accepted that they would need to be sited in the vicinity of the present station. Paragraph 8.1. of the officer’s report explained why the facilities could not be relocated to the site of SZA.
34. The officer’s report accepted that to meet the current construction programme for SZC, work on the relocation of the facilities at SZB would need to begin at the start of 2020 (paragraph 3.1). It was also accepted that the early delivery of these works (a) could lessen the impact of the construction programme in relation to SZC and (b) would reduce the cumulative impacts of SZC and the nearby development proposed by

Scottish Power Renewables in connection with the East Anglia One North and East Anglia Two offshore windfarms (paragraphs 8.14.1 to 8.14.2, 9.3 and 9.6). The minutes also record that a representative of EDF Energy explained that the advance relocation of SZB facilities would allow a faster delivery of SZC if the latter were to be approved.

35. I now summarise how the officer's report addressed harm to the AONB. To put the matter into context, an AONB may be designated for the purpose of "conserving and enhancing the natural beauty of the area" (s.82(1) of the Countryside and Rights of Way Act 2000). In this context, "the conservation of the natural beauty of an area" includes a reference to "the conservation of its flora, fauna and geological and physiographical features" (s.92(1)). This broad approach, which Mr Wolfe QC emphasised, is reflected in paragraph 172 of the NPPF.
36. The officer's report discussed in some detail the loss of 229 trees in Coronation Wood, of which 73% were assessed as being of low quality, that is plantation trees with a limited life expectancy and limited amenity value. It was judged that this loss would be "balanced" by the planting of over 2500 juvenile woodland trees, including a mixture of broadleaf and coniferous species appropriate for the prevailing soil and coastal conditions (paragraph 8.3.14). In the short to medium term, the loss of the wood would have a moderate adverse effect, but taking into account the species and habitat present, the loss was judged to be "minor" and "not significant" following mitigation (8.3.15). EDF Energy had increased the amount of planting proposed since the application was made and the Council's officers concluded that "the balance is in favour of the scheme *on this matter*" (emphasis added) (paragraph 8.3.16). Officers considered that the wood had limited public amenity value, its principal value being for users within the Sizewell complex (8.4.3). Coronation Wood was not considered to be in a sustainable condition and much of it was judged to be unsuited to the local landscape character (8.4.5). Increased planting on Pillbox Field provided by EDF would "fully compensate for the loss of woodland" (8.4.6).
37. The effect of the proposal on the landscape was assessed in section 8.5 of the officer's report. Not surprisingly, the officer's report identified some negative impacts during the demolition and construction phase lasting 4 to 4.5 years. More generally at paragraph 8.5.15 officers concluded: -

"With regard to the high-level designated landscape of the AONB and its natural beauty indicators and special qualities, long term permanent effects, where they occur, do so over a very limited area of the AONB. The greatest rated scale of effect is a Small effect on landscape quality through the removal of Coronation Wood, the conversion of part of Pillbox field to outage carpark, and the partial visibility of the proposed new structures. Other AONB special qualities such as wildness, scenic quality, and tranquillity are already considered to be compromised by the presence of the existing power station site."

and at 8.5.17: -

"it is concluded that the proposed development would have a negligible magnitude of effect on the natural beauty and special qualities of the AONB. Factoring in the medium sensitivity of

the AONB in this location, the effects are judged to [be] of minimal significance and on balance neutral.”

These passages referred not only to the landscape but also “natural beauty”.

38. Mr Wolfe QC placed emphasis on one particular paragraph of the officer’s report (8.6.4) in the section dealing with effects on the AONB: -

“However, it is important to acknowledge that the proposal will move existing development from one area of the AONB to another, and the footprint will be increased. As such, there is a residual impact on permanent loss of the AONB that cannot be addressed through mitigation.”

It is important to note the words “as such” and the fact that this passage was only dealing with the increase in the area of the footprint. Plainly, that increase would represent a permanent loss of the area involved. But that formed only part of the overall assessment of the effect of the advance works on the AONB and it is necessary to read the report as whole.

39. Mr Wolfe QC also relied upon an earlier part of the detailed assessment in the officer’s report, namely paragraph 8.3.26, which had stated that the proposed development would result in an overall net loss of habitat for breeding birds in Coronation Wood, Pillbox Field and hedgerows, after taking into account the replacement planting. However, paragraph 8.3.27 went on to say that given the small amount of habitat impacted “there is unlikely to be any significant change in the breeding bird assemblage” and there are also methods for supporting net biodiversity gain which should be addressed in planning conditions. Paragraph 8.3.33 explained that EDF was then undertaking further work on biodiversity gain and how a net gain could be achieved by various measures, including the use of native species in the replanting proposals to provide better food sources for birds.
40. The minutes of the committee meeting record further information given to the members. They were told by officers that trees in Coronation Wood were not suited to the soil and there were signs of blight which would lead to future decline in the state of the wood through wind blow. The members were also advised that the proposals for new planting in Pillbox Field, the current condition of Coronation Wood and the suitability of the new species to be planted, “meant that overall the proposals could be considered a benefit to the AONB landscape; it would provide more appropriate species, provide an improved layout and offer more long-term prospects for landscape and wildlife than Coronation Wood.” Subsequently, some members speaking in the debate endorsed the view that the proposed mitigation planting would result in a net gain.
41. Accordingly, I accept the submission of Mr Andrew Tait QC for the Council that, read as a whole, the officer’s report and the minutes show that the Council considered that the overall impact of the proposal would not be materially harmful. As the report itself recognised, there are many people who disagree with particular parts of the assessment and/or with the overall conclusion. It is necessary to repeat that it is not for the court to adjudicate on the correctness of the rival views. The key point here is that the Claimant does not contend that it was *unlawful* for the Council to reach any of these judgments. I agree.

42. In other cases there might be force in Mr Wolfe’s submission that where it is necessary for a planning authority to consider whether there are exceptional circumstances and public interest sufficient to outweigh harm to an AONB, and the developer relies upon a need to carry out advance works in order to speed up the subsequent delivery of the main project, then it may well be “obviously material” for the authority to consider some quantitative information so as to be able to understand approximately how much time would be saved and to decide how much weight to give to that factor as against the net harm actually resulting from those works. However, in the circumstances of this case, where the Council was legally entitled to conclude that, viewed overall, there was no material harm to the AONB, but rather benefits to the AONB, I do not accept that the Council acted irrationally by not requiring a quantitative assessment of the time saving for the SZC project or to consider that matter. I am reinforced in that conclusion by the combination of other factors which the Council accepted as forming part of the overall “exceptional circumstances” case for the proposal, notably the urgent national need for new nuclear power generation endorsed in the NPSs, the identification of the SZC site as potentially appropriate for an additional nuclear power station, the public interest in reducing the risk of overlapping construction programmes for SZC and other substantial infrastructure projects in the area, and the lack of suitable sites outside the AONB (paragraph 8.6.3 of the officer’s report).
43. For all these reasons, ground 1(b) must be rejected.

Ground 2

A summary of the submissions

44. Regulation 3 of the 2017 Regulations prohibits a planning authority from granting planning permission for EIA development “unless an EIA has been carried out in respect of that development.” The planning permission granted by the Council was for EIA development. Regulations 2(1) and 4 define “EIA” as the process consisting of the preparation of an environmental statement, any consultation, publication and notification required in respect of EIA development and “the steps required under regulation 26.”
45. Regulation 26 of the 2017 Regulations provides (in so far as is material): -
- “(1) When determining an application or appeal in relation to which an environmental statement has been submitted, the relevant planning authority, the Secretary of State or an inspector, as the case may be, must-
- (a) examine the environmental information;
 - (b) reach a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account the examination referred to in sub-paragraph (a) and, where appropriate, their own supplementary examination;
 - (c) integrate that conclusion into the decision as to whether planning permission or subsequent consent is to be granted; and

(d) if planning permission or subsequent consent is to be granted, consider whether it is appropriate to impose monitoring measures.

(2) The relevant planning authority, the Secretary of State or the inspector, as the case may be, must not grant planning permission or subsequent consent for EIA development unless satisfied that the reasoned conclusion referred to in paragraph (1)(b) is up to date, and a reasoned conclusion is taken to be up to date if in the opinion of the relevant planning authority, or the Secretary of State or the inspector, as the case may be, it addresses the significant effects of the proposed development on the environment that are likely to arise as a result of the proposed development.”

46. By schedule 4 to the 2017 Regulations, the Environmental Statement was required to include “a description of the relevant aspects of the current state of the environment (baseline scenario) ...” (paragraph 3) and “a description of the likely significant effects of the development on the environment...” (paragraph 5).
47. The Claimant contends that the Council concluded that parts of the ecological survey work available were “not up to date” and therefore regulation 26(2) was not satisfied. Mr Wolfe QC submits that it follows that by regulation 3 the Council was prohibited from granting the planning permission which was *ultra vires*.
48. He bases his argument firstly on guidance from the Chartered Institute of Ecology and Environmental Management (“CIEEM”) which was accurately explained in paragraph 8.3.1 of the officer’s report

“Guidance on survey validity from the Chartered Institute of Ecology and Environmental Management (CIEEM) states that reports of more than 3 years old are ‘unlikely to still be valid and most, if not all, of the surveys are likely to need to be updated (subject to an assessment by a professional ecologist)’ (Advice note on the lifespan of ecological reports and surveys, CIEEM, April 2019). Such an assessment must be based on a number of criteria as set out in the advice note, and a clear statement setting out appropriate justification must be provided. EDF Energy considers that they have provided a comprehensive suite of desk-study and field survey data for the estate, collated over the last 12 years. Surveys in 2018-19 have confirmed that habitat conditions on site have remained similar throughout the period under consideration and species present are unlikely to be changed. There is also ongoing monitoring of habitat conditions undertaken by both Suffolk Wildlife Trust and EDF Energy.”

49. Mr Wolfe QC relies in particular upon two paragraphs of the officer’s report, first, paragraph 8.3.2 which stated: -

“There is a suite of desk study and field survey data provided with the application, much of it is more than 3 years old,

including some surveys which relate to mobile species (such as breeding and wintering birds). *Whilst the habitat baseline used in the environmental statement is likely to be broadly similar now compared to the time of survey, the baseline for some species may have altered and therefore the assessment provided may under assess the impact of the proposed development. This is an area of professional disagreement between the statutory consultees, our own ecologist and EDF Energy's ecologists, with regards to the suitability and age of survey material supporting the application.* However, in taking a balanced approach and mindful that some surveys are currently being undertaken (bat) and others can be updated pre-commencement (badger etc.), on balance it is considered that is difficult to object to the proposal on these grounds as the identified impacts are likely to be the same as already identified. To ensure appropriate mitigation a condition is proposed requiring further survey work to be undertaken where required, in particular in relation to the outline elements of the proposal prior to those works starting.”

I have italicised the words which were emphasised by Mr Wolfe QC.

50. Second, paragraph 8.3.27 stated in relation to breeding birds: -

“The most recent survey work provided for this group dates from 2015 and therefore there is the potential that the range of species and the number of pairs, present may have changed since that time, however, as referenced earlier we are content that the 2015 bird survey along with the precautionary approach and ability to carry out further surveys if required under the CEMP, that we are content with this approach. EDF Energy considers that given the small amount of habitat to be impacted by their proposal there is unlikely to be any significant change in the breeding bird assemblage. There are methods to support biodiversity net gain that could be employed to mitigate adverse impact and it is suggested that these be required via planning condition.”

51. Reading paragraphs 8.3.2 and 8.3.27 together, Mr Wolfe QC invites the court to infer that the Council's ecologist, and hence the committee acting in agreement, concluded that the survey information provided on breeding birds was out of date and therefore did not meet the requirements of regulation 26(2) of the 2017 Regulations. He submits that this was the response of the Council to a concern raised by RSPB that the developer was relying upon an absence of material changes in local habitat rather than carrying out fresh surveys of the species present.

52. Plainly, a good deal of survey work was carried out in relation to a wide range of species and habitats, but no legal challenge is raised in relation to any other aspect of that material. Nor can it be said that this is a case where a subject which the authority was legally required to assess was not surveyed or addressed at all as part of EIA process.

53. Ultimately, Mr Wolfe QC accepted, as became apparent at the permission hearing (see the judgment of Andrews J at [26] to [27]), that his argument depends on whether the

officer's report to the committee is to be read as stating that the Council's ecologist disagreed with the developer's team on whether the survey material relating to breeding birds was sufficiently up-to-date.

54. The Defendant submitted firstly, that regulation 26(2) is dealing with the up to datedness of the Council's "reasoned conclusion" in regulation 26(1)(b) on "the significant effects of the proposed development on the environment." It is not dealing with the up to datedness of the environmental information. Secondly, and in any event, the issue of whether the surveys were sufficiently reliable, given the date when they were carried out, was a separate issue involving a matter of judgment. This was raised by (inter alia) the advice of CIEEM and was addressed by the officer's report relying on advice from the Council's ecologist. On a fair reading of that report, the ecologist concluded that the bird surveys were sufficiently reliable for the purposes of the Council reaching a "reasoned conclusion", such that fresh surveys were not required. In that sense they were up to date. A judgment of this kind may only be challenged on the ground of irrationality, which is not made out.

Discussion

55. Regulation 26 of the 2017 Regulations transposes Article 8a of Directive 2011/92/EU, which was inserted by Article 1(9) of Directive 2014/52/EU. Article 1(2)(g)(iv) refers to the "reasoned conclusion" of the competent authority on the significant effects of the project on the environment, taking into account its examination of the environmental information. Article 8a(1) requires that that conclusion be incorporated into the decision to grant development consent. Article 8a(5) requires relevant decisions to be taken within "a reasonable period of time." That has been transposed by regulation 26(4) of the 2017 Regulations.
56. Article 8a(6) then requires that the competent authority be satisfied that its reasoned conclusion under article 1(2)(g)(iv) is up to date when taking a decision to grant development consent. To that end, Member States may set time frames for the validity of such a conclusion or any of the other decisions referred to in Article 8a(3). This provision has been transposed by regulation 26(2). It is therefore plain that regulation 26(2) is dealing with whether the competent authority is satisfied that its "reasoned conclusion" under regulation 26(1)(b) on the significant environmental effects of the proposal is up to date. The legislation, in particular regulation 3, does not make the validity of the development consent depend upon a formal conclusion by the authority that all the environmental information is up to date. The deeming provision in the second half of regulation 26(2) does not indicate otherwise. A "reasoned conclusion" of the authority is taken to be up to date if the authority judges that *its conclusion* addresses the likely significant environmental effects. Here the Council judged that the surveys relating to breeding birds were sufficiently reliable for present purposes. The object of regulation 26(2) is straightforward, namely to prevent a planning permission being granted if there has been a delay since the time when the authority's "reasoned conclusion" was reached without the authority being satisfied that it may still be relied upon. This deals with the risk of a material change of circumstances occurring between an authority reaching its "reasoned conclusion" and the grant of planning permission.
57. It is impossible to read the officer's report as indicating that the Council was not satisfied that its "reasoned conclusion" under regulation 26(1) was up to date, whether in relation to the whole or any part of the environmental information. The collective

views of officers on the environmental assessment were brought together and included in the officer's report, which was considered by the committee not long afterwards. The decision was issued about 2 months after the committee's resolution. The Council did not consider that its reasoned conclusion, expressed through the officer's report and minutes, had become out of date during that period, and the Claimant suggest otherwise.

58. Quite apart from the construction of regulation 26(2), the issue of whether the survey information on breeding birds (which formed only one aspect of the overall ecological information) was "up to date", taking into account the more recent surveys of habitats, was a matter of judgment for the Council going to the *quality* of that information. It may therefore only be challenged in the courts if that judgement was irrational (*R (Blewett) v Derbyshire County Council* [2004] Env. L.R 29 at [41]; *R (Plan B Earth) v Secretary of State for Transport* [2020] EWCA Civ 214 at [136-144]; *Gathercole v Suffolk County Council* [2020] EWCA Civ 1179). This is the correct legal context in which ground 2 falls to be considered.
59. As regards the preparation of the officers' report on ecology matters, the sequence of events was that Mr. Meyer, the Council's ecologist, produced a note dated 20 June 2020 raising a number of concerns. The developer produced a response dealing with those matters dated 29 July 2020. In relation to breeding birds, EDF relied in part on the considerable extent of the survey work undertaken over a long period of time as well as the more recent habitat surveys.
60. In paragraphs 4 and 5 of his witness statement Mr. Meyer explains that this additional material led him to conclude that no further surveys were required, save on one aspect which was addressed before the grant of planning permission and is not the subject of this challenge. He says that he relayed his views orally to the officer responsible for the preparation of the report to committee before it was finalised, making it clear that he had no outstanding concerns in respect of the age of the survey data or information on ecological effects (save in that one immaterial respect).
61. On a fair reading of the officer's report, it can be seen that the document addressed ecology topics one by one, referring to concerns which had been raised and relying upon the responses from EDF set out in summary form. Reading paragraphs 8.3.2 and 8.3.27 as a whole, it is plain that the Council's ecologist did accept that the impacts on breeding birds were "likely to be the same as already identified" and therefore did accept EDF's case on this point. The committee did likewise. Paragraphs 8.3.2 or 8.3.27 cannot be read as identifying an outstanding concern on the adequacy of the bird surveys. That paragraph did not depart from the clear statement by the officers that it was appropriate for the Council to rely *inter alia* on the 2015 surveys. The reference to further surveys being possible under the "CEMP" (Construction Environmental Management Plan) acknowledged that conditions might change during the construction period of 4 to 4.5 years so as to make further surveys appropriate *for that reason*, not to assess the current baseline adequately. Mr. Meyer's witness statement is therefore consistent with a fair reading of the officer's report.
62. For these reasons, ground 2 must be rejected.

Conclusion

63. For the reasons given above, this application for judicial review is dismissed.

IN THE COURT OF APPEAL, CIVIL DIVISION



REF: C1/2020/1865

GIRLING –v– EAST SUFFOLK COUNCIL

ORDER made by the Rt. Hon. Lord Justice Lewison

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal

Decision: REFUSED

An order granting permission may limit the issues to be heard or be made subject to conditions

Reasons

1. Ground 1 focusses too narrowly on the officer's report. Although it is true that, in general, where a planning committee follow an officer's recommendation they can be assumed to have relied on the officer's reasons, it is clear from the judge's findings at [40] that the committee were given further information at their meeting. Having regard to the information provided (especially about the state of the trees in Coronation Wood) it appears that the committee were advised that overall the proposals could be considered to *benefit* the AONB. Based on that advice the decision to grant planning permission accorded with para 172 of the NPPF even on the Appellant's interpretation. This ground of appeal has no real prospect of success.
2. I note also that the judge considered that this was a new argument not pleaded or relied on below. That is a further reason for refusing permission to appeal on this ground.
3. Ground 2. Whether or not the Appellant argument on the interpretation of reg 26 is correct, in view of the judge's decision on the facts at [58] to [61] success on the point would not change the judge's order. In consequence the point is an academic one; and for that reason alone permission to appeal on this ground should not be granted. But further, I consider that the judge's interpretation of reg 26 was plainly correct.
4. The question of costs protection does not therefore arise.

Information for or directions to the parties

Mediation: Where permission has been granted or the application adjourned:

Does the case fall within the Court of Appeal Mediation Scheme (CAMS) automatic pilot categories (see below)?

Yes/No (delete as appropriate)

Pilot categories:

- | | |
|---|---|
| <ul style="list-style-type: none"> • All cases involving a litigant in person (other than immigration and family appeals) • Personal injury and clinical negligence cases; • All other professional negligence cases; • Small contract cases below £500,000 in judgment (or claim) value, but not where principal issue is non-contractual; | <ul style="list-style-type: none"> • Boundary disputes; • Inheritance disputes. • EAT Appeals • Residential landlord and tenant appeals |
|---|---|

If yes, is there any reason not to refer to CAMS mediation under the pilot?

Yes/No (delete as appropriate)

If yes, please give reason:

Non-pilot cases: Do you wish to make a recommendation for mediation?

Yes/No (delete as appropriate)

Where permission has been granted, or the application adjourned

- a) time estimate (excluding judgment)
- b) any expedition

Signed:
Date: 10th November 2020

Notes

- (1) Rule 52.6(1) provides that permission to appeal may be given only where –
 - a) the Court considers that the appeal would have a real prospect of success; or
 - b) there is some other compelling reason why the appeal should be heard.
- (2) Where permission to appeal has been refused on the papers, that decision is final and cannot be further reviewed or appealed. See rule 52.5 and section 54(4) of the Access to Justice Act 1999.
- (3) Where permission to appeal has been granted you must serve the proposed bundle index on every respondent within 14 days of the date of the Listing Window Notification letter and seek to agree the bundle within 49 days of the date of the Listing Window Notification letter (see paragraph 21 of CPR PD 52C).

Case Number: **C1/2020/1865**



Neutral Citation Number: [2020] EWHC 2850 (Admin)

Case No: CO/6/2020

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 27/10/2020

Before:

JAMES STRACHAN QC
(Sitting as a Deputy Judge of the High Court)

Between:

R
-on the application of
BARRY ZINS

Claimant

- and -

EAST SUFFOLK COUNCIL

Defendant

-and-

(1) PGL TRAVEL LIMITED
(2) HB PGL HOLDING LIMITED

Interested Parties

Mr David Forsdick QC and Ms Kimberley Ziya (instructed by Sharpe Pritchard LLP) for
the Claimant

Mr Josef Cannon (instructed by East Suffolk Council) for the Defendant

Hearing dates: 15th and 16th July 2020

Approved Judgment

Covid-19 Protocol: This judgment was handed down remotely by circulation to the parties' representatives by email, release to BAILII and publication on the Courts and Tribunals Judiciary website. The date and time for hand-down is deemed to be 10:30am on 27 October 2020.

James Strachan QC:

Introduction

1. The Claimant, Barry Zins, challenges the lawfulness of a grant of conditional planning permission to the Interested Parties (“PGL”) by East Suffolk Council (“the Council”) by notice dated 21st November 2019 for:

“Creation of a lake for recreational activities such as raft building and canoeing, including excavation the re-use of excavated materials onsite, and the re-organisation of consented Activity Structures within the Bawdsey Manor Estate”.
2. The Claimant advances two grounds of challenge. In short, he contends the officer’s report and update sheet provided to the Council’s planning committee that granted planning permission materially and seriously misled members as to:
 - i) the advice and comments from the Council’s Environmental Health Officer (“the EHO”) about the noise effects of the development – Ground 1;
 - ii) the heritage benefits said to be secured by way of enabling development, but which were not in fact secured by the conditions imposed on the grant of planning permission – Ground 2.
3. Permission to claim judicial review was granted on the papers by the Honourable Mrs Justice Lang DBE on 25 February 2020.
4. The substantive hearing took place by video conferencing with the co-operation of the parties. The Claimant was represented by Mr Forsdick QC and Miss Ziya. The Defendant was represented by Mr Cannon. I am very grateful to them for the clarity and helpfulness of their written and oral submissions. The Interested Parties did not appear and were not represented.

Factual Background

Bawdsey Manor Estate

5. Bawdsey Manor Estate is in an area of countryside alongside the River Deben and the coast in East Suffolk. The Estate includes a number of significant heritage assets, including Bawdsey Manor House, a Grade II* listed building, its formal gardens and Grade II registered parkland, Pulhamite cliffs and, further to the north-east, and a World War II listed radar station. Unfortunately much of the heritage comprised within the Estate fell into a poor state of repair in recent history. A conservation management plan (“CMP”) was produced in 2010 to try and address that issue.
6. Bawdsey Manor House was in use as a private boarding school until 2016. The school activities were focused around the main buildings of the Manor House, rather than the area now proposed for the new lake (“the Lake”). The Lake area is close to a number of other residential properties, including one owned by the Claimant.
7. PGL acquired the Estate in 2017. PGL provides outdoor adventure activity courses for school children. The Claimant states that PGL initially operated its activities at the

Estate in a low key way and there were no complaints about its activities in that initial period. That has changed since its activities have expanded. The Claimant is now particularly concerned about the noise that would be generated from activities associated with the proposed Lake in proximity to the residential properties.

The Outdoor Activity Structures & River Jordan Planning Permission

8. In November 2017 PGL applied to the Council for planning permission (reference number DC/17/4910/FUL) for various outdoor activity structures to be provided within the Estate, along with restoration of a water channel called the River Jordan.
9. The planning application was accompanied by a noise assessment. It contended that in the worst case scenario assessed, the noise from the activities proposed would be acceptable. The application attracted objections from two residents. They contended (amongst other things) that the shouting and screaming of children from the proposed activities had not been properly assessed in the assessment. They considered that the effects of such noise were masked in the assessment by averaging the peak noise over an inappropriately prolonged period.
10. The Council's EHO was consulted about the application. The EHO did not object to what was proposed, but sought the imposition of a condition requiring the provision of a noise management plan to assist in the prevention of any noise nuisance to the residential neighbours.
11. The planning application was determined by the Council's planning officers under delegated powers. A delegated officer's report which resulted in its approval was produced. The officers stated of the proposed use:

“The continued use of this historic estate as a single entity by PGL is welcome because the proposed use appears a reasonably good fit in terms of re-use of existing buildings and utilisation of the landscape for educational and activity purposes. Having a viable business operating from the site will be beneficial in seeking to preserve the historic structures, buildings and parkland and the restoration of the buildings at risk.”
12. As to the impact on designated heritage assets, the report stated as follows:

“Both H[istoric] E[ngland] and the Council's Principal Design and Conservation Officer and Arboricultural and Landscape Manager, welcome the restoration of the River Jordan as it will provide a significant enhancement to the setting of the Manor on approach. All agree that the majority of the activity equipment/structures are located in the less sensitive areas of the landscape and that their design and position will not adversely impact on the setting of the listed buildings/structures. The removal of the rifle range from the cliff garden and the removal of the archery from the front lawn of the manor is welcome. HE regard their re-positioning within the walled garden will cause some harm to its character but that the harm may be acceptable when balanced against the wider benefits of partial restoration of

the axial paths and central water feature, repairs to the walls and gates and restoration of the Lemonary. The applicant has agreed to submit a restoration scheme for the lemonary and the walls and gates within 6 months of the structures in the walled garden being brought into use. The re-location of one of the abseil tower further from the listed buildings to a less sensitive area of the landscape is also welcome. Seeking a viable use for the site in its entirety is also a public benefit that out-weighs the harm caused by the proposals.

HE have concerns to the lack of a detailed landscape strategy as this is critical to minimising the harm associated with the development and recommends that any consent should be conditional on the submission of a detailed landscape plan and its timely implementation. The applicant has agreed to the submission of a landscape scheme to maintain and further screen the structures within 3 months, and implementation by the end of the 2018/19 planting season. A wider detailed landscape strategy would be sought within 6 months. With such conditions in place it is considered the proposals will not have a significant materially adverse impact on the character and setting of the historic park and garden in line with policy SSP37.”

13. As to the impact on residential amenity, the delegated officer report stated:

“Two objections have been received from nearby residents on the grounds of undue noise disturbance from the use of the various activity structures. The application is supported by a noise assessment which the Council's Environmental Protection Team have assessed, having been made aware of the objections raised. They have undertaken a site visit and are satisfied, subject to a condition requiring the submission of a Noise Management Plan, that the proposals will not cause undue noise disturbance to nearby residents.

There is no doubt that the use will generate some levels of noise as it probably did when in operation as a school. The activity structures will not be used during the evening and all children will be supervised. There will be thus some controlled management by staff.

Having regard to all these factors it is not considered the proposal will cause undue noise disturbance to justify a refusal of planning permission on these grounds.

It is considered the visual impact of the structures could be reduced for residents in Kennelmans Cottage by undertaking some additional planting in the vicinity of this property, which is positioned quite close to one of the pieces of equipment. This would be sought as part of the landscape condition.”

14. Conditional planning permission was granted by the Council by notice dated 15 February 2018. The grant was subject to certain conditions. The conditions included:

“7. Within 3 months of commencement of development, a landscape scheme (including maintenance and management details) that seeks to strengthen the existing woodland structure and provide additional planting to ensure the appropriate screening of the activity structures, shall be submitted to and approved in writing by the local planning authority. Within 6 months of commencement of development a landscape strategy shall be submitted or the remaining parkland including the north of the mansion, the Terraces, Italian Garden, Sunken Garden and the Cliff Garden area.

Reasons: To ensure that there is a well laid out landscaping scheme that will provide appropriate mitigation to reduce the harm caused by the activity structures, in the interests of visual amenity, and to ensure the preservation and enhancement of the Historic Park and Garden.

8. The approved scheme of landscape works shall be implemented by the end of the 2018/19 planting season (or within such extended period as the local planning authority may allow) and shall thereafter be retained and maintained for a period of five years. Any plant material removed, dying or becoming seriously damaged or diseased within five years of planting shall be replaced within the first available planting season thereafter and shall be retained and maintained.

Reason: To ensure the timely implementation of a landscape scheme that will seek to mitigate harm to the Historic Park and Garden.

...

11. Within 6 months of the structures in the walled garden being brought into use a restoration scheme for the lemonery [sic], axial paths and central water feature and flower beds together with a schedule of repairs to the walled garden walls, gates and the stonework to the entrance surrounds, shall be submitted to and approved in writing by the local planning authority, along with a time scale to complete the works. The works shall be completed in accordance with the approved details and within the time frame agreed.

Reason: To ensure the implementation of works that would provide benefits to outweigh the harm to designated heritage assets caused by the proposals.

12. Prior to the equipment first being used a Noise Management Plan shall be submitted to and agreed in writing with the Local Planning Authority.

Reason: To provide a framework to assist in the prevention of nuisance to neighbouring properties in the interests of residential amenity.”

15. It is common ground that the landscape scheme requirements under the first part of Condition 7 were discharged in 2018. A Noise Management Plan under Condition 12 was subsequently submitted to the Council and approved in March 2018. It stated, amongst other things, that it was designed to “prevent exposure of people outside the site to levels of noises which would result in complaints”. The Noise Management Plan included proposed operational controls to reduce noise. It set out a complaints mechanism for complaints from the public to be made to, and resolved by, PGL. The complaints were to be logged and the log-book reviewed by the Council at periodic meetings with the potential to trigger a review of the requirements of the Noise Management Plan.
16. PGL began to use the approved outdoor activity structures in Summer 2018. The Claimant states that regular noise complaints were first made to PGL and increasingly to the Council about the activities that took place. The record of complaints records one from a resident of Dairy Cottage describing the noise as “horrendous”. The EHO conducted a site visit and has a written record that “what was quickly evident was the impact of children shouting, laughing etc... from PGL on the local area”. A local councillor who visited the site stated that she was “shocked at the level of noise coming from the PGL site”. A local resident’s GP informed the Council that the local resident had been hospitalized for stress caused by the noise. Complaint record forms were kept by a resident.
17. The Claimant submits it is clear that it was the nature of the noise (shouting and screaming), rather than the average noise level, which was causing the complaints. The Claimant also relies on the fact that the Council’s Planning Department knew of these complaints, given the log requirements under the Noise Management Plan, and that PGL accepted that noise was an issue.

The First Lake Planning Application

18. In 2018 PGL submitted a further planning application to the Council (DC/18/3160/FUL) seeking permission to construct a lake within the Estate. This was intended to enable PGL to provide further raft-building and canoeing activities.
19. The application was accompanied by a Planning Statement and a Noise Assessment. The Planning Statement contended (amongst other things) that the Lake was necessary to enable the success and survival of the Estate. This was identified as being a critical consideration in the determination of the planning application. The applicant argued that it would secure the viability and success of PGL, so being able to secure the continued use of the heritage assets.

20. The Noise Assessment sought to assess “L_{Aeq}” noise levels (ie averaged noise levels over a period of time)¹. It concluded that the noise environment would be acceptable. A Noise Management Plan following the structure of that approved under condition 12 of the Outdoor Activity Structures planning permission was also submitted.
21. The EHO was consulted about this application. The EHO’s consultation response dated 20 November 2018 stated:

“This proposal has the potential to cause noise nuisance to occupiers of neighbouring properties. The potential noise sources are from the children calling out, singing, screaming and laughing while using the lake for the proposed use of kayaking and raft building, along with the ‘leaders’ shouts of encouragement, support or instruction to the children.

The site is located on marsh land between two sets of residential properties and would lie within direct line of sight of the windows of the properties. Subjectively the properties appear to be relatively close to this proposed use, when compared to the distance to the others uses at the PGL site.

Unfortunately I have not had adequate time to discuss the application with the noise consultant or applicant, and would request an extension of time to do so.

If this is not possible then whilst I acknowledge receipt of the noise assessment as produced by SLR (Ref: 406.06654.00005v1; dated June 2018) which concludes that the predicted noise levels are acceptable when compared to the guideline limits, I would have to object to the application due to a lack of information as currently submitted and due to the noise assessment being an objective assessment against guidance that is not appropriate given the type of noise under consideration and the existing noise climate of the area. It should be noted that this was informally discussed during a site visit prior to the application, with the emphasis placed on a noise management plan rather than an objective noise assessment.

The noise assessment is very much an objective assessment based on two sets of guidance which were intended to be used where the noise is from a steady source and where noise does not have a specific character. Noise from children and leaders using the proposed PGL lake is unpredictable and could be considered to be of far more potential to cause a nuisance to neighbours than a steady continuous sound. There is no obvious guidance to compare an objective noise assessment to, and as such it is my opinion that an assessment based on the likelihood of nuisance

¹ L_{Aeq} is defined in the Noise Management Plan as the notional steady sound level which, over a stated period of time, would contain the same amount of acoustical energy as the A-weighted fluctuated sound measured over that period.

and the management of the potential for nuisance would be more appropriate.

In summary my initial concerns are as follows:

- the sheer number of people using the lake (up to 80 children plus instructors at any one time) is excessive and increases the potential for nuisance;
- the number of hours the lake could be used (up to 6 hours per day, 7 days per week) is excessive and has the potential to cause nuisance to neighbours using their gardens in summer or wanting to live with windows wide open or patio doors wide open in the warmer months (which is when use of the lake would be at its peak);
- The use of an Leq does not consider the potential nuisance from this type of proposal. It is not obvious from the noise report what time periods are covered by the Leq.
- The use of BS8233:2014 is inappropriate given the noise source of human voice. This is not a steady source of noise without character;
- WHO guidelines are again generally aimed at steady continuous noise sources, and there is recognition that lower noise levels (than those specified in the document) may be disturbing depending on the nature of the noise.
- It is likely that residents in the area of the proposed lake, will notice noise of this type as being more obvious based on the fact that this piece of land has not historically been used in conjunction with the school use/children playing etc. During a visit to the site it was noticeable that whilst children and instructors could be heard on the main body of the PGL land, it was a more distant sound and use of this part of the site would be more direct.”

22. PGL subsequently submitted a revised Noise Management Plan (draft Version 3) in October 2018. This set out further detail of proposed noise management. The EHO was consulted on this and responded as follows:

- “1. The submitted document is Version 3 of a Noise Management Plan for the site. It is important that we are made aware of Version 2 and that a clear list of changes for both versions are submitted to us to enable us to fully comment on the document;
2. It appears that in addition to information on the use of the lake, activity times have been changed in Version 3 when compared to the first version – namely a finish

time of 17.30 rather than 17.00. This needs an explanation and agreement;

3. Very little information is in the Noise Management Plan on how noise from the use of the Lake will be controlled. As such our previous comments still stand, and we would stress that we are still of the opinion that the proposed use of the lake is excessive and that it has the potential to cause noise nuisance to occupiers of neighbouring properties. The proposal is to use the lake 7 days a week – 5 days of which will see up to 80 participants at any one time. Even with a 75% reduction on a Saturday there would be up to 60 participants, and a 50% reduction in use on a Sunday would still involve up to 40 participants at any one time. It is our opinion that this is excessive and when combined with noise from the other uses of the PGL site, would be unreasonable;
4. The noise and disturbance from this type of activity cannot be assessed purely on decibel levels. The duration, frequency and type of noise should be considered, as it would be when assessing statutory nuisance;
5. The Noise Management Plan commits to ‘no activity sessions on the Lake after 17.30pm – staff coaching and development only. To further safeguard the noise environment of the nearby residential properties there will be no activity sessions on the Lake out of the operating season’. Use of the lake by staff for coaching and development could also be intrusive with instructors shouting, people laughing and screaming etc. in the same way as that during the day;
6. It is likely that residents in the area of the proposed lake will notice noise from the lake as being more obvious based on the fact that this area of land has not historically been used in conjunction with the school use/children playing etc.

In conclusion, the Noise Management Plan does not provide us with enough information to be confident that noise from the use of the lake for canoeing and raft building will not cause nuisance to occupiers of neighbouring properties.”

23. Historic England (“HE”) was also consulted on the application. It provided consultation responses by letter dated 2 September 2018 and 13 November 2018. In summary, HE was supportive of the applicant’s strategy for development a sustainable future for the Bawdsey Manor Estate, particularly where combined with sustaining and enhancing the significance of various heritage assets on site and putting them to viable uses. However,

HE had concerns about the particular proposals. It considered they had the potential to enhance some parts of the registered park and garden, but also to cause some degree of harm to its significance through the proposed development in the Northern Park and areas around Kennelman's Cottage and the Manor Dairy complex. HE found it difficult to assess the mitigation proposed in the application and sought further information about the proposals, along with demonstration of why the proposed lake was necessary to achieve the sustainable future of the Estate as compared with less harmful alternative options. It recommended seeking further information from the applicant by way of clear and convincing justification for what was proposed, with details of "how proposed development will contribute to a strategy for the implementation of the CMP and future investment in restoring, sustaining and/or enhancing the significance of various heritage assets many of which are in a poor state of repair." In the absence of such information, it asked for its response to be treated as an objection.

24. In the event, this planning application was withdrawn by PGL before determination by the Council. A revised application was subsequently submitted (as described below).

The Second Lake Planning Application

25. On 9 March 2019 PGL submitted a new planning application for the Lake, along with relocation of some of the outdoor activity structures (reference DC/19/1022/FUL). This contained changes to what had originally been proposed. It also sought to provide further justification for what was proposed in terms of effect on the heritage assets
26. The Second Lake planning application was accompanied by the same Noise Assessment and a draft Noise Management Plan. The Council's EHO was consulted and responded on 2 April 2019 as follows:

"In terms of the amendments to the activity stations other than the lake I have no adverse comments.

In terms of the lake I continue to have concerns in respect of its location and implementation particularly as the noise management plan submitted with this application appears to be the same as that already commented on in DC/18/3160/FUL, therefore our comments will remain the same and are repeated below for consistency;

" ... " [The contents of the 6 numbered paragraphs of the consultation response of November 2018 were then repeated, before the EHO continued as follows:]

However I note the planning statement makes significant further reference to the use of the lake and I would have the following comments in that respect;

The planning statement puts significant emphasis on the previous use of the site as a school and military installation, particularly the former in the context of this application and to some degree this is accepted.

The site currently has C2 use and there is an expectation that a reasonable amount of noise will be produced from the site under that use. There has been significant cooperation from the site manager since the centre has been open to make concessions in respect of noise and to fine tune the management of noise on site to ensure that it stays within the bounds of what is reasonable. We have received complaints about noise from the site but have so far not substantiated them. We have previously identified areas where we have considered a problem could exist which have been addressed by the site.

That said noise currently comes from the parts of the site where these historic uses have always been taking place and therefore the precedent has been set that there will be a reasonable level of noise in the context of the lawful activity being undertaken. The area where the lake is proposed has not historically been used as part of the school activities and therefore the addition of the lake, and the significant use of it, represents a new noise source where one previously did not exist, therefore it is difficult to reconcile this reasonable C2 associated noise argument.

Further to this having now seen the raft building activity in action on the River Jordan it appeared to me to be probably the noisiest activity I have witnessed on the site and very little in the way of instructor intervention was noted in terms of noise reduction as claimed will occur in the planning statement. It is entirely accepted that children make noise when enjoying an activity and particularly water based activities but this only makes it more important when considering a new site for this activity type especially where that noise has not previously existed.

It is noted that comment has been made in terms of the noise impact assessment and that this state's only minor impacts on neighbouring properties. As has been discussed at length in the past with PGL and their consultants it is important to understand the use of averaged noise levels (L_{Aeq}) does not accurately portray the potential for nuisance from the sounds of people screaming and shouting and cannot be relied upon as a way of mitigating for disturbance.

Ultimately we have made comments and concerns known on the noise management plan in respect of previous applications, this application has not addressed those concerns and I remain unconvinced that the addition of the lake will not be a source of significant disturbance in its currently suggested form.”

27. PGL's noise consultants, SLR, subsequently submitted a further version of the Noise Management Plan (draft Version 4) dated June 2019 and a letter dated 10 July 2019 responding to the EHO comments. The letter included an updated noise impact assessment. This was based upon operational noise survey measurements made at the

Estate in April 2019 during a raft building activity session on the River Jordan and elsewhere. In that letter SLR stated (amongst other things):

“4. In relation to the proposed activities planned for the Lake it is stated in your response that “...this type of activity cannot be assessed purely on decibel levels and that the duration, frequency and type of noise should be considered, as it would be when assessing statutory nuisance.” However in SLR’s opinion, it is most appropriate that we present our findings via a quantitative approach and an analysis of the decibel levels, as this is concordant with the guidance that we have previously stated, such as: BS8233:2014, WHO Guidelines and Sport England Guidance. We have no knowledge of any guidance that states that we should assess the impact based on your proposed methodology, however if there is relevant guidance that you are aware of which implements your suggested methodologies could you please direct us to this so that we can base any reassessment on the stated criteria. Therefore, in this Letter, we have not assessed noise nuisance; rather SLR has based the assessment on the predicted L_{Amax} sound levels^[2] at the nearest noise sensitive receptors due to the raft building activities on the Lake, and compared them to the existing baseline L_{Amax} sound levels for these receptors.

5. PGL have agreed to operating a “no using the lake after 17:30 rule”. This concession would restrict the use of the lake for staff development time and alternative arrangements for staff training will be made.

6. Further to your comment on whether the report will “...consider the impacts of noise on the nearest noise sensitive receptors from the activities considering the area of land has not historically been used in conjunction with the school use/children playing”. Again, there is no guidance that we are aware of which would specifically allow for the assessment of a noise sensitive receptor based on the fact that historically adjacent land had not been used for school use/children playing and any associated noise impact. Therefore in SLR’s professional opinion it is appropriate that we assess the noise impact based upon nationally recognised guidance by the analysis of the measured and predicted L_{Amax} sound levels at the proposed development.”

28. Section 3 of the letter set out the results of the further noise impact assessment, looking at maximum noise levels from raft building and canoeing activities. Additional mitigation measures were proposed, including the prohibition of raft building and

² L_{Amax} was defined in the Glossary to the Noise Management Plan as “the maximum A-weighted sound pressure level recorded over the period state. L_{Amax} is sometimes used in assessing environmental noise where occasional loud noises occur, which may have little effect on the overall L_{Aeq} noise level but will still affect the noise environment. Unless described otherwise, it is measured using the ‘fast’ sound level meter response.”

associated water-based activities on the northern section of the lake within a specified exclusion zone.

29. The EHO was consulted about this further information and responded on 16 July 2019:

“These comments relate to the additional noise information recently submitted, and our previous comments should still be taken into consideration.

Amendments to Activity Stations

In terms of the amendments to the activity stations, other than the lake, I have no adverse comments.

Position and Use of the Proposed Lake

In terms of the lake I continue to have concerns in respect of noise from its location and use. Whilst the proposed lake itself is not noisy, the use of the lake for raft building and canoeing introduces a significant new noise source into an area currently relatively unaffected by the noise from PGL. By introducing the lake onto the marsh area, this has the potential to cause nuisance to residents of houses that are currently either a little affected by the existing noise from PGL, or not affected at all due to the distance to the existing PGL use area. Some of the residential properties in the middle complex of houses are currently likely to be screened from the existing noise by the neighbouring buildings (Farm Cottages, The Old Laundry). If the lake is given permission, the new noise source is placed in a direct line of sight to the properties or their gardens, and as such has the potential to be more of a nuisance than the existing noise from PGL. Marsh Cottages will have a new noise source directly placed beside them, where they are relatively unaffected at the moment, and it will be closer to the cottage at the first entrance to the park.

We are concerned that the lake is very close to Marsh Cottages and the middle complex of cottages (Farm Cottages, The Old Laundry etc.), with the raft building area and canoeing jetties being very close to Marsh Cottages. As we have said previously, noise and disturbance from this type of activity cannot be purely judged on decibel levels, and particularly not as an L_{Aeq} . The duration, frequency and type of noise should be considered, as it would be when assessing Statutory Nuisance. Although activity use of the existing equipment has been submitted showing that the equipment is not used to full capacity, and in some cases for a low percentage of the time, PGL have admitted that water sports are a very popular activity and it is likely that the raft building and canoeing will be extremely popular with visitors when choosing their list of activities for their stay. As such we feel that it is difficult to predict the likely activity levels of the lake and our comments must be based on use up to that being

applied for unless PGL wish to commit to a lower level of use in line with that they currently predict. It is our opinion that the proposed use of the lake is excessive and that there is a need for residents of the houses to have ‘days off’ from the noise, particularly some time at weekends.

It is likely that residents in the area of the proposed lake will notice noise from the lake as being more obvious based on the fact that this area of land has not historically been used in conjunction with the school use/children playing etc. We feel that alternative positions for a lake should be further considered in locations where the noise from use of the lake will not significantly impact on private residents of neighbouring properties. We recognise that some locations have already been discounted in terms of heritage but these locations may be more appropriate in terms of impact on amenity. The lake could be linked to the existing River Jordan and potentially be smaller in size so that the existing water course can be utilised in the activities.

The Noise Management Plan identifies ‘noise sensitive areas’ which are shown on figure 02-2 where noise control measures are in place. The proposed raft building area and canoe jetties seem to be within the noise sensitive area surrounding Marsh Cottages.

Noise Management Plan

It appears that in addition to information on the use of the lake, activity times have been changed when compared to the first version – namely a finish time of 17.30 rather than 17.00. Whilst we have concerns about this, and received a number of complaints about noise from the activities at PGL in 2018, we have not witnessed Statutory Nuisance and as such cannot object to this change.

The Noise Management Plan commits to: ‘no activity sessions on the Lake after 17.30pm. To further safeguard the noise environment of the nearby residential properties there will be no activity sessions on the Lake out of the operating season’. Restricting activity sessions on the lake does not automatically restrict staff use in the evening or early morning. As previously commented, use of the lake by staff could also be intrusive in the same way as that during the day.

While we feel that use of objective noise levels in the assessment of the potential for nuisance from this type of activity is of limited use, it should be noted that the Raft Building and Canoeing noise levels used in Table 1.3 of the NMP use the low figures as measured at Bawdsey PGL as opposed to the arguably more relevant but higher figures from Caythorpe. Bawdsey raft

building is currently low key, whereas Caythorpe may be seen as more representative of what is proposed at Bawdsey.

We are unclear at what distance the noise levels in Table 1.2 for Marchants Hills and Caythorpe were measured. It is therefore difficult to compare with that is stated for Bawdsey. The sentence from the previous version of the NMP ‘There would certainly be no further activity taking place in outside areas after 21.30 hours’ should be left in the document in section 2.1.

At the end of Table 2.1 a commitment is in place for East Suffolk Council to review the control measures on an annual basis. This should be removed, but could be replaced with a commitment for PGL to submit their review to us for comments, or to discuss a review with us.

Within the Noise Management Plan there is reference to ‘Noise monitoring protocol and Significance of Impacts’. It should be noted that the Council would not use objective noise measurements to investigate or determine Statutory Nuisance and as such this section of the Noise Management Plan is very much for PGLs internal use and in our opinion is of limited benefit.

General

The planning statement puts significant emphasis on the previous use of the site as a school and military installation, particularly the former in the context of this application and to some degree this is accepted.

The existing activity area of the site currently has C2 use and there is an expectation that a reasonable amount of noise will be produced from the site under that use. There has been significant cooperation from the site manager since the centre has been open to make concessions in respect of noise and to fine tune the management of noise on site to ensure that it stays within the bounds of what is reasonable. We received complaints about noise from the site in 2018 but they were not substantiated. So far during 2019 we have been made aware of a few concerns from residents that have been submitted to planning, but we have not received any direct noise complaints to environmental health. We have previously identified areas where we have considered a problem could exist which have been addressed by the site.

That said noise currently comes from the parts of the site where these historic uses have always been taking place and therefore the precedent has been set that there will be a reasonable level of noise in the context of the lawful activity being undertaken. The area where the lake is proposed has not historically been used as

part of the school activities and therefore the addition of the lake, and the significant use of it, represents a new noise source where one previously did not exist, therefore it is difficult to reconcile the reasonable C2 associated noise argument.

Further to this having now seen the raft building activity in action on the River Jordan it appeared to me to be probably the noisiest activity I have witnessed on the site and very little in the way of instructor intervention was noted in terms of noise reduction as claimed will occur in the planning statement. It is entirely accepted that children make noise when enjoying an activity and particularly water based activities but this only makes it more important when considering a new site for this activity type especially where that noise has not previously existed.

In the noise submissions from the applicant, both activity levels and noise management are influenced by use of figures from the quiet season or out of season commitments (such as no use of the lake out of season). The likely noise nuisance from the use of the lake is of most relevance in the summer months when residents want to use their outdoor space and to have windows and doors open for ventilation. The cold winter months when windows and doors are shut, and residents are not likely to be resting or enjoying their gardens is of less relevance when considering the potential for nuisance from the site.

In conclusion we have made our comments and concerns known on the noise management plan in respect of previous applications, and the recently submitted information has not significantly reduced those concerns and I remain unconvinced that the addition of the lake will not be a source of disturbance in its currently suggested form.”

30. Following receipt of this response, the Council’s planning officer sent an email to the EHO asking if the EHO was aware of the revised plan reducing the size of the Lake and increasing the distance from Marsh Cottages to the raft building stations. The email also asked what level of use would the EHO be happy with and whether he would accept the Lake only being used for canoeing and with no raft building and in terms of days off, whether the EHO would be happy with no use on Sundays. Information was also sought about as to whether the EHO would dismiss use of the northern part of the lawns to the front of the Manor on the basis of proximity to residential proposed and what would be used to investigate or determine statutory nuisance if not objective measurements.
31. The EHO responded to this email on the 17th July 2019 as follows:

“We have seen the attached documents and even though raft building has been placed in a less obtrusive area we still believe that use of the activity lake in it’s [sic] current form has the potential to unreasonably disturb neighbours.

We have assessed the application as submitted and considered information provided by PGL post submission as a result of our discussions with them. PGL have been made aware of our concerns and have had ample opportunity to suggest amendments to the management and operation of the site in the vein that you suggest but have not done so, if they wish to alter their submission in this respect we will of course give it due consideration.

We would not dismiss the northern part of the lawns in front of the manor, this has been disregarded purely on the grounds of heritage and has not been assessed for it's [sic] appropriateness in terms of impact on people. Furthermore this area is part of the already operational site where noise of this nature is generated as part of the already granted C2 use, the current proposal represents extension of the sites activities beyond that which has previously occurred and thus extends the sites impact on neighbours accordingly [sic]. I should say we are not proposing any particular area as appropriate for this activity only that the currently proposed location is the only one that has been assessed and that there may be other locations subject to assessment.

Statutory nuisance is determined by subjective assessment of the noise taking into account such factors as the nature of the noise, the nature of the area, the frequency, duration and volume of the noise as well as the actual material impact of that noise on residents. This is the crux of our concern, that is to say the belief that, subjectively, exposure to this type of noise in an area where previously this noise did not exist (although we appreciate that it does at the neighbouring site) on a daily basis for the entire duration of the summer months where people will be outside or have windows and doors open will have a significant potential to have a negative material impact on residents use of their properties, whether this would be a matter of statutory nuisance is not possible to say at this point.

I would say at this point it is the nature of the noise that is likely to be the most significant factor in impact, that being children screaming and shouting, this type of noise is very intrusive particularly when adding the frequency and duration factors. It is interesting to note that the noise consultants are comparing the noise climate in 2017 (pre-children) to the predicted noise climate and suggest that the LA_{max} (maximum noise level) for the 2 periods are broadly the same which is why there will be no impact. If working on a purely objective noise level basis this appears quite true until you add the subjective factors in to the consideration of this potential impact. For example, the predicted max levels have been stated in the assessment as being things as Coaches shouting, Groups shouting and singing, Kicking of barrels, Whistles being blown and equipment being

dropped (measured at bawdsey from the river Jordan). However, these noises did not exist in 2017 so the max noise levels are likely to have [b]een generated by such things as Traffic, Farm activity (machinery, shooting, bird scarers etc), Boat noise, Wildlife (birds calling, deer barking etc) and the Sea, so whilst the Max levels appear similar the noise climate will be very different. This is why we have not been satisfied by a purely objective argument of impact and why we consider the use of objective assessment inappropriate for this matter (which is supported by the guidance used as it is out of scope for this situation), although I appreciate subjectivity is difficult to quantify.

Ultimately our comments are based on subjective assessment of the noise in this location which has been undertaken based on our professional experience, presumably in a similar way to how you will have assessed any impact on amenity. We do not believe objective assessment is appropriate and there is no guidance available for the objective assessment of this type of noise in this type of situation which supports our approach. That said we have had no complaints this year and the complaints we received last year were not substantiated by officers of this team, the site management has been receptive to our suggestions where issues have been identified and currently we have no evidence to suggest the site in its current form is being managed poorly or causing levels of noise beyond that which you would expect from it's lawful C2 use [sic].

There are obviously many other aspects that have to be considered in the decision to grant or refuse this planning application and we appreciate if some of those are further up the hierarchy than our subjective concerns in respect of noise.”

32. HE was also consulted on the Second Lake Planning Application. By letter dated 9 April 2019, it repeated that it remained supportive of the applicant's strategy for developing a sustainable future for the Bawdsey Manor estate, particularly where that is combined with sustaining and enhancing the significance of various heritage assets on site and putting them to viable uses consistent with their conservation. However, it considered that some degree of harm would arise from what was proposed, albeit there was some mitigation. It considered the supporting information provided with the second application was an improvement on the withdrawn application and did provide further justification for the harm caused. Nevertheless, HE set out some areas where HE recommended seeking further clarification and safeguards. These were then set out. They included things such as details of the proposals for storage of equipment outside of the season and a minimisation of the number of shelters to be used. HE recommended the imposition of conditions to address these matters.

33. HE went on to state:

“Finally, the proposed activities lake is presented within this application as an important part of the applicant's overall

strategy to provide a sustainable use for the whole estate and to substantially improve the historic buildings and landscape, essentially by ensuring a solid business model that allows continued investment in the management of the site and restoration of its key features. While the supporting information includes some description to this effect, it also makes clear that this is to be set out in a Landscape Strategy for the site -- as required to discharge condition 7b of the development consented under planning application for the activities structures (planning application reference DC/17/4910/FUL). The Planning Statement indicates (on page 17) that this Landscape Strategy ‘will be submitted shortly for consideration alongside this planning application’; however, it does not appear to be included within any of the information supporting this application made available as part of this consultation. The Landscape Strategy is an essential part of the justification, demonstrating how the activities lake will contribute to implementation of the CMP and future investment in restoring, sustaining and/or enhancing the significance of the various heritage assets across the site.”

34. At around this time PGL sought discharge of condition 5 of a permission DC/17/4908 FUL, which would also have discharged the second part of Condition 7 of DC/17/4910/FUL in terms of a landscape strategy for the park and garden at Bawdsey Manor. HE were consulted on this. HE responded by letter dated 3 May 2019 in detail. Whilst again remaining supportive of the strategy for a sustainable future for the Estate and generally supportive of the restoration proposals set out in the Landscape Strategy, they considered that the application lacked certain information, including the lack of a “clear action plan or programme” for delivery of the Strategy “to demonstrate how (and in what timeframe) the applicant’s commercial operations enabled by such development will contribute to implementation of the CMP” and which lay behind the reasons for the imposition of the conditions in question.
35. PGL subsequently submitted an updated Landscape Strategy. This was also submitted in conjunction with the Second Lake Planning Application. This included an Appendix B: “Emerging Strategy Details and Landscape Programme”. The Claimant submits that Sections 3 and 4 of that Landscape Strategy make clear that what the Claimant characterises as the most important works – coastal defence and the Pulhamite cliffs – could not be funded by PGL but were dependent on grant funding. For example, paragraph 3.9.1 begins by stating that: “A strategy for repairing and/or rejuvenating the Pulhamite Cliffs is recognised to be beyond the abilities of a private owner or PGL alone.” The document noted that PGL were in the early stages of discussions over grants/funding to assist in the upkeep and restoration of the cliffs. The conclusions Section 4 also referred to the need for external funding. Appendix B identified the provision in due course of a detailed scheme for works to the Pulhamite Cliffs to be commenced within Winter 2019/20.
36. HE was consulted on this Landscape Strategy. HE’s officer provided comments by email dated 12 July 2019 as follows:

“... I have not been able to review in detail, but a quick look at Appendix B. It certainly seems to be a step in the right direction,

presenting a clear list of deliverables and timeframes for their progress and implementation. Item xi looks like the catch-all for elements like the Sunken Garden, Italian Garden, Terraces, etc. not specifically mentioned in any of the other actions. Appendix B proposes to deliver all 11 of the strategies and detailed schemes prior to the proposed activities lake being used for any recreation or other uses by PGL. Using this as the basis for a Condition attached to the activities lake application should help to address our concerns for all three applications (DC/17/4908/FUL, DC/17/4910FUL and DC/19/1022/FUL).”

37. On 15 July 2019 members of the Planning Committee conducted their own site visit of the Estate in light of the Second Lake Planning Application. This fact is recorded in the Minutes of the Planning Committee meeting that subsequently took place on 23 July 2019.

The Officer’s Report for the Second Lake Planning Application

38. The officers produced a report on the Second Lake Planning Application on the 17th July 2019. The Claimant infers that this version of the report had yet to reflect the updated information that had been received from the applicant on noise and the EHO’s comments on that that information. I agree with this inference.
39. The Executive Summary at the front of the Report stated as follows:

“The application seeks planning permission to provide a lake within the grounds of Bawdsey Manor Estate for use by the applicant (PGL) who run a children’s outdoor activity/educational centre on the site. The lake would provide opportunities for canoeing and raft building by guests. The material excavated for the lake is proposed be re-used on the estate. It is also proposed to re-position activity equipment previously consented within the grounds.

The application has been referred to Planning Committee because of the sensitive nature of the site, the finely balanced nature of the recommendation and level of public interest.

The recommendation is Authority to Determine with Approval being recommended subject to the satisfactory resolution of ecological impacts, noise impact and ensuring that the heritage benefits that form part of the justification are implemented within a reasonable time frame.”

40. Part 2 of the Report set out a Site Description. As part of that, paragraph 2.8 referred to the grant of previous consent for the Outdoor Activities Structures. Paragraph 2.9 identified the withdrawn Lake application in 2018 which had raised issues of, amongst other things, noise disturbance.

41. Part 3 of the Report summarised the nature of the proposal as a revised scheme to address previous concerns about the previous planning application. Paragraph 3.2 stated that:

“3.2 The applicant has explained, in their letter of 8 March 2019, that these activities are attractive and expected by guests and are an essential element if PGL is to remain competitive in the market.”

42. Paragraph 3.3 stated that the PGL letter in question also explained why the option of using the River Deben, and/or other off site facilities for water based activities was inappropriate due to identified safety risks. Paragraphs 3.3-3.5 provided a summary of the reasons why the necessary licences could not be obtained and the consequential need for a lake given the nature of the PGL participants (including primary school children).

43. Paragraph 3.6 drew members’ attention to the ability to review that letter, along with the application documents and representations on the Council’s website. Paragraph 3.7 stated as follows:

“3.7 The applicants have explained they consider the proposed lake as the only safe option to provide canoeing and raft building activities to guests. The proposed siting of the lake is on grazing marsh in the north western part of the parkland. It would lie between Ferry Road and properties that adjoin the northern drive, which currently have a rear outlook over the grazing marsh. These properties, known as the Manor Dairy complex, were formally ancillary estate building and cottages, comprising a Dairy, Byre, Laundry and Stables. They were sold off from the estate by the previous owners and are now in residential use independent from the Bawdsey Manor Estate. A pair of cottages on Ferry Road (Marsh Cottages) adjoin the north west corner of the site. Woodland tree belts separate the lake site from the more formal gardens around the Manor.”

44. Part 4 dealt with consultations and comments received on the application. Paragraph 4.1 set out the objections of Bawdsey Parish Council in full. This included recitation of the Parish Council’s objections based on noise and loss of amenity for residents:

“ii. Noise and Loss of Amenity for residents

The [parish] council appreciates PGL’s recognition that noise is a major factor in the opposition to this planning application. Its noise-monitoring protocol and prevention data is particularly welcome although definitions of “time on the water” might be more flexible in practice than is stated.

The East Suffolk Council Environmental Health Officer has already posted her consultation response on the website objecting to the application on the basis that it will create a statutory noise nuisance from day one of use. This will lead to

considerable loss of amenity on behalf of the residents in addition to the loss of their open views across marshland as a result of the proposal to plant trees around the lake.

It should be stressed this is a unique site quite different from other PGL sites in having private freeholds within the site rather than outside where residents are naturally more distant from the source of noise. The activities of PGL have already had a major impact on residents' lives because of the contrast before the arrival of PGL and planners may not have appreciated the full extent of the disruption. Noise factors have led to lower house valuations for residents as well as serious health implications.

There is no doubt that this development will cause an incremental spread of noise over the whole area, causing a loss of wider amenity for private residents. Raft building and canoeing are inherently noisy activities due to interactions between children and between children and their instructors.

As stated in our original submission, the issue of loss of amenity has featured in all of the letters from residents objecting to this proposal. We refer planners to NPPF, DM 123 which requires that planning policies and decisions should identify areas of tranquillity which have remained undisturbed by noise and are prized for their amenity value for this very reason.

Both the elements of tranquillity and the uninterrupted views across the marshes to the estuary and beyond are the elements which residents have identified as being most precious to them, not to mention the natural habitat of the marshland.”

45. It is evident from the second paragraph of this extract that the Parish Council itself was aware of the nature of concerns being expressed by the EHO, based on the consultation response that appeared on the Council's website.
46. Paragraph 4.4 of the officer's report summarised the consultation response from the EHO as follows (from which it is evident that the report was not seeking to deal with the most recent supply of noise information and the EHO's response to it):

“4.4 East Suffolk Council Head of Environmental Health are not convinced from the information submitted that the lake will not be a source of significant disturbance to neighbours given the extent of activity proposed (up to 80 participants) and the inevitable noise that children will make when enjoying the water based activities. There is insufficient detail in the submitted Noise Management Plan to how the noise from the lake will be controlled.

Whilst acknowledging the permitted use of the site is a school so there is an expectation that a reasonable amount of noise will be produced, the area in which the lake is sited has not historically

been used by the previous school. It is noted that there has been significant co-operation from the site manager since the centre has been open, to make concessions in respect of noise and to fine tune the management of noise on site to ensure it stays within the bounds of what is reasonable. Noise complaints have been received but these have not been substantiated to date.”

47. Paragraph 4.15 of the report dealt with third party representations. It recorded that 15 letters of objection had been received. It summarised the points made. This included the following summary of the objections based on noise and disturbance:

“• Noise and Disturbance:

- Cause intolerable noise nuisance from guests and instructors shouting, particularly at weekends when most residents will be in their properties all day, causing severe loss of amenity. Noise from the existing occupation of the site (hysterical screaming and chanting) has caused health problems to some residents.
- The path to the lake is at the bottom of adjacent properties gardens.
- More of the existing equipment should be removed to avoid overlooking and loss of privacy to neighbours. The zip wire was not installed in accordance with the approved drawings
- The submitted noise assessment is flawed and the Noise Management Plan useless.
- If noise nuisance claims are made and private nuisance claims against PGL will inevitably follow the costs to PGL could be significant and “eat up quite a bit of heritage asset restoration funding.”

48. Section 7 of the report summarised the relevant planning policy context for determination of the planning application. Section 8 set out the planning officer’s assessment of the proposal under the heading “Planning Considerations”. In paragraphs 8.1-8.7 the officer dealt with the principle of the proposed development first, concluding that the proposal was in accordance with identified policies. The benefits of keeping the Estate intact and in use were considered in paragraphs 8.3-8.4. Paragraph 8.5 identified some estate enhancements that were being delivered by PGL, including “the reinstatement of the River Jordan, to the front of The Manor, a key objective of the Conservation Management Plan (CMP)” and work in progress on restoring the Lemonary as well as repairing the walls and gates to the walled garden. It also stated that a landscape strategy “is also being formalised providing details of the maintenance and management of the formal garden areas such as the Italian garden, the sunken garden the terraces.”

49. Paragraphs 8.6 and 8.7 stated as follows:

“8.6 Other significant work is required to maintain and protect the Estate include urgent repairs to the coastal defences, including the replacement of corroded sheet piling, the restoration of the Pulhamite cliffs (Grade II listed structure), replacement of a water supply pipe and replacement of outdated electrical supply.”

“8.7 All these works are at a substantial cost to the applicant, particularly the works required to prevent the estate being destroyed by coastal erosion. It is recognised that the lake is an important component to deliver its business objectives by providing water based activities to guests allowing the business to remain competitive in the market. The ability to provide water based activities by other means and elsewhere on the estate has been ruled out for a number of reasons as stated elsewhere the report and in the applicants letter appended to the report. These reasons are not considered unreasonable. Retaining a viable use for the Estate is imperative to securing its use and long term preservation of the designated heritage assets. This is one of a number of material considerations that needs to be weighed in the balance having regard to other issues raised below.”

50. One of Mr Forsdick’s submissions under Ground 2 is that members were being told in these paragraphs that the Lake permission would secure those essential and expensive works. I address this submission below.
51. The officer then turned to consider the impact on heritage assets, including the historic parkland in paragraphs 8.8-8.17. This analysis was self-evidently prepared before consideration of the Landscape Strategy that had been submitted and HE’s comments on it. Thus, for example, at paragraphs 8.12-8.13 the officer stated:

“8.12 Whilst Historic England note that the submitted supporting information has provided some further justification for the lake as part of an overall strategy to provide a sustainable use for the whole estate and describes how ensuring a solid business model allows continued investment in the management of the site and restoration of key features, but they consider that the justification put forward has failed to adequately address how this will be done.

8.13 The applicants confirm how the lake will form part of an overall strategy for the whole estate, will be set out within the Landscape Strategy that has been submitted under the discharge of conditions for the activity structures. However, the Strategy so far submitted does not sufficiently set out a clear action plan of what will be done and when. This needs to be done before issuing any planning consent for the lake is issued, so that planning conditions can be added requiring key restoration work to be done within a certain time frame. Whilst it has been raised by some objectors, such work should be secured by a S106 agreement, officers are satisfied conditions would be appropriate

given the applicants have already commenced restoration of the Lemony and walled garden and given that the restoration of the River Jordan, one of the objectives of the CMP, has been done.

8.14 Therefore in the absence of an agreed Landscape Strategy demonstrating how the activities lake will contribute to the implementation of the CMP and future investment in restoring, sustaining and/or enhancing the significance of the various heritage assets across the site the proposal would not meet paragraphs 194 and 196 of the NPPF. The applicants are currently in the process of amending the Landscape Strategy to reflect the requirements of Historic England and members will be updated on this matter ...”

52. The officer continued at paragraph 8.17 as follows:

“8.17 Thus in the event that an appropriate soft and hard Landscape Strategy can be agreed and its implementation controlled by condition, it is considered the harm caused to the historic parkland by the lake would be outweighed by the public benefits of securing the preservation of heritage assets, in accordance with the NPPF. The proposals would also accord with Development Plan policy SSP37 and supplementary planning guidance relating to Historic Parklands. It would also fulfil the requirements of the Act, in that it would form part of an ongoing program of works, which seek to preserve and enhance the heritage assets within the wider site.”

53. In relation to impact on residential amenity, the reported stated as follows:

“Impact on residential amenity

8.32 Paragraph 127, adopted Local Plan Policy DM23 and emerging Planning Policy SCLP11.2, seek to ensure all new development does not result in significant harm to the amenity of residents living nearby.

8.33 There have been a considerable number of objections raised from those living in and around the estate. A key concern raised is the potential noise and disturbance from the activities on the lake and the change in character of this part of the estate, which has always been in agricultural use, and never been used by the former school use.

8.34 There are also concerns from Environmental Services on the issue of noise in that insufficient information has been submitted to be confident that nuisance to neighbouring residents would not occur. Last year there was some complaints made by nearby residents to the noise generated by the guests on site and when using the activity equipment. None of these complaints

were substantiated and there has been significant cooperation from the site manager to fine tune the management of noise.

8.35 The applicant is collating more information on this aspect which will be submitted for review by Environmental Services, the outcome of which will be confirmed on the Members update sheet.

8.36 At the closest point, the boundary of the curtilages of residential properties closest to the lake would be approximately 13-15m away. Therefore there would be potential for noise generated by activities on the lake to be heard within the gardens of nearby residential properties. However, in determining this application, the Local Planning Authority must consider whether the potential levels of noise and disturbance would be of significant to cause sufficient material harm or otherwise.

8.37 The applicants in an attempt to address potential noise problems have sought to limit the number of participants on the lake to 80 at any one time, and to limit this by half on Sundays and 75% on Saturdays. Use of the lake will be restricted to daytime (9am to 5pm) and there would be a maximum of four sessions a day. The morning sessions are between 9am and midday and the afternoon sessions are between 2pm and 5pm. The number of sessions will drop outside peak periods, which total 13 weeks of the year. Access to the lake will be restricted to prevent use beyond the periods specified. Furthermore around half of the raft building sessions will take place on the River Jordan to reduce the amount of activity taking place on the lake.

8.38 The applicant has submitted details of a noise management plan setting out how noise on the site will be managed and monitored by staff. When the lake is being used staff will be on the lake with the guests so will not be shouting instructions from the banks of the lake. Access to the lake from the rest of the site will be routed away from the residential properties and singing restricted. Staff will make participants aware of noise sensitive zones.

8.39 As explained in the applicant's letter of 8 March 2019, given the need for a certain amount of instruction on canoeing, teaching the technique of paddling and basics of canoeing as well as the safety aspects, to be given by instructors on the water rather than the banks, the potential for noise is not as great as some of the other activities on offer. With raft building a significant proportion of the time on the activity is spent constructing the rafts on land, with only 15minutes spent on the water.

8.40 Whilst acknowledging that this proposal will no doubt cause some noise intrusion the level of disturbance can hopefully

be further assessed on receipt of the additional information, and having regard to the level of usage and the nature and timing of the noise. The applicants intentions to re-position some of the activity structures already consented, but not yet installed, further from residents properties is to try and distance potential noise disturbance to neighbouring residents. They will also mean the structures are less visible to neighbours.

8.41 In terms of residential amenity issues such as outlook and visual impact, it is considered the proposed lake, given it is low lying nature, will not cause harm to residents amenity, as it will not block any outlook currently experienced, some of which are already filtered by existing trees.

8.42 Therefore, subject to the additional noise information being considered acceptable by the Head of Environmental Services, and the inclusion of appropriate conditions to control the use of the lake, the scheme would accord with the NPPF, adopted and emerging planning policy in terms of residential amenity.”

54. Again, it is evident from this that the report was not dealing with the most recent information on noise provided by the applicant and the EHO’s response, but anticipated that this would be dealt with by way of an update.

55. Section 9 set out the officer’s ‘Conclusions’ as follows:

“9 CONCLUSION

9.1 The purchase of the Bawdsey Manor Estate by the applicant has protected it from piecemeal disposal. The fact that the owner is putting most of the buildings to a beneficial use is fundamentally positive. The application provides the context for PGL’s ongoing investment and justification for the lake proposals. Providing the benefits accruing from the commercial success of the business is linked to actual restoration projects and implementation of the CMP set out in an agreed Landscape Strategy it is considered the heritage benefits would outweigh the harm that would be caused by the lake.

9.2 It is important to ensure that the proposals will not cause a direct or indirect affect on the integrity of European sites and priority habitat. Clarification of this is still outstanding until further assessment is made of the additional ecological reports and shadow HRA.

9.3 The impact on the amenity of neighbours is also an important consideration. Further noise assessments have been submitted and are currently under review. Planning conditions controlling the numbers using the lake and timing will also help to address amenity issues.”

56. Section 10 set out a recommendation that officers be given authority to approve the planning application subject to resolution of outstanding matters relating to, amongst other things, noise being satisfactorily resolved and the imposition of conditions.

Subsequent Events and The Update Sheet

57. The Claimant refers to the following entry in the Council's Environmental Service PGL Log on 19 July 2019:

“Friday 19th July I went to the planning office and found REDACTED and discussed bawdsey Manor in particular the application to construct the lake

REDACTED had told me earlier in the day that REDACTED had exchanged words with him which appeared to indicate they were still wanting some conditions from us to enable the application to be considered positively by members at the committee meeting next week and REDACTED had interpreted REDACTED demeanor as as quite insistent that we should be doing this to assist the approval of the proposed development

I explained to REDACTED that I did not know of any conditions which could be drafted in a sensible practical reasonable and enforceable way which could control the noise that would arise from children indulging in activities such as raft building canoeing etc. at a facility such as this

I said that I was not aware of any specific accepted standards we could rely on to control noise arising frm such activities

I told that that we had discussed PGL's own acoustic consultant's assessment of the impact and methods to quantify it but did not agree with their methodology

We had a brief discussion abotu nuisance and the difference between this and detriment to the amneity. REDACTED said she had been researching nuisance online and had come to realise that it was very subjective I explained that assessment of nuisance was based on

several factors including
time of day
duration
type of noise
nature and character of the location
how it affected the people it affected
whether there was any Malice involved
actual level

I also explained that a nuisance could exist without the noise being quantifiable by conventional measurement techniques

I also said that REDACTED and REDACTED had discussed noise levels with PGL and their consultants and we disagreed with their approach of applying certain standards which we believe to be inappropriate and these circumstances and incapable of assessing or preventing statutory nuisance

I told her that our view had not changed at all on this point and was unlikely to however if she wanted conditions she could always write down in the form of conditions the limitations on these activities which the applicants themselves were suggesting

In other words PGL had suggested that they were not going to have amplified music or public address systems or to carry out activities on Sundays etc and it might be that she could achieve some control over creep beyond the limits of the application in its current form by documenting those promises by applying conditions

I said again that we had not changed our position and we felt that nuisance legislation would be an unreliable method of controlling perceived transgressions in the future since the approval of this with the granting of planning consent would change the character of that part of the site thus changing the character of the location and thus the determination of nuisance

It would also be difficult to use nuisance law since the noise would be arising from lawful activities carried out in pursuance of a trade or business hence they would have available to them the best practicable means defence

I do not know of any best practicable means to control noise from children enjoying themselves in these circumstances

REDACTED made one or two notes while I was speaking and seems content with what I had said and I left her to ponder on these points”

58. As is evident, the names of individuals have been redacted. This was presumably intended to be for data protection purposes. Mr Forsdick submitted that the person in paragraph 2 whose demeanour was interpreted as being quite insistent that the Environment Services Team should be identifying conditions to assist in approval of the proposed development was the planning case officer. Mr Cannon stated on instructions at the hearing that was not the case, but rather the Council’s Head of Planning.
59. Mr Forsdick relied upon this note as evidence of a desire on the part of the Council’s planning department to approve the scheme notwithstanding the EHO’s advice. I will return to this point in due course. I simply observe at this stage that there is nothing

inherently inappropriate about planning officers seeking assistance from a consultee on conditions that might be imposed upon the grant of planning permission if permission were to be granted against the advice of the consultee. As the EHO himself had correctly pointed out in his consultation responses, the decision as to whether or not to grant planning permission involved weighing up a number of considerations of which noise was one element. It is commonplace for consultees to provide guidance on conditions that might be imposed on a planning permission to mitigate the effect of a proposal, but to do so without prejudice to their overall view that planning permission should not be granted because of the effects the proposal would cause.

60. The Council's planning officers produced an "Update Sheet" which was circulated to members on 22nd July 2019. This document is intended be read alongside the corresponding paragraphs of the Report to Committee. It references relevant paragraphs in the Officer's Report.

61. In relation to the Landscape Strategy that had been submitted and HE's response to it, paragraph 8.17 was updated as follows:

"8.17. An amended Landscape Strategy (LS) has been submitted that provides confirmation of the works to be undertaken to deliver the discussed landscape enhancements. The LS also outlines the next phase of detailed documents/plans for matters such as the Estate Fencing etc. It offers a commitment to submit for approval of this series of detailed documents prior to the proposed lake being used for any recreation or other purposes by PGL.

Historic England have commented that whilst they have not been able to review the additional information in detail they confirm it:-

"... certainly seems to be a step in the right direction, presenting a clear list of deliverables and timeframes for their progress and implementation. Item xi looks like the catch-all for elements like the Sunken Garden, Italian Garden, Terraces, etc. not specifically mentioned in any of the other actions. Appendix B proposes to deliver all 11 of the strategies and detailed schemes prior to the proposed activities lake being used for any recreation or other uses by PGL. Using this as the basis for a Condition attached to the activities lake application should help to address our concerns"

62. In relation to the issue of noise, the Update Sheet stated as follows:

"8.35 To try and address the concerns of the Environmental Protection Team the applicant has provided operational noise survey measurements at a raft building session in April this year and from canoeing activities at another site where the characteristic were similar to this proposal, to try and quantify the noise impacts, (having regard to BS 8233:2014; WHO

guidelines and Sport England advice). They have based their assessment on predicated [sic] L_{Amax} sound levels at nearest noise sensitive receptors from the proposed use of the lake and compared it to baseline L_{Amax} sound levels in 2017 (pre-children) for these receptors and conclude they are broadly the same so no impact.

To address potential noise impacts on residents from raft building, activity stations furthest from residential properties have been identified solely for this purpose.

Head of Environmental Health confirm if working on a purely objective noise level basis the applicants results appears quite true until you add the subjective factors into the consideration of potential impact. Regard has to be given to the nature of the noise, which in the case of the predicated LA max is coaches shouting, groups shouting and singing, kicking of barrels, whistles blown. These noise types did not exist in 2017 when maximum noise levels were likely to have been traffic, boat noise, farming activity, wildlife. It is therefore considered basing noise impacts on purely objective assessment is inappropriate, although it is accepted subjective assessment is difficult to quantify.

Statutory nuisance is determined by subjective assessment of the noise taking into account such factors as the nature of the noise, the nature of the area, the frequency, duration and volume of the noise as well as the actual material impact of that noise on residents. Based on the level of activity proposed on the lake on a daily basis (with no “days off”) for the entirety of the summer, when residents are most likely to use their gardens and have windows open, will have the potential to have a negative material impact on residents use of their property, whether this would be a matter of statutory nuisance is difficult to say.

It is noted no complaints have been received by Environmental Services this year and complaints received last year were not substantiated by officers. The site management has been receptive to suggestions where issues have been identified and currently no evidence to suggest site in its current form is being managed poorly and causing levels of noise beyond which would be expected for its lawful C2 use.

8.42 Whilst acknowledging the potential concerns of Environmental Services, it is considered, on balance, that with appropriate conditions, controlling hours of use (daytime only), no use of the lake out of the operating season, restrictions on numbers using the lake, the implementation of the Noise Management Plan (NMP), (submitted as part of the proposals and which sets out a series of practices staff will use to minimize noise disturbance to residents), the applicants management of

noise issues to date, and a condition restricting the use of megaphones, sirens of any kind and any electronic speakers or PA system etc., that the proposal would not be contrary to adopted and emerging policy in terms of residential amenity. The NMP includes identifying Noise Sensitive Zones close to residential properties where further restrictions on certain activities are prohibited (e.g. singing) and includes a complaints procedure. Whilst acknowledging that during the summer residents will be using their garden more it is also noted that the area around Bawdsey Quay and beach attracts many visitors and the use of the River Deben for various sailing activities is also popular during the summer months, and thus be part of the noise environment.”

63. Mr Forsdick placed particular reliance on this part of the Update Sheet, comparing in detail the wording used by the officer to report the EHO’s position, as against the wording of the EHO’s consultation response on 16 July 2019, as further elucidated by the email received on 17 July 2019.
64. By way of update to paragraph 4.13 of the original Officer’s Report (which dealt with third party representations), the Update Sheet noted that:

“4.13 Three further letters have been received from one objector re-iterating concerns previously made regarding the need for a viability assessment and adverse landscape/ ecological impacts. The new noise analysis is flawed and misleading focusing on highest sounds. Ridiculous to say screaming and shouting at 70-80 dBs from some 50- 80m away will be reduced to 40-45dBs by the time it reaches residential properties. This is not the case for the abseil tower. Head of Environmental Health will be unable to say with any certainty that the lake will not cause noise nuisance or that any noise disruption can be controlled by the Noise Management Plan.”
65. The Update Report contained a recommendation that officers be granted authority to approve the application subject to the consideration by the Head of Planning of any comments received by Natural England SWT on the additional ecological reports, clarification from Historic England on the wording of the condition to secure the landscape improvements identified in the revised Landscape Strategy and subject to certain additional conditions.

The Council’s Determination

66. The application was considered by the Council’s Planning Committee on the afternoon of 23 July 2019. The Minutes of that meeting provide a summary of what occurred.
67. The Planning Committee received the officer’s report and the update sheet. They received a presentation about the application from the Council’s Senior Planning and Enforcement Officer which drew attention to the additional information contained in the update sheet. The officer referred to the site visit the Committee had undertaken and then explained the site’s location by reference to an aerial photograph, identifying

the relevant features on the site, the site history and PGL's subsequent operations. The officer noted that raft building already took place on the restored section of the River Jordan and that the applicant had stated that the ability to offer the activities the Lake would provide was essential as it was expected at PGL sites and would allow the site to remain competitive. The Committee were provided with the detailed plans of the proposal, along with an explanation that the Lake had been reduced in size and moved further away from neighbouring residential properties to mitigate its impact. The Minutes record that "Photographs were displayed, showing the view of the application site that had been demonstrated to Members during the site visit". The activity stations and shelter locations were identified. Cross-sections of the lake were shown and a "comparison photograph" was shown detailed the screening that existing vegetation would provide to the nearby residential dwellings in both summer and winter. The Minutes also state that "The Committee was also in receipt of an image of the site with the proposed lake superimposed on to it, to demonstrate the relationship there would be between the lake, nearby houses and Ferry Road."

68. The officer then dealt with the amendments to the layout of the activity structures proposed to address some of the concerns raised by neighbouring properties in close proximity to those structures, including the application to instal the zip wire in the opposite direction to that consented, which would result in the descent being angled further from a neighbouring property.
69. The Minutes record that the key issues were summarised as being the impact on designated heritage assets, the impact on the landscape, the AONB and the Heritage Coast, the ecological impact and the impact on protected species, the impact on residential amenity, highway safety, flood risk and contamination.
70. The officer referred to the applicant having acknowledged that nearby organisations used the River Deben for waterborne training, but that this was not suitable for the activities proposed as the majority of the guests would be of primary school age.
71. The Committee was then directed to the update sheet regarding paragraph 8.17 of the report on the amended Landscape Strategy and the comments of Historic England on that document.
72. The officer then dealt with ecological concerns before turning to noise. The Minutes record in this respect:

"The objections to the application on the grounds of noise were referenced. The Committee was informed that PGL had taken into account these objections and would implement restrictions on the number of children on the lake at any one time, and the operating times of the lake. The applicant had also produced an assessment that suggested noise levels would be broadly the same as the levels measured at the River Jordan site when raft-buildings takes place. The Senior Planning and Enforcement Officer noted the comments of Environmental Health regarding the subjective factors that should be taken into consideration"

73. The Chairman then invited questions to the officer. In response to one of these, the Minutes record that the officer assured the Committee that restoration works were conditions within the recommendation. The Minutes record:

“A member of the Committee queried the lack of noise level assessment information in the report. The work undertaken by the applicant to measure the sound of raft-building at the River Jordan site was reiterated as were the comments of Environmental Health regarding the subjective factors of any noise made by the activities. The Senior Planning and Enforcement Officer noted that the applicant had agreed to controlling factors to minimise the noise produced.”

74. The Chairman of the Planning Committee invited the Chairman of Bawdsey Parish Council to address the Committee. The Minutes record (amongst other things):

“Mr Block said that the Parish Council had looked at the application in detail and that he would concentrate on three key issues; the impact on residents, the impact on the grassland, and the consideration of an alternative location for the lake.

Mr Block noted the concerns raised by local residents who had bought homes that had previously been part of the estate. He considered that the concern regarding loss of amenity was supported by the comments of Environmental Health and that the noise would be continuous, irregular, difficult to control and monitor, and would be every day. Mr Block said that tranquility was an important part of the Deben Estuary; he agreed that Bawdsey Quay was not a tranquil area but considered the area abutting the application site was. He referred to the NPPF supporting this factor for an AONB. ...

75. There were no questions for Mr Block. The Chairman invited the agent for the applicant to address the Committee. The agent referred to the importance of the activities proposed to PGL. In respect of noise, the Minutes record:

“It was appreciated by Mr Cass that noise remained a concern. She highlighted that PGL has made changes to the application in response to comments including changing the position of the lake and the positions of the launch stations around it. Ms Cass said that this demonstrated PGL quickly responding to concerns and that the company had kept the Council up to date at all times. She considered that the noise management plan in place and the site manager’s approach to concerns had addressed concerns raised to date.”

76. The Chairman then invited questions of Ms Cass. She was joined in answering them by Mr Jones, the General Manager of the Site. The Chairman asked for details on how noise levels across the site would be controlled. Mr Jones explained that singing was used when transporting young people between locations on the site and this would be restricted in areas near to residential dwellings. He stated that the sessions on the lake

would be designed to be fun but educational and would concentrate on these aspects rather than games or races. He said that young people on the site were supervised for the vast majority of the time on the site, given the profile of the type of young people who commonly visited the site. Mr Jones stated that the only unsupervised activity was orienteering, but this took place well away from the application site.

77. The Chairman then invited the Claimant, as an objector to the application, to address the Committee. The Minutes record as follows:

“Mr Zinns invited the Committee to ask him questions regarding noise concerns, as he considered that there had been significant misrepresentation on the issue. He was representing neighbouring residents who objected to the application and had concerns regarding it. He noted that the CMP had suggested the sell-off of buildings to support the restoration of the estate.

Mr Zinns explained that most residents were retirees or individuals that worked from home. He was of the opinion that a lake would reduce residential amenity and also property value. He highlighted the comments of Environmental Health regarding noise and said that a noise management plan would not resolve the issue.

Mr Zinns said that should the lake be approved he and other residents would pursue private claims against the applicant and considered that this would then cause the lake to be abandoned. He was also concerned regarding the impact of the lake on the drainage of the site and stated that the harm to the parkland would not be realised until it was too late. He outlined the recent profits of PGL and weighed this against its statement that the lake was vital in order to fund restoration works.”

78. It can be seen from the entry in the Minutes that Mr Zins used this opportunity (as he was entitled to do) to highlight for members the comments of the EHO regarding noise.
79. The Chairman invited questions to Mr Zins, but reminding the Committee that determination of the planning application should be based on material considerations and the impact on house prices should not be taken into account. The Minutes record that a member of the Committee asked Mr Zins if he and other objectors, when they had purchased properties, had taken into consideration that they were not buying properties within a conventional residential setting. Mr Zins responded that the properties had been bought from the international school, which had not created a nuisance for residents.
80. The Chairman then invited the Councillor Ward Member for Bawdsey to address the Committee. The Councillor stated he wanted to concentrate on two key issues: noise and impact of the development on the environment. In respect of the former, he stated that he considered the proposed mitigation for noise to be poor and he was concerned about the negative impact it would have on both residents and local wildlife as sound would travel better in such a rural setting. He described the area as calm and tranquil and stated that it attracted humans and wildlife. He stated that the area was a special

one that needed to be protected. He welcomed PGL's efforts and described the company as welcome residents, but stated that the application was too big for what it was trying to achieve and stated that he did not support the application. The Chairman invited questions. The Councillor (seemingly in response) said that the sound travel from the lake would differ from other activities on the site as two sides of the application site bordered residential dwellings and the highways, whilst other activities were situated further into the site.

81. The Chairman then invited the Committee to debate the application. The Minutes reveal that they did. The Minutes record that several members of the Committee noted that they had concerns about the application, particularly in regard to noise (amongst other things) and it was suggested by one Member that the noise issue had not been tackled adequately and that clear statements regarding the impact of noise from the lake were required. Another member noted the assurances of the applicant regarding the mitigation proposed in the application and understood both the applicant's reasons for the application and the objectors' concerns. He was unsure how he would vote on the application. Other members of the Committee spoke positively on the application, noting the significant change that had occurred across the estate during its lifetime and commended the efforts of PGL to mitigate impact on wildlife and its commitment to restore the Estate, highlighting the continued employment opportunities that the site brought. One Member considered that the lake itself would encourage wildlife and noted that similar lakes were encouraged as mitigation on other developments. These Members indicated that they would vote in favour of the proposal. The site visit was described by one member of the Committee as having been informative. She remained concerned about the impact of noise on residential amenity and was undecided on how to vote on the application.
82. One member then declared a Local Non-Pecuniary Interest in the application, as he had accessed the site under its previous ownership. He noted that children on the site would be engaged in physical activity and take part in positive experiences. He was in support of the application.
83. Another member of the Committee suggested that more detailed facts and figures relating to noise would have been helpful. He spoke about his experience of working on similar sites and considered that the impact of noise on residential amenity would not be significant. However, he was concerned about the impact of the lake's construction on wildlife and disagreed with comments made by other Members on this subject. He acknowledged that some wildlife would return, but not all of what would be disturbed would. He noted the importance of the lake for the development of young people accessing the site and said that, on balance, he supported the proposal.
84. The Chairman acknowledged that the site had been occupied since the late 1890s for various uses. She reminded the Committee that planning applications, where the recommendation was against policy, needed to be determined on the balance of the benefit outweighing the harm. She believed that, on this occasion, the benefit outweighed the harm. She noted the concerns of the objectors but considered the continuation of the restoration of the Estate to be very important. She was also of the opinion that the development of young people was important and that the lake would provide activities that would contribute to such development. The Chairman noted the employment that was brought to the local area by PGL and considered the mitigation for the impact on wildlife to be sufficient. She was in favour of the application.

85. A member of the Committee noted that the report detailed that no noise complaints had been received in 2019 and that complaints in 2018 had not been substantiated. He said that there was clear evidence that PGL was taking onboard suggestions from local residents and attempting to be a good neighbour.
86. The Chairman invited the Committee to determine the application and it was unanimously resolved to give authority to approve the application, subject to the consideration by the Head of Planning and Coastal Management of any comments by Natural England and SWT on the additional ecological reports, clarification from Historic England on the wording of the condition to secure the landscape improvements identified in the revised Landscape Strategy and subject to controlling conditions that are set out in the Minutes.

The Grant of Planning Permission

87. Following the Committee meeting and resolution, on 25 July 2019 the Council's Planning Officer wrote to HE. She noted that the Lake application had been recommended for approval by the Planning Committee subject to further clarification from HE about the wording of a condition. By further email on 13 August 2019, the Council's Planning Officer asked whether HE would be happy with the following condition, and asking a question about it, as follows:

“... ‘Prior to the lake first being used the detailed documents list i)-xi) in Appendix B of the Landscape Strategy received 10/07/19 shall have been submitted to and approved in writing by the local planning authority. The detailed schemes shall be implemented in accordance with the timescales identified in Appendix B. For the avoidance of doubt, with regard to item xi) these include the Sunken Garden, Italian Garden, and Terraces and the works identified in the plan shall be completed by the end of winter 2020/21’

Do you think we should seek clarification what key feature item xi) is referring to, and is the fact that they state works will commence in Winter 2020/21 rather than completed acceptable to you?”

88. The Council's planning officer sent chasing emails for a response on 29 August 2019 and 23 September 2019. Following a discussion that took place, HE responded by email on 23 September 2019 as follows:

“As discussed, Appendix B does not include timeframes for implementation of the works to improve historic views and address detractive elements under items v) and viii) respectively. Furthermore the wording of item x) is unclear about what is being commenced within Winter 2019/20 – just the scheme for the works to the Pulhamite Cliffs or the actual works themselves? Indeed, given the cost and complexity of the cliffs work (which will likely require engagement with the Environment Agency), it may be difficult to set and enforce strict timeframe for implementation of this element. It may be that

you feel that agreeing scope and timeframe for programmes of work is inherent in discharge of the individual items captured within this Condition and does not need to be stated explicitly. If not, then you may wish to consider including additional text, such as the following:

“Prior to the lake first being used the detailed documents list i)-xi) in Appendix B of the Landscape Strategy received 10/07/19 shall have been submitted to and approved in writing by the local planning authority. The detailed schemes shall be implemented in accordance with the timescales identified in Appendix B. For the avoidance of doubt, with regard to item xi) these include the Sunken Garden, Italian Garden, and Terraces and the works identified in the plan shall be completed by the end of winter 2020/2. For items v), viii) and x), the plans/surveys/schemes identified for delivery must include recommended programmes for implementation to be agreed with the Council.”

89. The Lake Planning Permission was subsequently issued by the Council on 21 November 2019 subject to a number of conditions. Condition 2 requires the development to be completed in all respects strictly in accordance with specified drawings and documents that are listed, including the Noise Management Plan Version 4 dated June 2019. Condition 3 restricts the maximum number of participants using the Lake at any one time to 80 on weekdays, 60 on Saturdays and 50 on Sundays. Condition 4 prevents use of the Lake during the closed season between 14 November and 10 February the following year and at all other times prevents its use before 9am and after 5.30pm and requires equipment and canoes to be removed from the Lake and its edge during the close season. Condition 11 of the Planning Permission was in the form set out in Historic England’s email dated 23 September 2019, with the additional text suggested. Condition 20 required the submitted Noise Management Plan to be implemented in full. Condition 21 prevents the use of loud speakers, megaphones, sirens or amplified sound on or around the Lake. Condition 22 restricts raft-building activities to the activity stations labelled 1-4 on a specified figure 3-4.

Legal Framework and Principles

90. The correct approach to a judicial review challenge of this kind is not in dispute. Relevant principles were authoritatively summarised in *Mansell v. Tonbridge & Malling BC* [2017] EWCA Civ 1314; [2018] JPL 176, in which Lindblom LJ stated at [41]-[42]:

“41. The Planning Court – and this court too – must always be vigilant against excessive legalism infecting the planning system. A planning decision is not akin to an adjudication made by a court (see paragraph 50 of my judgment in *Barwood v East Staffordshire Borough Council*). The courts must keep in mind that the function of planning decision-making has been assigned by Parliament, not to judges, but – at local level – to elected

councillors with the benefit of advice given to them by planning officers, most of whom are professional planners, and – on appeal – to the Secretary of State and his inspectors. ...

42. The principles on which the court will act when criticism is made of a planning officer's report to committee are well settled. To summarise the law as it stands:

(1) The essential principles are as stated by the Court of Appeal in *R. v Selby District Council, ex parte Oxtou Farms* [1997] E.G.C.S. 60 (see, in particular, the judgment of Judge L.J., as he then was). They have since been confirmed several times by this court, notably by Sullivan L.J. in *R. (on the application of Siraj) v Kirklees Metropolitan Borough Council* [2010] EWCA Civ 1286, at paragraph 19, and applied in many cases at first instance (see, for example, the judgment of Hickinbottom J., as he then was, in *R. (on the application of Zurich Assurance Ltd., t/a Threadneedle Property Investments) v North Lincolnshire Council* [2012] EWHC 3708 (Admin), at paragraph 15).

(2) The principles are not complicated. Planning officers' reports to committee are not to be read with undue rigour, but with reasonable benevolence, and bearing in mind that they are written for councillors with local knowledge (see the judgment of Baroness Hale of Richmond in *R. (on the application of Morge) v Hampshire County Council* [2011] UKSC 2, at paragraph 36, and the judgment of Sullivan J., as he then was, in *R. v Mendip District Council, ex parte Fabre* (2000) 80 P. & C.R. 500, at p.509). Unless there is evidence to suggest otherwise, it may reasonably be assumed that, if the members followed the officer's recommendation, they did so on the basis of the advice that he or she gave (see the judgment of Lewison L.J. in *Palmer v Herefordshire Council* [2016] EWCA Civ 1061, at paragraph 7). The question for the court will always be whether, on a fair reading of the report as a whole, the officer has materially misled the members on a matter bearing upon their decision, and the error has gone uncorrected before the decision was made. Minor or inconsequential errors may be excused. It is only if the advice in the officer's report is such as to misdirect the members in a material way – so that, but for the flawed advice it was given, the committee's decision would or might have been different – that the court will be able to conclude that the decision itself was rendered unlawful by that advice.

(3) Where the line is drawn between an officer's advice that is significantly or seriously misleading – misleading in a

material way – and advice that is misleading but not significantly so will always depend on the context and circumstances in which the advice was given, and on the possible consequences of it. There will be cases in which a planning officer has inadvertently led a committee astray by making some significant error of fact (see, for example *R. (on the application of Loader) v Rother District Council* [2016] EWCA Civ 795), or has plainly misdirected the members as to the meaning of a relevant policy (see, for example, *Watermead Parish Council v Aylesbury Vale District Council* [2017] EWCA Civ 152). There will be others where the officer has simply failed to deal with a matter on which the committee ought to receive explicit advice if the local planning authority is to be seen to have performed its decision-making duties in accordance with the law (see, for example, *R. (on the application of Williams) v Powys County Council* [2017] EWCA Civ 427). But unless there is some distinct and material defect in the officer's advice, the court will not interfere.”

91. Mr Forsdick refers to *Obar Camden Limited v. Camden LBC* [2016] JPL 241 as a decision of the High Court to quash a grant of permission where an officer's report failed adequately to inform a planning committee of noise concerns expressed by an EHO. In that instance, the EHO had set out a number of concerns to the planning officer about the noise assessment that had been produced in support of residential accommodation being provided adjacent to an existing nightclub and on a busy road. The Court concluded that the EHO's advice had not been accurately communicated to the local planning authority's committee and that the assumption underlying the report (that if mitigation as proposed by the developer was imposed by condition, the noise concern would be overcome) was not what the EHO had been saying. The Claimant submits that a similar analysis applies here.
92. Mr Forsdick recognises that there is no requirement that the author of a report accept, or follow, the advice given by a consultee: see *R (Carnegie) v London Borough of Ealing* [2014] EWHC 3807 (Admin). Mr Forsdick submits that it is no part of the Claimant's case that the Council had to follow the EHO's advice, but the officer's report had properly to understand and communicate the essence of that advice from the EHO, as the Council's in-house expert advisers, rather than materially mislead the Committee as to the nature of that advice, if the Committee were lawfully to take it into account.
93. Mr Forsdick also recognised that the EHO is not a statutory consultee for the purposes of a planning application; but he points out that the EHO is relied on to provide expert technical noise input into planning decision making. He refers in this regard to the decision of the High Court in *R (Nicholson) v. Allerdale BC* [2015] EWHC 2510 at [58] and [61] and [62]; and *Obar* (above). He submits that the report author correctly viewed the EHO's assessment as a fundamental part of fulfilling the duty to “take reasonable steps to acquaint itself with the relevant information to enable him to answer it correctly”: *CPRE v Dover DC* [2018] 1 WLR 108 at [62], but that required the EHO's advice to be properly explained to the Committee.

94. Mr Forsdick draws an analogy to the approach articulated in *R(Akester) v. DEFRA* [2010] EWHC 232 (Admin) at [112]. There it was recognised that a decision maker was not bound to follow the advice of a statutory consultee such as Natural England, but it was required to have regard to it; and given the expert role of a statutory consultee such as Natural England, it was “bound to accord considerable weight to its advice and there had to be cogent and compelling reasons for departing from it.” He submits that whilst the full rigour of that approach may not apply to advice from EHOs, the general approach supports the basic proposition that the Council must properly understand expert advice provided to it. He submits that members will assume that they are properly appraised of the position of their inhouse expert.
95. In my judgment it is unnecessary in this case to explore in detail if the differences between the statutory consultee under consideration *R(Akester)* as compared with the in house EHO consultee in this case affect any wider principle, essentially for the reasons Mr Forsdick gives himself. The basic question is whether on a fair reading of the report as a whole, which includes the Update Report, the officer materially misled the members on the issue of noise and, in particular the EHO’s advice, in a way which was not corrected.

Ground 1 - Noise

96. The Claimant’s essential complaint under Ground 1 is that the Officer’s Report and Update Sheet did seriously mislead Committee members in relation to the issue of noise. The Claimant submits it was materially misleading as to the EHO’s advice, the substance of that advice was not addressed, and no sustainable or rational reasons were given for finding compliance with policy in light of that advice.
97. Mr Forsdick made it clear that the Claimant does not claim that the Report and Update Sheet had to set out the entire exchange between the EHO and the planning officers; but he does submit those documents did have to summarise accurately the position of the EHO and they failed to do so.
98. In that context, Mr Forsdick advanced a number of detailed criticisms of the contents of the Report and the Update Sheet. He submitted (amongst other things):
- i) Paragraph 4.4 of the Report to Committee was not based on the EHO’s April 2019 comments.
 - ii) Paragraph 8.34 of the Report portrayed the issue of noise as simply one of further information being required, giving the impression that the EHO had advised the noise issue could be managed out.
 - iii) Paragraph 8.36 of the Report was misleading as there was not just the potential for noise to be heard in the gardens but an inevitability of significant noise peaks being experienced there.
 - iv) No attempt was made to set out the EHO’s clear position on the nature of the noise, its intrusiveness, the fact that the Lake would bring higher and much more intrusive noise sources much closer to residents than even the Activity Structures which themselves had led to multiple complaints and the whole gist

of the EHO's clear and repeated position was missed out and thus a distorted position presented

- v) Paragraph 8.38 addressed PGL's attempts to mitigate the noise, but was silent on the EHO's advice as to the innate inability reasonably to control it given the nature of the activities, and the real world experience of lack of actual effective interventions.
- vi) Paragraph 8.39 was simply wrong and seriously misleading as to the noise "not being as great" as some other activities on offer. Nobody was contending that the residents would not be exposed to a higher noise levels than previously.
- vii) Paragraph 8.40 expressed a hope that the noise environment could be "further assessed" but that was by reference to mitigation already taken into account by the EHO. Changes to the proposed location of further activity structures to mitigate the harm caused by the Lake were highlighted, even though there was no claim of such an offsetting effect in the PGL material.
- viii) Paragraph 8.42 reached a pre-conclusion which was inexplicable – on the EHO's analysis which the Committee was not informed of there would be a clear breach of policy to put into the balance. There was no attempt to explain why the EHO's views were wrong and the impression given was that the EHO's concerns were matters of detail to be overcome by further detail.

99. As to the Update Sheet, Mr Forsdick noted that it amended paragraphs 8.35 and 8.42 of the Report, but his criticisms of it included the following:

- i) Paragraph 8.35 of the Update Sheet said that the further information had been to try and address the concerns of the EHO, but the gist of those fundamental concerns was not set out, having previously been omitted from the Report.
- ii) Paragraph 8.35 stated by reference to L_{Amax} levels that the noise environment was "broadly the same so no impact", which was intended to give the impression that using what was portrayed as an acceptable methodology there would be no impact.
- iii) When reporting the EHO's concerns the Update Sheet "cherry-picked" from the final email received from the EHO and missed out the full consultation response and thus the thrust of the EHO's case. It omitted the EHO advice that:
 - a) "... this type of noise is very intrusive particularly when adding the frequency and duration factors";
 - b) the EHO's basic locational point;
 - c) it inexplicably removed the important word "significant" from the sentence "will have a significant potential to have a negative material impact on residents uses of their properties" thus breaching the policy;
 - d) "whilst the LA max levels appear similar the noise climate will be very different" [Appendix F, p3];

- e) the use of L_{Amax} was inappropriate at all [Appendix F, p4] (not just inappropriate by itself as the word “purely” used by the officer suggested); and
 - f) the fact that the EHO’s subjectivity assessment was based on the EHO’s expertise (“professional experience”) – as was the standard way of assessing noise nuisance and thus not surprising or objectionable – instead implying that there was something wrong with subjective assessment.
- iv) It did not address the basic locational point that this was an intense use for “probably the noisiest activity” with “very intrusive” noise being brought much closer to residences into an area which did not previously experience even school noise, with significant potential for nuisance which could not be mitigated;
 - v) it did not address the fact that noise issues from existing activities further afield consistent with a C2 use had been addressed by the EHO, but the EHO’s point was that this was simply the wrong location into which to extend those uses;
 - vi) it did not address or resolve whether the applicant’s approach could “accurately portray the potential for noise nuisance”;
 - vii) it did not mention the EHO had witnessed the inability to control the noise from raft building on site;
 - viii) it did not report the EHO’s view that the proposed use of the Lake was excessive and unreasonable;
 - ix) it used the lack of complaints for other quieter uses further away as somehow showing that the noise at the Lake could or would be appropriately controlled when the EHO’s point was the opposite – the noise from other uses may have been controlled but this was a much more difficult location and use;
 - x) the lack of substantiated complaints was portrayed as somehow demonstrating that there was no noise problem even with the existing uses when that was not what the EHO was saying and it wrongly gave the impression they were unjustified;
 - xi) it failed to identify that the planning team was aware of multiple complaints through the logs and otherwise and that, even from use of the activity structures, PGL had accepted there was a noise issue which needed to be addressed.
 - xii) paragraph 8.42 claimed that the EHO’s potential concerns had been acknowledged but this was wrong as the summary of the concerns was wrong and the concerns were not “potential” concerns at all, but concerns of the “potential for significant disturbance and noise nuisance”.
 - xiii) wrongly claimed that, on balance, the measures proposed would avoid the harm to which the EHO referred, even though the EHO had taken those measures into

account and wrong suggested that they would overcome the EHO's concerns when the EHO made clear that they would not.

- xiv) failed to tell members that the report was going against the clear and repeated advice of the EHO and that his advice was that there remained a significant potential for a breach of policy.
 - xv) inexplicably relied upon noise at Bawdsey Quay as part of the relevant noise environment, with no evidence to justify that conclusion.
100. By contrast, Mr Cannon for the Council submitted that on a fair reading of all the material, no one was or could have been misled. He submits the Report and the Update Sheet provided a legally adequate summary of the issues to the Committee. He submits the Minutes of the meeting show that members were well aware of the gravamen of the contentious issue noise, but they came to a balanced view of the overall merits of the proposals after a detailed discussion about the issues raised, and with the benefit of a site visit. He submits the detailed and forensic attack on the Officer's Report and the Update Sheet is essentially a complaint about that exercise of planning judgment in this case.
101. In summary, he submits that the Report identified that the EHO had unresolved concerns about noise nuisance and impact on residential amenity and further information was expected and required. He submits that the subsequent Update Sheet provides an adequate and accurate summary of the EHO's concerns, reflecting the crux of the concerns that the EHO himself identified. A reader would have known that the EHO was not satisfied the proposals could be granted without the potential for negative material impact on residential amenity, that the EHO considered the use of L_{Amax} data to be inappropriate given the nature of the noise to be generated, but that the EHO had not received any noise complaints that year and that complaints in previous years had not been substantiated and PGL had been receptive to suggestions on noise management.
102. Mr Cannon submits that the EHO identified the "crux" of the concern as being the belief that, subjectively exposure to this type of noise in an area where previously this noise did not exist on a daily basis for the entire duration of the summer months where people will be outside or have windows and doors open will have a significant potential to have a negative material impact on residents' use of their properties, but whether this would be a matter of statutory nuisance or not was not possible to say. He submits that this crux was more than adequately conveyed by the Report and the Update Sheet read together. The author of the Update Sheet considered that notwithstanding these concerns of the EHO, planning permission should be granted for the reasons given. The Committee had visited the site and seen the relationships themselves. The Minutes make it clear that members had well in mind the issues about noise and the EHO's concerns and were not materially misled.
103. Given the nature of the Claimant's challenge, I have set out in some detail the various consultation responses that were received from the EHO, and the relevant parts of the Report and Update Sheet that are criticised.
104. Taken at face value, there is some obvious force in the Claimant's points that the Officer's Report and the Update Sheet do not report all of the detail of the EHO's advice

on the subject of the noise and, in particular, do not communicate the full extent of, and reasons for, the EHO's concerns as expressed in more detail in the consultation responses.

105. In my judgment, however, the important question remains that of whether, on a fair reading of these reports as a whole, members were materially misled on noise and the EHO's advice and, if so, that has gone uncorrected before the decision was made.
106. The decision in *Mansell* emphasises that where the line is drawn between advice that is "significantly or seriously misleading – misleading in a material way", and advice that is misleading, but not significantly so, will depend on the context and circumstances in which the advice was given and its potential consequences. It is therefore relevant to consider the Report and Update Sheet as a whole, along with what transpired at the committee meeting as evidenced by the Minutes. Having done so, I am ultimately not persuaded that members were materially misled in the way the Claimant suggests for the following reasons.
107. First, it is relevant to bear in mind that the Report and the Update Sheet ultimately provide advice from the Council's planning officers to the members on the planning merits of what is proposed. In many instances, there will be competing advantages and disadvantages that need to be balanced before making an overall decision. That clearly was the case here. For example, the officers perceived benefits arising from PGL being able to provide rafting and canoeing activities for primary school children at the Estate in an appropriately safe environment as part of PGL continuing its activities in a way which supported the viable use of the Estate as a whole, given the importance attached to the heritage assets. There were consequential limitations on where a lake to enable such activities could be located. On the other hand, it was recognised that the provision of such activities would give rise to inevitable noise affecting local residents in close proximity. Ultimately the Report and Update Sheet were providing advice from the Council's planning officers to members as to how the officers thought the overall balance should be struck, but leaving members to make their own decision.
108. As part of that process, it is important that officers do not materially mislead members on relevant issues, such as advice from the EHO on the issue of noise in this case; but there is no legal requirement to set out verbatim everything that has been said by an EHO in consultation responses or in correspondence with the planning department. It is legitimate, and it may often be desirable (to avoid reports from becoming unwieldy and less able to fulfil their true purpose) to summarise the advice that has been received. A summary must not materially mislead members as to the substance of the advice. But by its very nature, a summary will not set out every word of the advice that it is summarising.
109. Accordingly, the fact that the Report initially, and more importantly in this case the Update Sheet that followed, does not set out verbatim the EHO's consultation response contained in the emails of 16 and 17 July 2019 does not of itself mean that members would have been materially misled. In fairness, Mr Forsdick did not suggest to the contrary. It is important to consider whether the summary communicated to members the substance of the EHO's advice and concerns. I consider it is appropriate in this case to focus on the crux of the concern and whether that was communicated to members.

110. Second, but linked to the first point, it is important to distinguish between EHO advice and planning advice. The EHO was providing advice as a consultee on the question of noise; but the Report and the Update Sheet were ultimately providing planning advice on matters of judgment in question. As pointed out in *R(Carnegie) v London Borough of Ealing and others* [2014] EWHC 3807 (Admin) by Patterson J at [55]
- “...there is no reason to impose a legal duty on the responsible officer to identify differences of view within the planning department. It is the role of the planning officer to distil in a clear fashion the issues for members to determine. Of course, if they omit a material consideration, then the report is vulnerable to challenge. However, in the instant case it was an overall planning judgment that was material.”
111. Just as there may be differences of view on matters of planning judgment, so planning officers may disagree with the views, or the extent of concerns, expressed by a consultee. In providing that planning advice they should not omit material considerations which require consideration by the members. Nevertheless, in some of the Claimant’s criticisms of the Update Sheet it seems to me that the important distinction between the planning advice of the officer, as compared with advice from a consultee with which the planning officer may disagree, may have become blurred to some degree.
112. It was legitimate in principle for the author of the Update Sheet to provide her planning judgments on the merits of what was proposed, even though this may have reflected some disagreement with views of the EHO. This is all the more so in a case where the effect of the noise in issue involved subjective judgment, as the EHO himself characterised it. It still remains important not to mislead members about the views of the EHO; but it was legitimate for the planning officer to have a different view as to the overall acceptability of the noise environment, with the noise management measures proposed, and to communicate that view to members in a report of this kind. It was then ultimately for members to make up their own mind on such matters exercising their own judgment.
113. Third, returning to the question of whether members were materially misled as to the crux of the EHO’s concerns or advice, I ultimately agree with Mr Cannon’s submission that what was communicated was legally adequate. That is not to say that the summary in the Update Sheet was a model in the exercise of precis. In some respects, the approach adopted has inevitably exposed the author to the sort of criticisms the Claimant has advanced. In seeking to remain faithful to much of the wording used by the EHO in the consultation responses, but then omitting what the Claimant perceives to be important words or phrases (such as the adjective “significant” used by the EHO to describe the potential for a negative material impact), the author has perhaps naturally engendered the sort of criticisms now advanced. There is some attempt to summarise. And then there is also use of much of the same wording, but with omission of particular words and phrases. Such omissions can dilute the force of the EHO’s advice. They can also result in an inevitable focus on the words or phrases omitted in a claim of this kind, with a concern that the message becomes misleading.
114. I have considered with care the forensic textual analysis undertaken by the Claimant, comparing the consultation responses against the content of the Report and the Update

Sheet. I have also stood back and applied my mind to the question of what the reasonable reader would have actually understood from the Report and the Update Sheet, read as a whole.

115. When tested in both respects in this way, I consider that the Report and Update Sheet do sufficiently inform members both as to the fact of the EHO's concerns and the reasons for those concerns. I accept that the Report and Update Sheet could have been clearer. For example, many of the Claimant's criticisms would have foundered altogether if the Update Sheet had stated in express terms that the EHO did not consider his concerns to be overcome by the further information or the mitigation measures proposed. Nevertheless, I consider that this would have been sufficiently clear to members from both documents read as a whole.
116. The basic position that the EHO thought that the proposal would be a significant source of disturbance to neighbours is reflected in Section 4 of the Report itself. In that section, the Report set out Bawdsey Parish Council's verbatim consultation response. This expressly referred to the EHO's objection to what was proposed and identified it as being present on the Council's website. The Report also referred to the EHO consultation response itself at paragraph 4.4 (as it then stood). The summary of that response begins by stating in terms that the Head of Environmental Health was not convinced from the information submitted that the lake will not be a source of significant disturbance to neighbours given the extent of the activity proposed and the nature of the noise from children and the location of the lake in an area not previously used.
117. These concerns are then picked up again in the analysis section in paragraph 8.34. It is true that in that analysis section the planning officer was clearly reflecting a hope, or even an expectation, that the further noise information anticipated would address the EHO's concerns. But this was then a matter that was revisited in the Update Sheet.
118. I have already noted that the Update Sheet does not say expressly that the further information had failed to address the EHO's concerns. Nevertheless, I consider this is sufficiently clear from the content of the Update Sheet read as a whole as an update to the Report. The Update Sheet begins by identifying that further information had been provided in an attempt to address the EHO's concerns. It explains that the further assessment work used the L_{Amax} assessment. The Update Sheet correctly reported that the Head of Environmental Health had confirmed that if you worked on a purely objective noise level basis, the results appeared quite true; but it then set out the EHO's point that that was only true until you add the subjective factors into the consideration of impact. The Update Sheet then explained to the members the EHO's position as to the need to have regard to the nature of the noise. It explains what was in fact the EHO's position, that basing noise impacts on a purely objective assessment was inappropriate, whilst also accepting that a subjective assessment is difficult to quantify.
119. I consider it is inherent from what is stated that the further information provided by PGL did not address the EHO's concerns as that further information continued to rely on an objective assessment which the EHO did not consider appropriate for the reasons explained.
120. The Update Sheet also identified what the EHO considered ought to be taken into account in terms of the nature of the noise in order to make a subjective assessment.

Members reading this part of the Update Sheet were therefore essentially receiving the advice from the EHO as to the relevant factors to take into account in making a subjective judgment. None of this would have been necessary or relevant to report in the same way if the EHO had been accepting the approach of objective assessment. I do not consider that members were materially misled about the EHO's continuing dissatisfaction with the further information provided. Moreover, the factors to take into account when making a subjective assessment were drawn to members attention by the officer at the Committee meeting itself, as reflected in the Minutes summarised above.

121. The Update Sheet also identified the substance of the EHO's advice that statutory noise would be determined by a subjective assessment of the noise, taking account of the factors that had been identified. Again, I consider it is clear from this that members were being advised as to the EHO's concerns that a statutory nuisance could arise in light of those subjective factors.
122. The Update Sheet then reports the essence of what the EHO had communicated in the consultation response on 16 July, albeit with some unfortunate removal of words and phrases that have fuelled the Claimant's concerns. Even with these omissions, the reader would understand the EHO's basic concern. The Update Sheet identifies that based on the level of activity proposed on the lake on a daily basis (with no "days off" for the entirety of the summer, when residents are most likely to use their gardens and have windows open) the EHO considered the proposal would have the potential to have a negative material impact on residents use of their property, albeit it would be difficult to say whether it would be a statutory nuisance. I accept that removal of some parts of the wording used by the EHO diluted the strength of the EHO's view to some degree, but I am not persuaded that it seriously or significantly misled members as to the basic substance of the EHO's view or concerns.
123. This part of the Update Sheet also needs to be read in conjunction with what is said about paragraph 8.42. There the planning officer "acknowledges the potential concerns of Environmental Services". In so doing, the planning officer was necessarily recognising that such concerns remained. Having acknowledged those concerns, the planning officer then sets out her own view. Her judgment was that, on balance, with the conditions she identified, the proposal would not be contrary to policy in terms of noise impact. That was a planning judgment which I consider she was lawfully entitled to reach having acknowledged the EHO's concerns. She was not bound to reach the same view as the EHO, particularly in respect of a subjective judgment of this kind. She was recognising the EHO's concerns remained, but expressing her own conclusions. She also explained why she reached that judgment, relying as she did to a significant degree on the control measures proposed. The fact that the EHO did not consider that such measures overcame his concerns does not mean it was unlawful or inappropriate for the planning officer to come to a different view and, ultimately, for members to agree with the planning officer.
124. I therefore disagree with the Claimant's basic contention that the gist of the EHO's fundamental concerns was not adequately reported to members. On a fair reading of the Report and Update Sheet as a whole, I consider that the gist was communicated, along with the principal reasons for those concerns.
125. In my judgment members reading the documents as a whole would not have been materially misled on the issue, and in particular, have understood each of the seven

main points to which Mr Forsdick referred when making his oral submissions. In particular, members would have understood from the Report and Update Sheet that:

- i) The EHO considered PGL's use of objective measures in the form of L_{Aeq} and then L_{Amax} to be inappropriate, given the nature of the noise concerned. That was adequately communicated to members in the Update Sheet in reporting the EHO's response to "purely objective" assessment, then pointing out the importance of a subjective assessment, and identifying that a purely objective assessment was inappropriate. Moreover, I do not consider it was the EHO's advice that an objective assessment was entirely irrelevant, and that would have been a surprising contention in any event.
- ii) The EHO considered that it was important to carry out a subjective assessment of noise in this case. This was communicated to members in reporting (amongst other things) that the noise and disturbance from this type of activity cannot be assessed purely on decibel levels, but that the duration, frequency and type of noise should be considered, as it would be when assessing statutory nuisance.
- iii) The EHO considered that the nature of the noise was likely to be the most significant factor in impact. This is clear from paragraph 8.35 of the Update Sheet.
- iv) The EHO did not consider that the noise about which he was concerned was going to be adequately controlled by the measures in the Noise Management Plan. This again is clear from the paragraphs read as a whole and is inherent in the planning officer's acknowledgement of the EHO's concerns, but her expression of a different view.
- v) The EHO's position that this particular location was inappropriate as it did not have a previous noise source when the Manor was being used as a boarding school, it was not a noisy place and the C2 use did not assist PGL. This is clear from the original Report and the Update Sheet.
- vi) There had been noise complaints, albeit they had not been substantiated by the EHO. This was clear from the entirety of the Report and the Update Sheet. The fact that the complaints had not been substantiated is a faithful reporting of what the EHO had said. I also do not consider that the Report had to provide further detail of complaints that had been made of which the planning department was aware. The fact that such complaints had been made was clear from the Report as a whole and was not in dispute.
- vii) There was a significant potential for the Lake to impact materially on residential amenity. Again, I consider this to be clear from all of the material before the Committee and the EHO's concerns about what was proposed. Whilst it would have been better not to have omitted the adjective "significant" in this regard, I do not regard the overall effect of doing so as materially misleading the committee (for the reasons already identified).
- viii) The EHO ultimately did not consider the proposals to be acceptable from a noise perspective. Again, I consider this to be clear from the Update Sheet read as a whole.

126. Mr Forsdick criticised the last sentence of paragraph 8.42 of the Update Sheet. The planning officer referred to the area around Bawdsey Quay and the beach attracting many visitors and to the use of River Deben in the summer forming part of the noise environment. This was not something that the EHO regarded as of significance for assessment of the impact of the Lake on the residential properties. However, I agree with Mr Cannon that it is clear that this paragraph is self-evidently reflecting the planning officer's view, rather than purporting to reflect advice from the EHO. It may, in part, be affected by the view the officer took as a result of the use of the road to Bawdsey Quay and its relationship to the Estate. But taking Mr Forsdick's criticism at its highest that these areas should not be treated as part of the relevant noise environment for the Lake, ultimately I do not consider members would have been materially misled as a result of this view from the planning officer. As dealt with in more detail below, members visited the site themselves. They would have been well aware of the relative locations of the Lake, the residential properties, Bawdsey Quay and River Deben. They would have been able to make their own judgment about the noise environment in light of all the information they had before them.
127. In my judgment, the way in which these matters were reported sufficiently informed members about the key noise issues which they had to consider and on which they had to make a judgment.
128. Fourth, the analysis above is focused on the Report and Update Sheet. Members would also have had the ability to read in more detail the nature of the EHO's concerns. They had been alerted to the consultation responses being available in the ordinary way on the website. They could be expected to know of the availability of this material anyway. As it happens, I do not think it was necessary for them to read those consultation responses to understand the crux of the EHO's concerns. But members would have been aware of the ability to read the consultation responses themselves if they had wished to do so.
129. Fifth, it also relevant that members carried out a site visit. This forms part of the overall context, along with what transpired at the committee meeting itself, in considering whether members were materially misled in this particular case.
130. So far as the site visit is concerned, it is not in dispute that the committee members visited the site as part of their deliberations on the planning application. The Minutes record that the visit was considered informative. That is hardly surprising. In a case of this kind, where members are advised as to the subjective nature of the noise issue and the factors to take into account, a site visit would have been useful. It would help judge the subjective noise issues having regard the factors the EHO had identified (as reported to them). From that visit, coupled with the detailed locational information they were given, members would have been very well-placed to reach their own judgments about the potential impact of the noise from the proposed location of the Lake on the dwellings in the vicinity. Although they would not have heard the activities occurring in that location, they would have been able to reach an informed judgment about the noise effects. All of this would have been in the context of knowing about the EHO's concerns, the subjective factors the EHO considered relevant, and the concerns of the residents, the Parish Council and the Ward Councillor about noise debated at the committee meeting itself.

131. The Minutes also reinforce my conclusion that members were not seriously and significantly misled by the Report and Update Sheet. The officer presentation focused members' attention on the location of the Lake and its proximity to residents (something they would have already seen on their site visit). The officer identified the impact on residential amenity as being a key issue. The issue of the problems with the lack of alternative locations were considered. The officer expressly noted the comments of Environmental Health on the subjective factors to be taken into consideration. This repeated what had already been identified in the Update Sheet. Members were told that the EHO considered that it was necessary to carry out a subjective assessment, rather than rely on the objective assessments put forward by PGL's consultants. A member of the committee raised the issue of noise assessment in questioning the officer. The committee listened to the address from the Chairman of the Parish Council which expressly referred to the noise objection in terms of loss of amenity being supported by the comments of the EHO. PGL's agent addressed the members on noise. Members' questions reveal that they were clearly interested in the extent to which the noise management controls might affect the position. The Claimant addressed the committee on noise. He made it clear that he considered there was the potential for statutory nuisance complaints to arise in the future. The Councillor Ward Member also addressed the issue of noise given the Lake's location. The subsequent debate makes it clear that the question of noise was a principal, if not the predominant, focus of the debate. All of this took place in a context where members would have been aware of the crux of the concern being expressed by the EHO from the Report and Update Sheet.
132. In light of these conclusions, I consider that the circumstances are very different to those that led to the finding of unlawfulness in the *Obar* case on which Mr Forsdick relied. There the report to committee failed to inform members about the local planning authority's EHO advice that: (1) the noise assessment had only taken into account structure borne noise from an adjoining nightclub use, but the noise from patrons needed to be taken into account as a subjective measure affecting the proposed residential amenity; and (2) there had been a failure to assess the effects of traffic noise (on a very busy corner) on the proposed residential units and whether it was acceptable (see paragraphs 22-26 in particular of Stewart J's judgment). In light of those failures, the overall effect of the report suggesting that the applicant's mitigation measures were sufficient, was found to be materially misleading. By contrast here, the crux of the EHO's advice in this case was communicated to members. This then required the members to exercise their judgment as to the impact of that noise and to weigh this in the overall planning balance when deciding whether or not to grant planning permission.
133. In short, I consider the Report and the Update Sheet did not materially mislead members as to the noise issue. The committee members were informed adequately about the EHO's advice. The substance of the points he made were identified and enabled members to make their own assessment. The planning officer was entitled to express her view that, notwithstanding the EHO concerns, she considered the noise mitigation measures would enable the proposal to be compliant with policy. No further reasoning was required for her reaching that view. It was then a matter for the committee members, in the exercise of their judgment, to decide whether they agreed.
134. Accordingly, despite the very thorough and comprehensive nature of Mr Forsdick's submissions, I reject Ground 1.

Ground 2 - Heritage

135. Under Ground 2, Mr Forsdick submits that the Report and Update Sheet materially misled members in relation to heritage matters. He submits that PGL were effectively proposing “enabling development”, albeit that he says it is not necessary for the purposes of his argument for it to have been development that meets that description. His essential point is that the development proposed was, in part, justified to members by reference to heritage benefits that would be delivered, but that no such benefits were to be delivered or were in fact secured.
136. Mr Forsdick divided his complaint under this heading into three core areas.
137. First, he argued that the Report proceeded on the basis that PGL would fund the costs of urgent, essential and major coastal protection and Pulhamite Cliff works, when in fact that was expressly not the case as the works were dependent on grant funding. He makes the point that benefits which were not secured by the development could not be relied upon to justify it and members were materially misled that the Lake would pay for, or secure, such works when they would not. He refers in particular to paragraph 8.7 of the Report which included the sentence “all these works are at a substantial cost to the applicant”, when read with paragraph 8.6 and paragraph 8.13.
138. Second, he submits the harm caused by the Lake was said to be offset by the benefits secured, but most of the same benefits had already been secured to offset the harm caused the Outdoor Activities Structures Planning Permission and they could not be relied upon again to justify the Lake.
139. He argues that whilst paragraph 8.13 of the Report referred to both, the necessarily essential link was not made that most of the works in question had already been secured by Outdoor Activities Structure Planning Permission. He submits that 2018 Landscape Plan for that latter permission included items (ii), (iii) and (iv) of what came to be set out in Appendix B of the later Landscape Strategy for this permission. He also submits that this point also applies to: part of the area covered by item (i) in Appendix B; “the north of the mansion” area under (vi); the terraces, Italian Garden, Sunken Garden and cliff garden areas under item (xi) and (x) of Appendix B, having regard to Condition 11 that came to be imposed on the Lake Permission; most of item (v) of Appendix B; and the Lemonary and Walled Garden in item (ix) of Appendix B in light of the requirements of Conditions 7 and 11 of the Outdoor Activities Structure Planning Permission. He submits that even if it is correct that the Landscape Strategy approved Condition 11 went wider than strictly required by the Outdoor Activities Structure Planning Permission in some limited respects, the significant majority of the benefits were already secured and members were not told this and were materially misled into thinking that offsetting heritage benefits were being secured, when they were already secured under the Activities Structures Planning Permission. He also submits that the timescales for items (ii)-(iv) were in fact a significant relaxation of what had already been secured and members were not informed about this
140. Third, he submits the conditions did not secure that which was assumed. Condition 11 and Appendix B, item (x) relating to works to the Pulhamite Cliffs, only requires a detailed scheme to be commenced, but not implemented or completed. He makes similar points about items (v), (viii) and (ix). Moreover, he submits that for the most

significant works the only obligation was to commence them and not to complete them, but securing those works was fundamental to the logic for the Lake.

141. Mr Forsdick notes that the extent to which benefits offered by proposed development can be said to be ‘secured’, and the consequent question of what (if any) weight to be attributed to them as material considerations weighing in favour of a scheme, are matters matter of planning judgment: see, by analogy, *R (Lady Hart of Chilton) v Babergh DC* [2014] EWHC 3261 (Admin) at 58. However, his challenge is directed to the members being materially misled by what was reported to them by officers (as summarised above). He submits members were wrongly assured by officers as to what the planning permission would deliver.
142. In response, Mr Cannon made what Mr Forsdick described as “headline criticisms” of the Claimant’s challenge which Mr Forsdick accepted would “destroy” his heritage ground of challenge if they were right, but he submitted were wrong.
143. It is convenient to deal with these first. The first point made by Mr Cannon is that on a fair reading of the Report, members were not told or directed that works to the heritage assets in question (in particular the coastal works and Pulhamite cliffs) were being secured at PGL’s cost. He submits that is not a fair reading of the sentence in paragraph 8.7: “All these works are at a substantial cost to the applicant, particularly the works required to prevent the estate...”.
144. I agree with Mr Cannon’s submission. In my judgment, a fair reading of what is being identified in paragraph 8.7, read in context with paragraph 8.6 and paragraph 8.13, is that there is a range of significant work required to maintain and protect the Estate given the diversity of its historic assets. The first sentence of paragraph 8.7 is merely identifying that such maintenance works do involve substantial cost to the applicant, as one might expect. It is not seeking to suggest that the applicant will necessarily be able to fund all those works itself, or that the applicant will not need external funding for some of those works. Nor is it suggesting that the Lake proposal is necessary to fund all of those works, or that the Lake is being justified as providing funding for all of those works. That is not what paragraph 8.7 says, nor do I consider it to be a natural reading of those paragraphs.
145. That, of itself, disposes of this point. I do not consider the Committee were materially misled as to what is stated in the report. Even if there were in fact some ambiguity in what is being stated in this part of the report (which I do not think is the case), I would not have considered this to be a basis for concluding that the Committee were materially misled in any event. As Mr Forsdick himself necessarily accepts, the applicant itself was not suggesting that the Lake would fund those works – to the contrary, the supporting information with the application identified that the works in question would require external funding. In such circumstances, it seems to me that read in a context where such supporting material formed part of the applicant and it was available to the Committee members (see paragraph 3.7 of the Report), it would have been wrong to conclude that any such ambiguity in these paragraphs did materially mislead members.
146. The second point made by Mr Cannon is that members were not told that such works would be secured by the grant of planning permission. Mr Forsdick disputes this and says that members were repeatedly told this was the case, having regard to the Report and also the Minutes of the committee meeting which record, amongst other things,

that: “The Senior Planning and Enforcement Officer assured the Committee that restoration works were conditioned within the recommendation.”

147. Again, I agree with Mr Cannon’s submission. Read fairly and as a whole, I do not agree with Mr Forsdick that members of the committee were repeatedly told that the restoration works in question, namely the coastal works and works to the Pulhamite Cliffs were secured by the Lake proposal. This involves a misreading of the Report, including paragraph 8.7 for the reasons I have already identified. This means that Mr Forsdick’s reliance on what is stated in the Minutes is misplaced. As a matter of fact, restoration works were conditioned as part of the Lake planning permission being proposed by officers, and therefore the statement made by the officer was correct. Mr Forsdick’s case depends upon interpreting the term “restoration works” here as encompassing all works referred to in paragraph 8.7 of the Report, or all restoration works being contemplated for the Estate generally (for example, as in overall strategy timetable in Appendix B). I do not consider that is what was intended nor what would have been understood by members from the officer’s comments. Again, if there had been ambiguity about this, I would still not have concluded that members were materially misled given their access to the application and supporting material which makes clear that the coastal and Pulhamite Cliff works would require external funding.
148. Mr Cannon’s third point is that the benefits that were secured by the Lake planning permission were not secured under Condition 7 of the Outdoor Activities Structures Planning Permission as suggested by Mr Forsdick, so there was no “double counting” in that respect. Mr Forsdick disputes that, but I agree with Mr Cannon.
149. The first part of Condition 7 of the Outdoor Activities Structures Planning Permission required a landscape scheme to strengthen the existing woodland structure and provide additional planting to ensure the appropriate screening of activity structures to be submitted and approved in writing within 3 months of the commencement of development. That condition was discharged. By its own terms, it is clear that the Landscape Scheme was in respect of what was being approved by that permission. Requirements for a Landscape Scheme or Strategy in respect of the Lake do not involve any necessary duplication.
150. The second part of Condition 7 was, whether intentionally or accidentally, far less onerous. It simply required submission of a landscape strategy within 6 months of commencement for the remaining parkland, including the north of the mansion, the Terraces, Italian Garden, Sunken Garden and the Cliff Garden area. It did not include a requirement to implement, let alone complete, that strategy.
151. As I have said, the absence of any requirement to implement and complete any such strategy may have been intentional or it may have been an oversight. It may have been considered too onerous, or not in fact necessary, to require implementation of that strategy to make the proposals in the Outdoor Activity Structures Planning Permission acceptable in their own right. The submission of a strategy may have been considered enough of a step in the right direction. There is an obvious contrast in this respect between Condition 7 and Condition 11 of the Outdoor Activity Structure Planning Permission relating to works in the walled garden which do include a completion clause. This strongly suggests to me that the decision to limit the obligation under Condition 7 was deliberate. Alternatively, it may have been an oversight. But in either

event, there is no requirement under Condition 7 to implement and complete any such strategy.

152. By contrast, Condition 11 of the Lake Planning Permission imposed a requirement that the detailed documents listed in i)-xi) of Appendix B of the Landscape Strategy had to be submitted and approved prior to the Lake first being used. It also identified that the detailed schemes had to be implemented in accordance with the timescales identified in Appendix B. It was further made clear that for the works under item xi) – including to the Sunken Garden, Italian Garden, Terraces and works identified the plan, these had to be completed by the end of winter 2020/2021. For items v), viii) and x) – the latter relating to the Pulhamite Cliffs, the plans/surveys/schemes identified for delivery had to include “recommended programmes for implementation to be agreed with the Council”. This reflects what is clear from the Landscape Strategy document itself - such works were not being secured by the Planning Permission and were not intended to be secured, but rather a step forward in approving recommended programmes for implementation. This understanding is ultimately reflected in HE’s comments on the draft condition and the amendments they suggested for clarification which were adopted. This interpretation as to the limits of the requirements in respect of item x) is a now a matter of common ground between the parties and I agree with that interpretation.
153. It is evident from comparison between the obligations that although there is something of an inevitable overlap in the subject matter of the Landscape Strategy in respect of the two permissions, Condition 11 of the Lake Permission overall imposes more significant requirements than were previously required of the Outdoor Activity Structures Planning Permission. This, of itself, answers Mr Forsdick’s complaint based on alleged double-counting.
154. It may be that the extent of any overlap (for example in respect of what had already been secured for the walled garden and Lemony under the earlier permission) could have been more clearly articulated. But reading the report as a whole, it would have been clear that there was such an overlap. Paragraph 8.5 of the Report informed members that PGL had also delivered, and were in the process of delivering some Estate enhancements and, as part of that, specifically identified that work was in progress on the Lemony as well as repairs to the walls and gates to the walled garden. The fact of commencement of those restoration works is repeated again in paragraph 8.13. Therefore it seems to me that it is wrong in principle to suggest that the committee could have been materially misled about this.
155. Therefore I do not consider the failure to make such overlap more explicit materially misled members. The reality is that the Landscape Strategy secured by the Lake Planning Permission went significantly beyond the much less onerous obligation attached to the Outdoor Activity Structures Planning Permission in securing important landscape benefits for the Estate. It does not secure all restoration works for the Estate’s many heritage assets, including the coast and Pulhamite Cliffs, but it was not intended to do so and members were not advised that it would. I am satisfied that members were not materially misled about what it did secure and, ultimately, were entitled to exercise their planning judgment (one shared by HE) that what was secured amounted to benefits which clearly weighed in their decision to grant planning permission for the Lake

156. In addition, it is also important to bear in mind the chronological context of what was occurring. This means that the existence of some overlap (or double-counting as Mr Forsdick might describe it) was unsurprising, but did not vitiate the Council's decision.
157. The Landscape Strategy that was being submitted in support of the Lake Planning Permission was also in fact submitted at a time when the far weaker Part 2 of Condition 7 of the Outdoor Activity Structures Planning Permission (along with Condition 5 of another planning permission) had yet to be discharged. This was an incidence of chronology. In such circumstances, it was open to the officers of the Council, HE and ultimately the Council itself to deal with the matter in the way they did, with Condition 11 of the Lake Planning Permission securing further aspects of an overall Landscape Strategy for the Site. This is a point which has also been the subject of evidence and common ground now reached between the parties. The subsequent discharge of the second part of Condition 7 of the Outdoor Activity Structures Planning Permission did not in fact occur until after the grant of planning permission under challenge in this case and was then discharged by reference to a different plan.
158. Mr Cannon's fourth point in response was that there was no promise to secure the Pulhamite Cliff works, as can be seen from the Landscape Strategy document itself read as a whole. Mr Forsdick disagreed, again relying upon paragraphs 8.6, 8.7 and 8.13 of the Report in particular.
159. I have already rejected Mr Forsdick's analysis of those paragraphs. In addition, I agree that it is important to read the Landscape Strategy document as a whole, with Appendix B, which does make it clear that the Pulhamite Cliff works required external funding from a charitable trust. I consider it is clear that the officers of the Council, the members of the Committee and, importantly, HE would have been aware of this when making their overall decision. Mr Forsdick's submission also appears to depend upon an assumption that the Landscape Strategy that was submitted was not understood by members. I do not consider there is a basis for making that assumption in this case.
160. Mr Forsdick also referred to extracts of the Planning Statement and Design and Access Statement submitted in support of the application. On a fair reading of those documents, I do not consider that any of the references he took me to, read as a whole, suggest that works to coast or the Pulhamite Cliffs were being secured by the Lake, or that the Lake was being justified on the basis that such works would occur. They do seek to make the overall point that continuation of a viable use of the site by PGL was part of the strategy of maintaining the Estate and its many heritage assets. To that extent, the provision of the Lake was an important part of PGL's overall strategy of providing a competitive offer and maintaining the viability of its operations. This would support a continuing viable use of the site with the consequential benefits for the heritage assets. To that extent, the prospect of the coast works and Pulhamite Cliff works being delivered with external funding would no doubt be enhanced by the continued presence of a single owner operating the site for a viable use. But none of the references, nor the general point being made, necessarily suggests that the Lake secured those coast and cliff works; nor do they mean that the Lake was being justified on the basis that those works would be delivered.
161. Again, those documents need to be read as a whole and, ultimately, with the Landscape Strategy document that came to be submitted, as considered in the Update Sheet.

162. In light of these conclusions, I do not regard it necessary to resolve any dispute that there may be between the parties as to whether what was proposed should formally be categorised as “enabling development” within the meaning of that concept under the HE guidance or not and Mr Forsdick himself accepted that this was not a necessary part of this case.
163. For these reasons, I reject Ground 2 and each of the three elements advanced by the Claimant. I am not persuaded the committee were materially misled about the heritage benefits associated with the proposal, or indeed misled at all on that topic.

Conclusion

164. In light of my conclusions on both grounds, notwithstanding Mr Forsdick’s comprehensive and forcefully made submissions on behalf of the Claimant, I dismiss this claim for judicial review.



Neutral Citation Number: [2020] EWHC 2969 (Admin)

Case No: CO/93/2020

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 06/11/2020

Before:

JAMES STRACHAN QC (Sitting as a Deputy Judge of the High Court)

Between:

THE QUEEN
-on the application of
BARRY ZINS

Claimant

- and -

EAST SUFFOLK COUNCIL

Defendant

-and-

ACTIVE URBAN
(WOODBRIIDGE) LIMITED

Interested
Party

Mr David Forsdick QC (instructed by Sharpe Pritchard LLP) for the Claimant
Mr Robin Green (instructed by East Suffolk Council) for the Defendant

Hearing dates: 23rd July 2020

Approved Judgment

Covid-19 Protocol: This judgment was handed down remotely by circulation to the parties' representatives by email, release to BAILII and publication on the Courts and Tribunals Judiciary website. The date and time for hand-down is deemed to be 10:30am on 6 November 2020.

James Strachan QC (Sitting as a Deputy Judge of the High Court):

Introduction

1. By a claim form dated 10 January 2020, the Claimant Barry Zins challenges a grant of planning permission by East Suffolk Council (“the Council”) to Active Urban (Woodbridge) Limited (“the Interested Party”) for the redevelopment of the Council’s former office complex at Melton Hill, Melton (“the Site”) for:

“Residential development (100 no units) including 32 no affordable housing units (Class C3) plus a community space (91sq.m) (Class D) and a retail unit (157.7 sq.m)(A1/A2/A3), car parking, means of access and landscaping, all following demolition of the buildings on site.”
2. By his Amended Statement of Facts and Grounds, the Claimant contends that the Council erred in:
 - i) the approach adopted to the issue of affordable housing; and
 - ii) the application of the “tilted balance” in the determination of the planning application.
3. Permission was granted by Order of the Honourable Mr Justice Jay dated 1st May 2020.
4. The substantive hearing took place by video conferencing with the co-operation of the parties. The Claimant was represented by Mr Forsdick QC. The Defendant was represented by Mr Green. I am very grateful to them for the clarity and helpfulness of their written and oral submissions. The Interested Party did not appear and was not represented.

Factual Background

The Site

5. The Site was previously occupied by the former Suffolk Coastal District Council (“SCDC”) for various local authority functions before SCDC moved out to new purpose-built premises elsewhere.
6. In August 2014 SCDC produced a Planning Position Statement for the Site. Its stated purpose was to inform potential developers of SCDC’s requirements and expectations in relation to potential future uses. It sought to set out a planning framework for the assessment of future planning applications. The statement was not subject to consultation and was not formally adopted. It identified that it did not bind SCDC as a local planning authority to grant planning permission for any particular development.
7. Residential C3 use for flats and family housing, including affordable tenure, was identified as a use that would be acceptable in principle. The statement suggested the developable area had the potential to accommodate a scheme incorporating a variety of housing sizes, including the provision of affordable homes and lifetime homes. It also suggested that the majority of new housing that had been delivered recently in Woodbridge, as well as that envisaged for the foreseeable future, was on small infill

plots unlikely to yield the required range of housing and affordable provision. It stated there was a need for smaller units, and affordable housing, in the town to ensure it did not become polarised by large plots and retirement dwellings. The Site was identified as providing a real opportunity to deliver this in a sustainable location. Under the heading “Affordable Housing Requirement” it stated:

“The communities [sic] need for affordable housing is a material planning consideration and covered by Policy DM2 of the Local Plan (Core Strategy). There is a requirement for affordable housing in both of the Parish’s of Woodbridge and Melton. The scheme is expected to provide up to one-third (33%) of all housing on site to be affordable. The preference for any affordable housing is to be rented accommodation. The exact mix of the affordable units would be a matter for neg[oti]ation with discussions from the Council’s Housing Enabling Officer.”

8. In January 2015 SCDC tendered the Site for sale. Informal tenders were invited by 4 June 2015. Completion was expected to take place no later than November/December 2016. An indicative layout accommodating 69 houses and apartments was shown, but the tender document noted that applicants might choose to remodel the scheme in line with their own vision.
9. The Claimant refers to a pre-application planning advice letter dated 1 June 2015 from an SCDC planning officer to one bidder. In that document, the officer stated (amongst other things):

“Affordable housing provision is welcomed and should be provided at policy compliant level (33%) and as 100% rented accommodation. I would suggest also that discussion takes place with the Council’s Housing Team to ascertain exact unit size requirements.”
10. In the event, the Interested Party was selected by SCDC as the preferred bidder. The documents indicate it entered into a conditional contract to buy the Site for £6 million.
11. The Claimant considers the Interested Party agreed to pay too much, given the Site’s established use and/or residual land value, if a policy-compliant scheme for affordable housing were to be provided. He believes the Interested Party has been seeking to avoid, or reduce, the provision of policy-compliant affordable housing because of this. He refers, by way of example, to the notes of an “SCDC Office Accommodation Project Board” on 20 June 2016 in which the Interested Party questioned whether affordable housing was required. He also refers to pre-application discussions between SCDC and the Interested Party. He submits the Interested Party erroneously assumed affordable housing requirements might be reduced when obtaining planning permission in reliance on the price paid for the Site contrary to principles expressed in *Parkhurst Road Ltd v Secretary of State for the Communities and Local Government* [2018] EWHC 991 Admin. He refers to the content of a letter from Carter Jonas to the Interested Party in August 2018 which relates to viability advice provided by BNP Paribas to SCDC; this was to the effect that the benchmark land value of the Site was £2.45million, the residual land value was likely to be between £3.89 million and £4.60 million depending on the split of rent and shared ownership affordable housing, and as this was above the

benchmark land value, development of the site with affordable housing should be viable.

The First Planning Application

12. In July 2017 the Interested Party sought planning permission (reference number DC/17/2840/FUL) to demolish all of the existing offices and buildings on the Site and to replace them with 100 residential units, including 33 affordable housing units, together with a community building (Class D1) and a retail unit that could be a coffee shop (Class A1/A2/A3). The description of development does not identify the tenure mix, but the Claimant says that the material supporting the application referred to a proposal for 24 units as “intermediate housing” and 9 as affordable rented housing units.
13. The application was controversial. It attracted significant objection on a number of grounds. It involved the provision of 14 angular blocks designed in a modern style. There were objections from (amongst others) Woodbridge Town Council, Melton Parish Council, the Woodbridge Society, the River Deben Association, the Deben Estuary Partnership, the Woodbridge Town Trust, the Woodbridge Riverside Trust, and the National Trust (responsible for the Sutton Hoo archaeological site) and some 330 other letters of objection received, as opposed to 12 letters of support. The objections were advanced on various grounds, including the design of what was proposed, the impact on heritage assets, but also in respect of affordable housing. The Claimant was one of the objectors.
14. The first planning application was the subject of an officers’ report for a planning committee meeting on 13 October 2017 (“the 2017 Report”). Although there were many objections, it is clear that officers ultimately did not agree with the majority of them. To the contrary, officers considered the design to be beneficial, the benefits to outweigh the harms, and that the scheme should be approved.
15. The Executive Summary in the 2017 Report included the following:

“Planning Permission is sought for the redevelopment of the former Council Offices site into a residential lead scheme of 100 dwellings, with the policy requirement of affordable housing ...

...

Members of the Planning Committee had had the benefit of a detailed site visit on the 2 October 2017 which took in a number of public viewpoints so as to understand the sensitive relationships to neighbouring land uses and the wider setting.

The proposed scheme in the opinion of officers represents an interesting and progressive design solution for the site, offering direct views through the site to the Reiver Deben and Sutton Hoo beyond. ...

It is acknowledged by officers that the design is bold and unlike other developments in the locality, but this does not make the development unacceptable. The design approach selected is considered to be an acceptable and positive approach in this instance to take to reflect the myriad of constraints on and around the site. Significant pre-application dialogue has taken place with officers, the public and the independent RIBA Suffolk Design Review Panel (SDRP) before formal submissions, as is strongly advocated in the N[ational] P[anning] P[olicy] F[ramework]. The scheme as presented for determination is the culmination of this significant level of engagement and has positively responded to the detailed comments made through this process.

...

The benefits of permitting this scheme are considered to outweigh any harms identified and accordingly the application is recommended for approval subject to the imposition of appropriate conditions and mitigation measures, in line with the strong presumption in favour of sustainable development espoused in the NPPF.”

16. It is also evident that officers considered the proposal to provide 33 units of affordable housing as “policy compliant”. For example, at paragraph 3.1 of the report the officers stated that: “33 of the units are proposed to be affordable, set within two blocks in accordance with Policy DM2 of the Local Plan.” The mix of housing proposed was described in paragraph 3.3, with a Table identifying that there would be 18 “1 bed” and 15 “2 bed” affordable housing units provided. Paragraph 3.3 stated:

“... Members will note that the scheme makes provision for the policy compliant level of affordable housing. The mix and tenure of this is currently under discussion with officers and the delivery of the affordable housing is to be dealt with by means of planning condition.”

17. Paragraph 3.7 identified a table setting out the nature of the blocks proposed within the scheme.
18. Section 4 of the 2017 Report dealt with consultation responses to the application, summarising objections that had been received including those related to affordable housing. For example:

- i) Paragraph 4.2 identified Melton Parish Council’s objection on this basis that:

“... given the very high level of need for affordable family homes it is not surprising that East Suffolk Housing service has expressed concern about the mix. All the affordable housing offered is in the form of apartments, and East Suffolk Housing has requested, on the basis of 33 affordable units, a better balance of houses and apartment ie 19 apartments and 14 houses. On the

basis that such a revised mix would much better reflect the ability to meet housing need it should be considered in relation to whatever final numbers of dwellings might be agreed.”

- ii) Under ‘Third Party Representations’ officers noted the existence of objection that the scheme did not make provision for social housing, but included the officers’ comment that: “Officers have clarified through this report that affordable housing is proposed as part of the package.”
19. Paragraph 4.28 summarised SCDC’s Head of Housing consultation response to the effect that: “Discussions have been undertaken with the Head of Housing in relation to the mix proposed and the affordable element of the scheme”.
20. Section 6 of the 2017 Report set out the officers’ assessment of planning considerations. This included an analysis of ‘housing need’ in paragraphs 6.1-6.6. Officers took the view that Woodbridge was considered to be a highly sustainable site for new housing, with limited opportunities for new housing provision in the town, and with a particular need to meet locally generated needs particularly for affordable housing (see paragraph 6.4). Having considered other development sites in Woodbridge, officers expressed the view that residential developments which could offer a range of housing sizes and tenures in Woodbridge were infrequent, with the majority of sites being below the five units required by Policy SP3 to enable the local planning authority to seek a range of housing sizes and the ten units required to provide affordable housing and, for the most part, being for larger dwellings which “do not seek to meet the identified need for smaller units of accommodation”: see paragraph 6.5. Officers took the view that:
- “6.6 The proposed development would yield a choice of homes of both the market and affordable tenure, and therefore complies with Policy SP3 of the Local Plan and paragraph 50 of the NPPF.”
21. Section 6 also set out the officers’ view of the many other issues raised by the proposal, including design and effects on heritage assets. The officers’ conclusions were set out in Section 7. They took the view that, on balance, the benefits delivered through the scheme outweighed the levels of harms that had been identified. That conclusion was repeated at paragraph 7.10. In relation to affordable housing, officers stated:
- “7.3 The provision of affordable housing needs to be dealt with by condition rather than a legal agreement, as the landowners of the site at present at [sic] the district council and the district council is not able to enter into a legal agreement with itself. Officers can provide comfort to Members that such a condition is a robust mechanism to deal with the delivery, and retention thereafter, and not only has been used on other schemes locally (including Cedar House opposite) but is also commonly used by the Planning Inspectorate.”
22. The 2017 Report recommended the approval of the proposal, subject to the application not being called-in for determination by the Secretary of State and the imposition of conditions covering particular matters including:

“7. Mechanism to deliver the affordable housing in perpetuity – including the mix and tenure.”

23. The application and the 2017 Report were considered by SCDC’s Planning Committee in October 2017. At the meeting itself officers recommended to the Planning Committee:

“Members to agree the principles of the form, layout and design of the scheme, in accordance with the detailed plans presented and the formal APPROVAL will not be issued until:

1. A detailed scheme for the delivery of affordable housing has first been submitted and approved by the Planning Committee at subsequent meeting, and
2. The Secretary of State has confirmed that the application is not to be “called-in” for his determination

And the imposition of appropriate conditions.”

24. The minutes indicate that the Planning Committee did agree the principles of the form, layout and design of the scheme, in accordance with the detailed plan presented to them but they resolved that formal approval would not be issued until:

“1.A detailed scheme for the delivery of affordable housing has first been submitted and approved by the Planning Committee at a subsequent meeting, and

2. The Secretary of State has confirmed that the application is not to be ‘called-in’ for his determination.

3. That officers be instructed to seek to negotiate further additional car parking to a minimum of 1:1 and report back to the Committee for sign off.

4. A scheme to review and address any impacts resulting from the development to properties in Deben Road and to demonstrate how these impacts can be addressed going forward, and the proposed conditions (replicated in this recommendation).”

25. The Planning Committee therefore required the application to be brought back to it in due course to deal further with, amongst other things, affordable housing.

26. At around the same time in October 2017, SCDC produced an ‘Affordable Housing Commuted Payments’ document. The Claimant submits that its status is unknown, as is any evidence upon which it is based. It seeks to identify what sums the Council would require by way of commuted payment for off-site affordable housing delivery. The Claimant points out that the document makes no distinction between contributions required for displacing affordable rented accommodation and contributions required for displacing intermediate housing, even though the benefits to the landowner and costs to the local authority of off-site provision of the former are far higher than for the latter.

27. The Claimant subsequently sent a letter to SCDC's planning officer setting out his calculations showing that application of the approach in the document would be likely to secure the Interested Party (and therefore SCDC via completion of the land sale) a windfall of £2.7 million as compared with the delivery of affordable housing on site. The Claimant submitted there was therefore a strong incentive for the Interested Party to secure a planning permission which allowed for the developer to make a contribution to provide for off-site affordable housing in lieu of providing it on site, particularly in respect of the affordable rented provision.
28. The Claimant notes that between October 2017 and April 2018, there were further discussions between SCDC and the Interested Party to which the Claimant is not privy and in respect of which the Defendant has provided no further information.
29. The First Planning Application was reported back to SCDC's Planning Committee in April 2018. Another report was produced by officers to cover the outstanding matters the Planning Committee had identified ("the 2018 Report"). The officers considered that each of the remaining matters had been dealt with satisfactorily by the applicant and the proposal was "a high quality, policy compliant scheme".
30. Paragraph 2.5 of the 2018 report also identified:

"Since the report was presented, the Council have accepted that Policy SP2 is out of date and therefore this updated report also includes a section on the 'tilted balance' that needs to be applied in such circumstances."

This was a reference to the application of the tilted balance to the determination of planning applications that is the subject of Ground 2 to which I will refer in more detail below.

31. The officers' views on the reserved issue of affordable housing were as follows:

"A detailed scheme for the delivery of affordable housing has first been submitted and approved by the Planning Committee at a subsequent meeting

5.2 The affordable housing provision consisted of 33 units in Blocks G and H and the surplus one unit to be provided in Block B. The provision of affordable housing was proposed to be dealt with by means of the following condition, which was presented to the Planning Committee:

The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it and shall be retained in perpetuity. The scheme shall include:

i) the numbers, type, tenure and location on the site of the affordable housing provision to be made, which shall consist of not less than 32 affordable dwellings to meet current identified needs to be located in blocks G and H;

ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing, with the delivery of the affordable housing prior to the sale of the 30th open market dwelling;

iii) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing;

iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and

v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Reason: In accordance with Policy DM2 of the Core Strategy to secure the appropriate provision of affordable housing on the site

5.3 Since the resolution of the Planning Committee in October 2017, the applicant team has been in discussions with the Local Authority, as landowner, concerning the delivery of affordable housing on the site. It has been agreed that the inclusion of one surplus unit in Block B would not be attractive to a registered provider, and therefore the affordable offer should amount to the 32 units in Blocks G and H only.

The Local Authority remains confident that the scheme, inclusive of the affordable element, is viable and deliverable, having regard to the viability reports and that the condition proposed (as repeated above) is a suitable mechanism for its delivery.”

32. The 2018 Report dealt in turn with the other matters left over by the Planning Committee and returned to the issue of the “tilted balance” at paragraphs 5.18-5.24. Having set out extracts from paragraph 14 of the NPPF (as it then was) officers stated:

“5.21 However, it should be noted that the tilted balance applies only in a case where less than substantial harm is said to arise where it is considered that, in accordance with paragraph 134 of the NPPF, that such assessed harm to the significance of heritage assets is outweighed by the public benefits of the proposals.

5.22 This proposal accords with the Development Plan and it represents plan-led development which achieves compliance with the economic, social and environmental roles of Sustainable Development. Whilst this is a policy compliant development, it is important to consider the effect of paragraph 14 of the NPPF on the determination of the application. Due to its policy compliance, it would accord with that paragraph's requirement to approve development without delay. This paragraph is also dependent upon how up-to-date the District's housing requirement policy is. Policy SP2 (Housing Numbers and Distribution) of the Core Strategy is deemed to be out-of-date. This requires the Council to apply the fourth bullet point of paragraph 14, this is known as the 'tilted-balance'.

5.23 The tilted balance will apply only if members are satisfied that the harm to the setting of the heritage assets (listed buildings and Conservation Area) and the landscap[e] as identified in the initial report (appended) is outweighed by the public benefits of the proposal in accordance with the NPPF.

5.24 If this is the case, the requirement is to permit applications for sustainable development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or specific policies of the NPPF indicate development should be restricted. Based on the assessments already undertaken, it is considered that the adverse impacts of the proposed development do not significantly and demonstrably outweigh the benefits. The application should therefore be approved."

33. Officers concluded that all the outstanding matters from the October 2017 Planning Committee meeting had been dealt with and the proposal was presented for approval, subject to appropriate conditions, as listed and originally presented. These included:

"7. Mechanism to deliver the affordable housing in perpetuity – including the mix and tenure (see paragraph 5.2 for exact wording)"

34. Two "Update Sheets" to the 2018 Report were provided for the Planning Committee's meeting on 19 April 2018. The first noted and summarised two additional letters of representation. It also set out an updated version of the affordable housing condition proposed:

"The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it and shall remain at an affordable price for future eligible

households or for the subsidy to be recycled for alternative affordable housing. The scheme shall include:

- i) the numbers, type, tenure and location on the site of the affordable housing provision to be made, which shall consist of not less than 32 affordable dwellings. The details to include a mechanism for delivering an alternative method of providing affordable housing at the same level as approved in the event that no affordable housing provider acquires some or all of the affordable housing within a reasonable timescale.
- ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing, with the delivery of the affordable housing prior to the sale of the 30th open market dwelling;
- iii) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing;
- iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Reason: In accordance with Policy DM2 of the Core Strategy to secure the appropriate provision of affordable housing on the site.”

35. The second update sheet provided updates to the officers’ analysis within the 2018 Report itself. On affordable housing it stated:

“... Regarding the location of the affordable housing, as referred to in paragraph 5.2 that the affordable housing provision, consists of 33 units in total, with 32 contained in Blocks G and H, and the one extra unit contained in Block B. It has been agreed, due to known issues of delivering individual affordable housing units in managed blocks with open market housing that the offer is reduced to 32 units. The provision of affordable housing is proposed to be dealt with by means of planning condition clearly setting out the requirement.”

36. On the “tilted balance” it stated:

“It is acknowledged that officers agree that Policy SP2 is out of date. Specific policies which indicate development should be restricted include those relating to designated heritage assets, the AONB and the SPA. In a case like the present, where ‘restrictive

policies' are engaged, a decision maker must first apply the restrictive policy. It is only if the proposal is acceptable having regard to the restrictive policies that the decision maker can then turn to apply the tilted balance. If the restrictive policies are not satisfied (for example, if less than substantial harm to a designated heritage asset is not considered to be outweighed by public benefits) then the application should be refused and the tilted balance will not be engaged. There is accordingly a sequential approach to be followed ...”

37. The Minutes of the April 2018 Planning Committee reveal that in response to a question from a member of the committee, the Head of Planning and Coastal Management advised that the planning committee were entitled to go back to first principles and revisit the decision taken on 13 October 2017. The Committee also heard presentations from objectors. The first addressed them solely on the issue of affordable housing. The Minutes record (amongst other things):

“... [Mr Saggars] noted that the Committee had delayed the approval of its previous decision until a detailed scheme for the delivery of affordable housing had been approved. Mr Saggars considered that this was because, at the last meeting, the applicant could not provide details of the scheme. Mr Saggars was of the view that the situation remained unchanged. Instead, he felt that officers had set out conditions which they felt would secure the delivery of the affordable housing. He did not see how these conditions would achieve this, but considered that they had been imposed to enable planning permission to be granted.

Rather, he suggested that a detailed scheme for the delivery of the affordable housing would give comfort to the Committee, as it enabled it to see that a registered provider had agreed to terms and could provide the mix of housing required. He queried why such a detailed scheme was not available and why no registered provider had been attracted to the site over the last eighteen months.

Mr Saggars said that the Committee required a detailed scheme so that there was no issue with the affordable housing being provided, after planning permission had been approved. He asked the Committee to ensure that before approval was given, a credible and well funded entity was in place to deliver the affordable housing required.

The Chairman invited questions to Mr Saggars.

A member of the Committee enquired if Mr Saggars' concerns related to the wording of paragraph 5.2 of the report and if he felt that it did not provide the certainty required. Mr Saggars reiterated that he felt that the conditions which had been laid out by the Committee for affordable housing had not been met by the applicant, as no detailed scheme had been approved.

At this point, the Head of Planning and Coastal Management revisited the first principles in relation to affordable housing. He reminded the Committee that originally, the scheme looked to deliver thirty three units of affordable housing.

Following the meeting of the Committee on 13 October 2017, discussions took place between officers and the applicant and a figure of thirty two units was agreed; this was because one of the proposed units of affordable housing was a single unit, located in Block B. Such a single unit would not have been practical or an attractive prospect to registered providers.

He advised the Committee that the applicant was in dialogue with a number of registered providers and had received varying levels of interest in the site, from them. He explained that the affordable housing market was an extremely challenging one and that offers from registered providers in the Suffolk Coastal area were generally at a lower value than offers in other areas.

He stated that policy DM3 [which must, in fact, be a reference to DM2] was clear in requiring up to a third affordable housing for the development, and he was confident that the condition set out in the recommendation, as amended in the update sheet, would deliver the affordable housing scheme required. The condition as worded sought an approval to the mechanism for delivery before any development on the site commenced. Permission would however enable the site to be actively marketed to prospective providers.

He was clear that the wording “not less than thirty two dwellings” meant that anything lower than that would not satisfy the condition and would mean that it could not be lawfully discharged. He considered that the condition gave comfort to the Committee and to the public that the development would provide the required amount of affordable housing.

He outlined the mechanisms within the wording of the proposed (amended) condition of the report to deliver the required level of affordable housing via an alternative method, in the event that a registered provider did not acquire some or all of the affordable housing units, within a reasonable timescale.

The alternative method of delivery would allow for the potential for a commuted sum to be paid to the equivalent “value” of the affordable homes not delivered on site. The Head of Planning and Coastal Management advised the Committee that this was not an uncommon approach and recently the committee had accepted a commuted payment for a residential development behind the Notcutts garden centre in Woodbridge. This would ensure that the development was not stymied due to a registered provider not being willing to take on units on the site.

The Committee was strongly advised against refusing the application based on the limited risk of a registered provider not coming forward. The Head of Planning and Coastal Management stressed that the applicant was content with the condition and that its wording was lawful.”

38. The Committee then heard from Lady Blois, representing Woodbridge Town Council. Lady Blois also objected on affordable housing grounds and considered tenure and mix to be important, but was concerned about leaving the matter to the judgment of the officers, with the potential for no social housing to be provided, and whilst acknowledging that a commuted sum could be agreed, was concerned it would be used to fund social housing outside Woodbridge.
39. The Committee also heard from Mr Porter, Chairman of Melton Parish Council. He too objected on affordable housing grounds, identifying that no detailed scheme was in place. He criticised the Head of Planning’s advice on affordable housing in trenchant terms and the Head of Planning was asked to respond. The Minutes record that the Head of Planning expressed the view that the advice he had provided was “bona fide, lawful and in line with local and national policies” and he rejected the assertion that his advice was “magic” and was clear that it was not designed to achieve anything untoward. He stated that the advice to the Committee had been given to allow a lawful decision to be made on the application.
40. The Committee then heard from Councillor Mulcahy, Ward Member for Woodbridge, who referred to the discussions at the meeting in October 2017 and significant debate on the benefits and harms of the application. She expressed the view that the loss of two heritage buildings on the site was considered to be a significant harm at that meeting, but that the promise of affordable housing outweighed the loss. She therefore considered that the affordable housing was one of the key benefits of the development and that this was why the Committee had asked for a detailed scheme. She acknowledged that the recommended conditions had been designed to ensure such a scheme would be in place, but she felt that it would have been prudent to see more information regarding a scheme, in which registered providers were interested and detail on the reduction from thirty three to thirty two affordable units. She considered that the people of Woodbridge deserved to know that information. She also noted that a previous development in Woodbridge had not proceeded as planned, because the developer had stated that the affordable housing requirements were not economically viable. She considered that if it was not possible to achieve the scheme required, then the heritage buildings should be retained and the entire development revisited, providing an opportunity to reduce the development and consider alternative proposals. In response to a question, she expressed the view that if the affordable housing could not be secured, the development would not be of an advantage to the town, and reiterated her understanding that the affordable housing had been considered a benefit that outweighed the harm of losing the heritage buildings and if the affordable housing could not be delivered, then those buildings should be retained. She was also of the opinion that a commuted sum would not be of benefit to Woodbridge.
41. In response to these representations, the Head of Planning and Coastal Management advised the Committee that the affordable housing was not the sole benefit of the development and referred the Committee to the original report presented on 13 October 2017. He acknowledged the harm that would be caused by the loss of the heritage

buildings; he also reminded the Committee of the controls on affordable housing and outlined how priority for affordable housing would be given to local residents in the first instance, followed by those from the nearby parishes. He stated if the affordable housing solution result in a commuted sum, this would be ring-fenced to be used on development in the Woodbridge/Melton area first. He referred to a similar situation that had resulted from the development of the Notcutts site in the town and stressed that any commutable sum would benefit the local community, with details to be defined in the discharge of the recommended planning condition.

42. In response to these comments, a member of the Committee asked if there was a suitable site in the local area where affordable housing could be delivered, if it could not be delivered on site. The Head of Planning and Coastal Management noted there were several sites in the area, including a site for approximately fifty five houses behind Riduna Park, Melton, which was identified in the Melton Neighbourhood Plan, where the affordable housing could be delivered. He confirmed to the Committee that registered providers were interested in the Melton Hill site, and he was hopeful that all thirty two units could be delivered on site, but there needed to be a “backstop” for developers, if this was not the case.
43. Following the debate, the Planning Committee resolved to approve the First Planning Application subject to the imposition of conditions, including one dealing with affordable housing as set out in the Update Sheet.
44. The Claimant subsequently wrote to SCDC indicating that if planning permission were granted it would be challenged by way of judicial review. The Claimant notes that a particular, and repeated, concern he articulated was that the “payment in lieu” mechanism could be used to support the inflated price paid by the Interested Party by providing a windfall reduction in the cost of complying with the affordable housing obligations.
45. The Claimant also states that by August 2018, the Interested Party was claiming that no affordable housing provider could be found, and an off-site payment in lieu of all the affordable housing in the sum of £3.02m was being mooted. The Claimant notes that no details of the efforts to find an affordable housing provider have been provided by the Interested Party or SCDC, but the Defendant has stated that SCDC was “not involved” in those discussions.
46. In the event, on 9 August 2018, just before planning permission for the First Planning Application was to be issued by SCDC, the Interested Party notified SCDC of its withdrawal of that application.
47. The reason for this was because the Interested Party wished to submit a revised planning application relying on the concept of “vacant building credit” to justify provision of a reduced amount of affordable housing. Vacant building credit, where applicable, can enable a developer to calculate the affordable housing requirement based on the floorspace of existing buildings on Site. The opportunity to take advantage of this would have been lost if planning permission had been granted for the First Planning Application as vacant building credit cannot be invoked in the same way if there is a recent planning permission for the development proposed.

48. The Claimant is critical of SCDC in allowing the Interested Party to withdraw the First Planning Application in this way. There is, however, no freestanding challenge to SCDC's actions in this respect. I am also not persuaded that there is any real merit in these criticisms in any event. An applicant is ordinarily entitled to withdraw a planning application that it has made to a local planning authority at any time before its final determination which occurs on issue of a notice. The Claimant does not point to a requirement for the local planning authority to consent to a withdrawal. SCDC therefore cannot be criticised for treating the application as withdrawn once it had received written notice of that withdrawal from the Interested Party. Moreover, the Claimant himself had already threatened to challenge any issue of a notice to grant planning permission on the First Planning Application in any event.
49. The Claimant also criticises SCDC, in its capacity as landowner, for facilitating that application by either extending or waiving the deadline for submission for making planning applications under the conditional contract. But it is not clear what particular advantage the Claimant suggests SCDC gained from doing so. As set out below, SCDC, in its capacity as local planning authority, refused the Interested Party's subsequent planning application that relied upon vacant building credit and successfully resisted the Interested Party's appeal against that decision.

The Second Planning Application

50. Having withdrawn the First Planning Application, the Interested Party submitted a second planning application to SCDC on 15 August 2018 (reference number DC/18/3424/FUL). It proposed the same development, save that in reliance on vacant building credit it proposed 16 units of affordable housing rather than 32.
51. The Second Planning Application was the subject of an officer's report and was considered at a planning committee meeting on 26 November 2018. Officers recommended refusal on the basis that vacant building credit was not applicable and, consequently, the application failed to provide a policy compliant level of affordable housing (notwithstanding the Interested Party's expressed concerns about viability). On all other matters, the scheme remained acceptable to officers and no other reason for refusal was proposed. The report dealt with an objection received from Historic England to the application which had not previously existed to the previous schemes, but this had not changed officers' views. The report also dealt with the update that had occurred to the NPPF which had been published in July 2018. The officers considered this to provide greater emphasis to the protection of heritage assets and securing high quality design and stated that the scheme had been reappraised against those principles. Members agreed with officers and resolved to refuse the application.
52. The formal decision notice refusing planning permission was issued on 22 January 2019. The reason for refusal explains (amongst other things):

“... the Council considers that given the previous and relevant viability evidence submitted with the First Application (which although was not resubmitted with the second application but no change in circumstances regarding the development occurred), there is no need to incentivise the development of this brownfield

site because of the significant need in the district, and in Woodbridge in particular, to deliver affordable housing.

As it is considered that VBC does not apply, the proposed redevelopment of the site for 100 dwellings should make provision for one-third of all the units to be affordable housing in accordance with Policy DM2 of the Suffolk Coastal District Local Plan (Core Strategy and Development Management Policies DPD 2013). The viability evidence submitted with the First Application clearly indicated that a policy compliant scheme of 32 units of affordable housing could be delivered. The under-provision of affordable housing in the Second Application (without the application of VBC) conflict with Policy DM2 and whilst acknowledging the benefits arising from the development, these do not outweigh the harm associated with the under-provision of affordable housing in an area where there is significant demand and need for such.”

53. The Interested Party appealed under section 78 of the Town and Country Planning Act 1990 (“the 1990 Act”) against SCDC’s decision. That appeal was opposed by SCDC and subsequently dismissed by an Inspector in February 2020.

The Creation of the Defendant Council

54. On 1 April 2019, the Defendant Council was formed by the amalgamation of SCDC and Waveney District Council.

The Third Planning Application

55. On 2 July 2019 the Interested Party submitted a third planning application (reference number DC/19/2641/FUL). It is this which led to the grant of planning permission under challenge. The Third Planning Application proposed the same number of dwellings and affordable housing units as the First Planning Application. The description of development was:

“Residential development 100 (no units) including 32 no affordable housing units (Class C3) plus a community space (91 sq.m) (Class D1) and a retail unit (157.7 sq.m)(A1/A2/A3), car parking, means of access and landscaping, all following demolition of the buildings on site.”

56. In relation to affordable housing, the Planning Statement that accompanied the application stated (amongst other things):

“1.05 Although the application is lodged solely by AUWL, it is being progressed in partnership with a Registered Provider, Sage Housing. Sage will take on, own and manage the affordable housing within the proposed development.

...

6.04 The development will produce a mix of dwelling types and sizes, including a policy compliant level of affordable housing. It complies with policies SP2 and DM2 of the development plan.

...

Affordable Housing

6.21 The proposed development delivers 32 affordable units, to be located within blocks G & H. While it is the case that to meet the precise requirements of policy (1 in 3 of all units as affordable) it would be expected that there would be 33 units, it has been agreed with officers that 32 can be provided as this number of units can be accommodated within blocks G & H. To provide a 33rd unit would require the inclusion of one unit within a separate block. It was felt this would not be ideal and hence 32 units are to be provided to be delivered for Sage Housing. It has been confirmed that not less than 25% of the total number of affordable units should be allocated to affordable rented tenure and this can be secured by condition. The scheme is considered to comply with Policy DM2 of the Core Strategy and Development Management DPD.

...

7.04 Since the second application was submitted, the applicants have managed to secure a new affordable housing provider (Sage Housing) who can take the affordable units on (32 no.) at an economic level. In light of this and to try and deliver an early planning consent on the site so that development may proceed, the applicants have made this further application. In doing so, they have proposed some minor changes to make the scheme more workable and also to improve on its efficiencies. This is being done without any diminution to the quality of the proposal.

...”

57. The Claimant states that no viability assessment was submitted with it to justify non-policy compliant provision of affordable housing. This is not surprising as it is clear that the Interested Party considered the scheme to be policy-compliant in terms of affordable housing. I will return to the question of policy-compliance below in light of Ground 1.
58. The Claimant also notes that the Interested Party did not suggest the Council lacked a “five year housing land supply” and Policy SP2 of SCDC’s Core Strategy was a policy relied upon by the Interested Party. That is also not controversial, but relates to the question of the “tilted balance” under Ground 2 to which I will also return below.
59. In this latter respect, the Claimant notes that on 21 November 2018 a planning inspector determining an appeal under section 78 of the 1990 Act concerning land at Aldeburgh had considered SCDC’s housing requirement. The Inspector had concluded that in light

of the July 2018 NPPF and the introduction of a standard methodology for the calculation housing need, SCDC's housing need requirement considerably exceeded those identified within SCDC's Core Strategy. She concluded that Policy SP2 of SCDC's Core Strategy was not up to date so far as it related to the housing requirement (see paragraph 14 of her decision). However, the Inspector went on to find SCDC had more than five years' housing land supply when measured against the new requirement (see paragraph 91 of the decision).

60. The Claimant also notes that in August 2019, the Defendant Council published a Statement of Housing Land Supply as at 31 March 2019. This statement identified the existence of 7.02 years' housing land supply for that part of East Suffolk previously in SCDC's area.
61. Officers prepared a report on the Third Planning Application for a planning committee meeting on 22 October 2019 ("the 2019 Report"). Like its predecessors, it is a long and detailed report that addresses the multiplicity of issues that arose on the application and the many objections that had been received. It needs to be read as a whole, but I identify below some parts which deal with matters particularly relevant to Grounds 1 and 2 of the Claimant's challenge.
62. The Executive Summary of the 2019 Report noted that the application made some minor amendments to the layout and appearance of the Site as compared with the previously considered schemes, but that the design ethos remained the same and it stated that "the scheme makes provision for the policy requirement affordable housing". The Executive Summary noted that the officers' report had been updated to reflect changes to the NPPF since the previous application, along with the policy position of the Site as expressed in what was then the emerging East Suffolk-Suffolk Coastal Local Plan. This plan had been through the examination stage at that point. The Executive Summary noted that the recommendation of officers remained one of approval stating:

"...The current scheme overcomes the previous concerns raised by the Council re the provision of affordable housing and officers believe the scheme will result in a dynamic, exciting high quality development in a sustainable location, and is therefore policy compliant.

The changes to the current scheme do not in the opinion of officers result in the scheme being unacceptable having noted that the Council has on two occasions endorsed the design, appearance, layout and impacts of the development. The changes proposed are minor when considering the scheme as a whole. Indeed, it is contended that the strengthening of design in the NPPF and the requirements for the site in the emerging Local Plan add extra weight to the approval of the scheme.

The harms of the development in this instance do not outweigh the benefits of approving the development and the scheme remains one which is policy compliant."

63. As with previous reports, Section 1 of the 2019 Report provided an introduction and background. Paragraph 1.1 stated:

“... The application seeks to provide the full complement of affordable (32 units) housing required via Policy DM2 of the Local Plan in two blocks of accommodation (blocks G & H).

This application is the third such submission for the re-development of the site by the applicants and although there have been some minor changes, the general thrust of the application remains the same.”

64. It is therefore evident from this, and the other parts of the 2019 Report, that officers remained of the view that the proposal was policy-compliant in terms of affordable housing as a result of the provision of the 32 units in blocks G and H.
65. Paragraph 1.1 also noted that members had undertaken a detailed site visit before dealing with the First Planning Application. It then summarised the history in respect of the First and Second Planning Applications (which it is unnecessary to rehearse again here). At the time of writing that report, the appeal against the refusal of the Second Planning Application had not been determined. The officers noted that the formal decision of the planning inspectorate was awaited. The officers drew members’ attention to the fact that the only concern that the Council had pursued in respect of that appeal was the under-provision of affordable housing and all other matters remained acceptable.
66. The officers then drew attention to the existence of various competing issues considered in more detail in Section 6 of the report where the officers sought carefully to assess and balance out those competing issues “to reach an informed judgment on the merits of the application, having due regard to all issues presented.” The report then stated:

“As required by the NPPF, the presumption is in favour of sustainable development and that developments should be approved unless any adverse impacts would significantly and demonstrably outweigh the benefits and in accordance with the NPPF local planning authorities should look at ways to significantly boost the supply of housing. The starting point for any application is one of support if it is argued to be sustainable, having due regard to the three strands of sustainable development outlined in the NPPF.”
67. Paragraph 1.1 also noted that information was appended to the report for the benefit of members. This included the Minutes of previous planning committee meetings that had dealt with the applications (to which I have already referred).
68. Section 3 of the report outlined the proposals, again identifying the provision of 100 residential units proposed, with 32 units proposed as affordable units set within two blocks. Paragraph 3.3 set out the proposed size mix of the residential provision in a table. This identified that (as before) 22 of the affordable housing units were proposed as one bedroom units and 10 were proposed as two bedroom units.
69. Section 4 again summarised consultation responses or comments received on the application. Paragraph 4.1 recorded the objection from Woodbridge Town Council, including that made on affordable housing grounds as follows:

“DM2 Affordable Housing

The developer has reduced the Social housing element in this application, and does not comply with DM2. Only eight units are so designated, and the additional 24 are described as "Intermediate Housing". This is not what the local community requires — there is an established clear local need for units available for social rent, and this application patently fails to meet that need. Affordable housing appears to be by means of very small one bedroomed apartments. Many townspeople waiting for social and affordable housing have children and need accommodation that supports the family.

The mix does not conform to East Suffolk Council policy.

...

Public Views

Woodbridge Town Council considered this Application on 16th July 2019.

Seventy two members of the public attended, and 13 of them spoke to the committee. ...

Their comments included

...

- Less affordable bedrooms and more Market bedrooms and an increase in the number of three and four bedroom houses.

...”

70. It is evident that the first part of this objection was referring to what the Interested Party had stated in the accompanying planning statement as to the intended split between intermediate housing and affordable rented units.
71. Paragraph 4.2 of the 2019 Report identified the objections of Melton Parish Council. It set out the Parish Council’s recommended reasons for refusal which included:

“4. Draft Local Plan Policy SCLP5.10 requires that proposals for residential development with capacity for more than ten units...will be expected to make provision for 1 in 3 units to be affordable dwellings, and to be made available to meet an identified local need. The Policy goes on to say that of the affordable dwellings, 50% should be for affordable / social rent, 25% should be for shared ownership, and 25% should be for discounted home ownership. This application offers 32 units, but with the emphasis on intermediate housing rather than social rent: 8 x 1 bedroom units for social housing and 24 units (14 x 1 bedroom and 10 x 2 bedroom) for intermediate housing – part

sale / part rent. Whilst it is unclear what the local needs are, the offer clearly does fall short of compliance with Draft Local Plan Policy SCLP5.10.”

72. Paragraph 4.12 of the 2019 Report summarised the objection of the Woodbridge Society as including: “The size of the affordable units is not what is required.”
73. The 2019 Report also recorded responses from the Council’s departments. At paragraph 4.28 it was noted: “Head of Housing: No comments received.”
74. The 2019 Report then summarised third party representations, identifying that 215 letters of objection had been received. It summarised the points that had been made, whilst also noting that full transcripts of the responses were available on the public access system. This included the identification at paragraph 4.32 of objections that (amongst other things):

“...

- The dwellings proposed are too small and more effort should be made for dwellings which would be attractive for families. Flats are not required.

...

- The affordable housing provision fails policy in terms of the type and size – more larger units required.
- More details on affordable housing required.
- Concern over the potential for affordable housing commuted sums.
- Only 20% affordable housing when looking at GFA
- Not taking a stand on full affordable sets a bad precedent.

...”

75. Section 5 of the 2019 Report sought to identify the relevant policy framework in light of the duty under section 38(6) of the Planning and Compulsory Purchase Act 2004 (erroneously identified as the Planning and Compensation Act 2004 in the report).
76. Having dealt with adopted development plan policies, it also turned to identify emerging policies in the East Suffolk-Suffolk Coastal Local Plan which had been the subject of examination. At paragraph 5.10 it identified a site specific emerging Policy SCLP12.32 allocating the Site for a residential-led mixed use development of approximately 100 dwellings, subject to certain criteria which included the following:

“Development will be expected to be of an exemplar, high quality design, and comply with the following criteria:

a) Provision of a mix of units including a predominance of flatted dwellings, including affordable housing on-site;

...”

77. At paragraph 5.11 it identified other relevant emerging policies as including SCLP5.10 on affordable housing.
78. Section 6 of the 2019 Report set out the officers’ analysis of the planning considerations under various sub-headings. It is not necessary to set out that assessment in full. It is a detailed report which considers a significant number of issues relating to the planning effects of the scheme and needs to be read as a whole.
79. For present purposes, without detracting from that need to read it as a whole, I note that officers included within that analysis the following views (amongst others):

“6.3 The site is not proposed for allocation within the adopted Site Specific Allocations DPD; however, as the site is located within the settlement boundary it is to be treated as a windfall site ...

...

6.4 Members will note however that the site is proposed for allocation in the emerging East Suffolk - Suffolk Coastal Local Plan via policy SCLP12.32. Given the advanced nature of the emerging plan, the policy contained within can be afforded weight in the determination of applications and appeals. The principle of the development of the site for 100 dwellings complies with this policy, as does the density of development occurring as a result of the level of development.

...

6.6 The proposed development would provide a choice of homes of both the market and affordable tenure, and therefore, in the opinion of officers, complies with Policy SP3 of the Local Plan and the NPPF.”

80. Section 6 of the Report includes many other parts dealing with the effects of the proposal (whether harmful or beneficial) which I do not set out here. It also included at the end the following in respect of the “tilted balance” which I set out in full given that it is the particular focus of the challenge under Ground 2:

“Application of The Tilted Balance

6.162 The starting point for decision making on all planning applications is that they must be made in accordance with the adopted development plan unless material considerations indicate otherwise (Section 38 (6) of the Planning and Compulsory Purchase Act (2004)).

6.163 Policy SP2 (Housing Numbers and Distribution) of the Core Strategy sets out how the Core Strategy makes provision for 7,900 homes in the District between 2010 and 2027. This policy identifies the need to progress to an Issues and Options Report by 2015 at the latest, which would include identifying the Full Objectively Assessed Housing Need. The publication of an Issues and Options Report did not take place until August 2017, for reasons including the delays caused by the High Court and Court of Appeal challenges to the Core Strategy. In a number of recent appeals, Planning Inspectors have taken the view that this delay has caused Policy SP2 of the Core Strategy to be out of date.

6.164 In this context, the NPPF applies:

“...For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁷, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed”

6.165 However, it should be noted that the tilted balance applies only in a case where less than substantial harm is said to arise where it is considered that, in accordance with the NPPF, that such assessed harm to the significance of heritage assets is outweighed by the public benefits of the proposals.

6.166 This proposal accords with the Development Plan and it represents plan-led development which achieves compliance with the economic, social and environmental roles of Sustainable Development. Due to its policy compliance, it would accord with that paragraph’s requirement to approve development without delay. This paragraph is also dependent upon how up-to-date the District’s housing requirement policy is. Policy SP2 (Housing Numbers and Distribution) of the Core Strategy is deemed to be out-of-date. This requires the Council to apply.

6.167 The tilted balance will apply only if members are satisfied that the harm to the setting of the heritage assets (listed buildings and Conservation Area) and the landscape as identified in the

initial report (appended) is outweighed by the public benefits of the proposal in accordance with the NPPF.

6.168 If this is the case, the requirement is to permit applications for sustainable development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or specific policies of the NPPF indicate development should be restricted.

6.169 It remains the position of officers that the benefits of the scheme, which have been outlined in detail in this report, outweigh any harm identified and therefore the presumption should be in favour of development. The previous concerns relating the lack of provision of affordable housing have been overcome via this application submission.”

81. Section 7 of the 2019 Report sets out the officers’ conclusions as follows:

“7. CONCLUSION

7.1 There is a very clear steer from Government that the presumption should be in favour of development unless any harms identified are significant and demonstrable when weighed against the benefits arising. The government through the NPPF, White Paper and relevant case law are putting significant pressure upon local authorities and communities to take significant levels of growth and that those levels of housing growth should be significantly boosted. The delivery of the site for housing would seek to meet these objectives and also deliver housing into a town where there has historically been limited housing growth, especially of the smaller sized units.

7.2 The site is in a highly sustainable location within easy reach of key services and facilities required to support additional growth. These are within walking distance of the site and therefore future residents would not need to rely on the private car for access.

7.3 A number of clear and identifiable benefits have been identified as a result of the approval of this application. These include:

- The removal of the unsightly modern buildings on the site with a positive impact on the setting of the Conservation Area and setting of the listed buildings.
- A car free development, with space given over to public and private use rather than the car. With the exception of the visitor’s spaces, the cars would be hidden from view, by using existing levels on the site.

- The opening up of views through the site to the benefit of many, including some of the residential properties opposite.
- The significant economic benefits from construction, on site employment, additional spend in the community, CIL and New Homes Bonus both as an immediate response and a longterm impact.
- A bespoke modern design for a prominent important site which has clear references to its setting and historical values of Woodbridge.
- Reduction in traffic associated with a residential scheme over a fully serviced office development and the resulting benefits to the Air Quality Management Area (AQMA).
- Enhanced landscape strategy for the site and maintenance thereof.
- Pedestrian permeability through the site including a new link to Deben Road.
- The application is made in detailed form, with a three year time limit for implementation, and therefore there is certainty over its delivery and assisting therefore in meeting the identified housing targets for the Council.
- Creation of public space and units within the scheme for the benefit of the wider

community and seek to elongate the Thoroughfare to the site.

7.4 The benefits arising from the development are considered to be significant and weigh in favour of the demolition of the two identified Non-Designated Heritage Assets (NDHA's), a test required by the NPPF. The new frontage buildings themselves in turn will become feature buildings in prominent locations and are considered to be of exceptional design

7.5 The design of the development as a whole is considered by officers to be of high quality and responds positively to its setting. Whilst it is noted that there are concerns that the development is too bold and modern for Woodbridge, this is not a view shared by officers or indeed the independent review panel. The positioning and scale of the individual blocks has been carefully considered having due regard to the sensitive boundaries and views, and does not give rise to any harms of a significant scale upon which permission should be refused.

7.6 Whilst there will be a change in relationship to neighbouring land uses, particularly to Deben Road and the Maltings, change

is not necessarily unacceptable and the openings and position of windows has been carefully considered to respect as far as possible private amenity, also having due regard to the position and use of the existing buildings. It is also important to note that the blocks adjacent Deben Road have been reduced in scale through the application process to respond more positively to these properties. There would no unacceptable harm or loss of amenity to the properties on the opposite side of The Thoroughfare or the river, but there will be a change in view.

7.7 It remains the position of officers that the benefits of the scheme, which have been outlined in detail in this report, outweigh any harm identified and therefore the presumption should be in favour of development. The concerns raised are primarily in relation to design, which is a subjective matter, and Members are reminded that the technical experts (the Councils officers and the SDRP) endorse the scheme, as has the Planning Committee on two previous occasions. There are no technical barriers to development and the earlier concerns raised by the LLFA have been overcome through this submission to the extent that they are content to accept conditions on any approval.

7.8 The application is therefore recommended as AUTHORITY to approve (subject to the receipt of RAMS payments).”

82. Section 8 set out the recommendation to approve subject to the receipt of the RAMS payments and the imposition of conditions. These included:

“10. The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it and shall remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing. The scheme shall include:

- i) the numbers, type, tenure and location on the site of the affordable housing provision to be made, which shall consist of not less than 32 affordable dwellings. The details to include a mechanism for delivering an alternative method of providing affordable housing at the same level as approved in the event that no affordable housing provider acquires some or all of the affordable housing within a reasonable timescale.
- ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing, with the delivery of the affordable housing prior to the sale of the 30th open market dwelling;

iii) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing;

iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and

v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Reason: In accordance with Policy DM2 of the Core Strategy to secure the appropriate provision of affordable housing on the site”

83. The Minutes of the meeting on 22 October 2019 record what transpired. The Planning Committee received the officers’ report and a presentation on the application from the Planning Development Manager. It is also apparent from the Minutes that the Planning Committee had visited the Site the day before the committee meeting, so replicating the site visit undertaken by the SCDC Planning Committee in 2017.

84. The Planning Development Manager highlighted the changes made to the current scheme compared to previous applications, as detailed in paragraph 3.9 of the report. She described the application as being very similar to the first application on the site that the SCDC Planning Committee resolved to approve in April 2018. It was noted that the emerging Suffolk Coastal Local Plan, which had recently been examined by the Planning Inspectorate, had allocated the site for 100 units of housing, which was the level of housing proposed in the application.

85. Photographs of the site in its existing condition were displayed and there was some detailed consideration of what was proposed. The Minutes record that the Planning Development Manager highlighted the conditions proposed “that could be brought back to the Chairman and Vice-Chairman of the Committee”. It is evident from the Minutes that attention was drawn to the fact that the proposal was for two blocks to contain the 32 affordable housing units. The Minutes state that members were advised:

“Since the previous refusal of permission, the applicant had been able to secure a Registered Provider (RP) in respect of the affordable housing so that the policy compliant level could be provided on site.

86. The Chairman allowed questions from the committee to the planning officers and then invited Mr Saggars, representing objectors to the application, to address the Committee. The Minutes record that Mr Saggars (amongst other things):

“... noted that eight units of the affordable housing would be social housing and that the remaining 24 would be intermediate units which would be used for 'rent to buy' schemes. He considered that the application should fail on this test alone. ...”

87. In response to questions Mr Sagers stated that he was not opposed to 100 units on the site “if there was the correct proportion of affordable homes.”
88. The Committee then heard from the Mayor of Woodbridge, Mr O’Nolan for Woodbridge Town Council who focused “on the affordable housing and compared to the existing need in the local community”. He considered that the needs of Woodbridge had not been identified in the report and referred to the 2018/19 Gateway to Home Choice Report. He said that data within that report showed that the need for affordable housing in East Suffolk had decreased over the last three years and that the changes year on year reflected the variation of new affordable housing units available. He stated that social housing provided very affordable rent but that the proposed scheme included affordable units that would be shared ownership. He stated that other councils under Gateway to Home Choice allocated 80% of their housing stock to social housing and that East Suffolk did not provide this proportion of its stock on social housing. Mr O’Nolan said that the 40% of the requirement across the councils under Gateway to Home Choices could be satisfied by one-bedroom properties and highlighted that not one of the social housing units was a one-bedroom property. He concluded by outlining the increased need for affordable housing and he considered that “the Committee had an opportunity to go down in history.”
89. In response to questions invited by the Chairman, Mr O’Nolan confirmed that his statement regarding housing needs being satisfied by one-bedroom properties was based on the 2018/19 Gateway to Home Choice report. He explained that his comment regarding the Committee having an opportunity to go down in history related it being able to look carefully at the deficiencies in the application and refuse it. He confirmed that his chief concern with the application was the affordable housing element.
90. The Committee then heard from Ms Barrington for Melton Parish Council. She expressed the view that the application did not comply with policy SP3 of the current Local Plan nor with policies in the emerging Local Plan and that it did not meet the identified needs of the local community. She stated that when the application had been considered previously it had been stated that affordable housing should be delivered at the maximum possible on the site and was of the opinion that this was not the case.
91. The Committee then heard from Mr Brown as agent for the Interested Party. The Minutes record that he stated that he considered that the reason no scheme currently had approval related to the applicant's difficulty in securing a Registered Provider to deliver the affordable housing. He said the current application had been submitted as the applicant had been able to make an agreement with a Registered Provider to deliver the affordable housing on the site. He said this would enable the applicant to move forward with the development. He said that the applicant had engaged with 12 different Registered Providers over several months before being able to secure arrangements with one to deliver affordable housing on the site.
92. In response to questions from the Committee, the Minutes record that a Mr Hughes sought to assure the Committee that affordable housing could be delivered on the site. He advised that terms had been agreed with a Registered Provider, the necessary legal documents had been drawn up and would likely be exchanged on 25 October 2019.
93. The application was the subject of debate by committee members. During that debate, a member expressed the view that the Council, as owners of the site, had a duty of care

to the community to deliver the maximum affordable housing and was of the view that the application did not achieve this.

94. The Chairman referred to the conditions contained in the recommendation to state that authority to approve was subject to several factors, including affordable housing and RAMS payments being received. Several other members of the Committee are recorded as expressing concern with the application noting (amongst other things) that the affordable housing element was considered insufficient.
95. The Chairman noted that she had voted to approve the first application and had voted to refuse the second application due to the lack of affordable housing. She considered that the current application solved some of the issues with the site's relationship to dwellings on Deben Road and restored the affordable housing element to an acceptable level. She said that the applicant had assured the Committee that the affordable housing element of the development would be delivered and said that Members had to trust that the Council's officers would ensure this was guaranteed before consent was issued. A member of the Committee sought an assurance that any conditions subject to approval came before officers and Members. The Head of Planning and Coastal Management referred to the condition which required a scheme for the provision of affordable housing to be submitted and approved by the Local Planning Authority and advised that the quantum of affordable housing met the requirements of the Local Plan policies and hoped that this would provide the Member with confidence on delivery.
96. The Committee moved to a vote and by majority resolved to approve the application, subject to the RAMS payments and the imposition of conditions, including the affordable housing condition that had been identified in the officers' report.

The Grant of Planning Permission

97. Following the committee meeting, but prior to the issue of planning permission, an Inspector issued a decision letter dated 5 November 2019 dismissing a section 78 appeal for a housing proposal on land at Street Farm, Framlingham in the Defendant's area. In paragraphs 17 and 18 of that decision, the Inspector concluded that Local Plan Policy SP2 was in accordance with the NPPF, as the Council was able to demonstrate that it had a five-year supply of housing the policy was up-to-date and consequently the tilted-balance under paragraph 11(d) of the NPPF was not engaged.
98. The Claimant notes that the Third Planning Application was not referred back to the Council's Planning Committee despite a "stark inconsistency" regarding the existence of a 5 years housing land supply which was not addressed.
99. Planning Permission was granted by notice dated 29th November 2019. Condition 10 and the reason for it reflected that set out above in the officer's report.
100. The Claimant draws attention to an entry on the Charges Register on the Land Registry title document for the Site that refers to an agreement for sale dated 5 December 2019 between the Interested Party and Sage Housing Ltd affecting plots 73, 76-85 and 89-101. This is the subject of a unilateral notice dated 9 December 2019. The Claimant considers that this concerns 24 units which the Claimant therefore infers are those proposed for intermediate affordable housing. He believes that the rump of 8 affordable

rented units is left out, and contends that no thought has been given as to whether a social housing provider would be interested in just 8 units spread across and intermingled with the intermediate housing units, particularly in circumstances where the Defendant has previously recognised the importance of having single blocks for affordable housing provision.

101. The appeal against the refusal of the Second Planning Application was dismissed on 12 February 2020. The Claimant states that the Council ended the Interested Party's effective option thereafter.

Legal Framework and Principles

102. The correct approach to a judicial review challenge of this kind is not in dispute. Relevant principles were authoritatively summarised in *Mansell v. Tonbridge & Malling BC* [2017] EWCA Civ 1314; [2018] JPL 176, in which Lindblom LJ stated at [41]-[42]:

“41. The Planning Court – and this court too – must always be vigilant against excessive legalism infecting the planning system. A planning decision is not akin to an adjudication made by a court (see paragraph 50 of my judgment in *Barwood v East Staffordshire Borough Council*). The courts must keep in mind that the function of planning decision-making has been assigned by Parliament, not to judges, but – at local level – to elected councillors with the benefit of advice given to them by planning officers, most of whom are professional planners, and – on appeal – to the Secretary of State and his inspectors. ...

42. The principles on which the court will act when criticism is made of a planning officer's report to committee are well settled. To summarise the law as it stands:

(1) The essential principles are as stated by the Court of Appeal in *R. v Selby District Council, ex parte Oxton Farms* [1997] E.G.C.S. 60 (see, in particular, the judgment of Judge L.J., as he then was). They have since been confirmed several times by this court, notably by Sullivan L.J. in *R. (on the application of Siraj) v Kirklees Metropolitan Borough Council* [2010] EWCA Civ 1286, at paragraph 19, and applied in many cases at first instance (see, for example, the judgment of Hickinbottom J., as he then was, in *R. (on the application of Zurich Assurance Ltd., t/a Threadneedle Property Investments) v North Lincolnshire Council* [2012] EWHC 3708 (Admin), at paragraph 15).

(2) The principles are not complicated. Planning officers' reports to committee are not to be read with undue rigour, but with reasonable benevolence, and bearing in mind that they are written for councillors with local knowledge (see the judgment of Baroness Hale of Richmond in *R. (on the application of Morge) v Hampshire County Council* [2011] UKSC 2, at paragraph 36, and the judgment of Sullivan J., as he then was,

in *R. v Mendip District Council, ex parte Fabre* (2000) 80 P. & C.R. 500, at p.509). Unless there is evidence to suggest otherwise, it may reasonably be assumed that, if the members followed the officer's recommendation, they did so on the basis of the advice that he or she gave (see the judgment of Lewison L.J. in *Palmer v Herefordshire Council* [2016 EWCA Civ 1061, at paragraph 7). The question for the court will always be whether, on a fair reading of the report as a whole, the officer has materially misled the members on a matter bearing upon their decision, and the error has gone uncorrected before the decision was made. Minor or inconsequential errors may be excused. It is only if the advice in the officer's report is such as to misdirect the members in a material way – so that, but for the flawed advice it was given, the committee's decision would or might have been different – that the court will be able to conclude that the decision itself was rendered unlawful by that advice.

(3) Where the line is drawn between an officer's advice that is significantly or seriously misleading – misleading in a material way – and advice that is misleading but not significantly so will always depend on the context and circumstances in which the advice was given, and on the possible consequences of it. There will be cases in which a planning officer has inadvertently led a committee astray by making some significant error of fact (see, for example *R. (on the application of Loader) v Rother District Council* [2016] EWCA Civ 795), or has plainly misdirected the members as to the meaning of a relevant policy (see, for example, *Watermead Parish Council v Aylesbury Vale District Council* [2017] EWCA Civ 152). There will be others where the officer has simply failed to deal with a matter on which the committee ought to receive explicit advice if the local planning authority is to be seen to have performed its decision-making duties in accordance with the law (see, for example, *R. (on the application of Williams) v Powys County Council* [2017] EWCA Civ 427). But unless there is some distinct and material defect in the officer's advice, the court will not interfere.”

103. The Claimant also refers to the following propositions:

- i) When deciding whether to grant planning permission, an authority must interpret the material development plan policies correctly and, as a general rule, it must also determine (a) whether the individual material policies support or count against the proposed development or are consistent or inconsistent with them, and (b) whether or not the proposed development is in accordance with the development plan as a whole: *Cooper v Ashford Borough Council* [2016] EWHC 1525 (Admin) at [26].
- ii) Development plans contain broad statements of policy, and it is not unusual for relevant policies to pull in different directions. Where they do, the planning authority has to exercise its judgement to determine whether a proposal accords

with the plan as a whole, bearing in mind the relative importance of the policies in play and the extent of the compliance or breach: Lindblom LJ in R (Corbett) v Cornwall Council [2020] EWCA Civ 508 at [28].

- iii) When interpreting policy, there is a distinction to be drawn between supporting text to local planning policy and the policy itself. While the policy governs, the supporting text consists of descriptive and explanatory matter in respect of the policies and/or a reasoned justification of the policies. That text is plainly relevant to the interpretation of a policy to which it relates but it is not itself a policy or part of a policy: Richards LJ in Cherkley Campaign Limited v Mole Valley District Council [2014] EWCA Civ 567 at [16].
- iv) Although any conflict is resolved in favour of the policy itself, the obligation to determine whether the proposal is in accordance with the development plan as a whole requires consideration of the supporting text as well: Singh J (as he then was) in Cherwell DC v Secretary of State for Communities and Local Government at [31].
- v) Where a policy fails to define a relevant term that may be read more or less broadly, it is appropriate to look at the supporting text for a steer as to the intention of the policymaker: Laws LJ in Old Hunstanton Parish Council v Secretary of State for Communities and Local Government [2016] EWCA Civ 996 at [32].
- vi) The construction of conditions is a matter of law – the Court will seek to ensure a condition can be made to work: Lord Hodge in Trump International Golf Club Scotland Ltd v Scottish Ministers [2016] 1 WLR 85 at [34]; Beatson LJ in Telford and Wrekin Council v Secretary of State for Communities and Local Government v Growing Enterprises Ltd [2013] EWHC 79 (Admin) at [33].
- vii) Where a scheme is provided for under a condition, the Council will have a wide discretion as to whether to approve the scheme – and in deciding whether to discharge the condition may have regard to the underlying policy framework but is not bound to follow it: Jay J in R (Smith- Ryland) v Warwick DC [2018] EWHC 3123 at [59] and [64].
- viii) The proper interpretation of planning policy, including the NPPF, is ultimately a matter of law for the Court. Statements of policy are to be interpreted objectively by the Court in accordance with the language used and in its proper context. A failure properly to understand and apply relevant policy will constitute a failure to have regard to a material consideration or will amount to having regard to an immaterial consideration: Lord Reed in Tesco Stores v Dundee City Council [2012] UKSC 13 at [17] – [22].
- ix) If a decision maker misdirects himself on a relevant policy, it follows that he is not in a position to lawfully apply it: Lindblom LJ in R (Watermead Parish Council) v Aylesbury Vale DC [2017] EWCA Civ 152 at [47].
- x) On its true construction the “tilted balance” under the NPPF only applies, so far as relevant, where a development plan policy is absent or out of date; whether a housing policy is out of date for the purposes of the NPPF will (in large part)

depend on whether there is a 5 year HLS: NPPF at para 11(d)(ii) at footnote 6; see also Holgate J in *Gladman Developments Ltd v Secretary of State for Housing, Communities and Local Government* [2020] EWHC 518 (Admin) at [13] - [16]

- xi) Where a higher tier decision maker has determined an issue on the same facts, the Council should follow that decision unless it gives, and has, good reasons for not doing so: Lord Neuberger in *R (Evans) v Attorney General* [2015] UKSC 21 at [66]; Patterson J in *R (Stonegate) v. Horsham* [2016] EWHC 2512 at [66]; May LJ in *R (Enfield LBC) v Mayor of London* [2008] Env LR 33 at [29];
- xii) If new relevant material comes to light between a resolution and a grant, the Council may need to revisit the resolution: Parker LJ in *R (Kides) v South Cambridgeshire District Council* [2002] EWCA Civ 1370 at [125].

Ground 1: Affordable Housing

- 104. Under this Ground, the Claimant submits the provision of policy compliant affordable housing on the Site to meet the identified needs was a central issue. He contends that the price the Interested Party had agreed to pay made, on its own case, provision of policy compliant affordable housing impossible. He argues that in order to try to overcome this problem the Interested Party made an affordable housing offer which inverted the tenure mix to be provided and offered only small units, with none of the needed larger family units. In addition, he argues the Interested Party sought to have the ability to substitute off-site payment in lieu, which was hugely financially advantageous to it
- 105. The Claimant submits that all the key affordable housing issues - size, tenure and provision of off-site affordable housing in lieu of on site provision were left unresolved and “parked” for later resolution under Condition 10. The Claimant submits that under that Condition:
 - i) In relation to tenure, the Defendant acknowledges that a non-policy compliant mix could be approved “for good reason”, or because of “other material considerations”, and this leaves the door “wide open” to a non-policy compliant mix.
 - ii) In relation to size, a failure to meet the proportionate need for larger units was embedded in the permission without explanation or justification; and
 - iii) In relation to off-site provision, the Interested Party has been left in control as to how that could be triggered under Condition 10.
- 106. The Claimant therefore submits that when interpreted in accordance with standard principles, “Condition 10 *empowered* but did not *require* policy compliant AH”. He argues that when the condition is discharged, the Defendant will have a wide discretion (*Smith-Ryland*) and it is contended that it would not be possible to challenge on discharge a non-policy compliant mix, or the availability of agreement to “off site in lieu” provision.

107. The Claimant submits that the Defendant knew the fundamental driver behind the question of affordable housing and there was no reason to think that a policy compliant mix could be delivered and every reason to conclude the opposite. Despite this, members were told that the proposal was policy compliant, and that advised that affordable housing was an important benefit to outweigh the “considerable harm” to the non-designated heritage assets. The Claimant advances nine specific arguments as to the unlawfulness of the Council’s decision. I will deal with each of those criticisms in turn below.

Analysis

108. As many of the Claimant’s submissions focus on the effect of the Council’s grant of planning permission, and in particular Condition 10, it is convenient to start with the proper construction of that document and the effect of Condition 10.
109. On its face, the notice of planning permission for the Third Planning Application grants planning permission for the description of development described in the notice, namely residential development of 100 units “including 32 no affordable housing units”. There is nothing in this description itself which stipulates the tenure mix of those affordable housing units.
110. The notice grants planning permission “in complete accordance with the application shown above, the plan(s) and information contained in the application, and subject to compliance with the following conditions” which are then set out in the notice. Condition 2 requires completion of the development “strictly in accordance with” an identified list of plans. As one would expect for a full planning application, the effect of this is that the development will need to be carried out in accordance with those plans. Consequently, the size of the 100 dwellings to be provided, including in Blocks G and H, is fixed by those plans. It is therefore inevitable that the size of the 32 affordable dwellings which are required to be provided within the scheme is necessarily constrained because those dwellings will have to be provided within the 100 dwellings that are to be constructed in accordance with those plans.
111. That said, neither the description of the development permitted, nor Condition 2 and the plans that it incorporates, necessarily require the provision of the affordable units within Blocks G and H of the permitted scheme. Whilst that is clearly what was envisaged, the description and Condition 2 of themselves do not fix that result. It may be that there is something specified on the relevant plans themselves which does fix the location but it is unnecessary for me to explore that further here.
112. Condition 10 (set out in detail above) deals further with the 32 units of affordable housing that form part of the development permitted. Condition 10 requires a scheme for the provision of affordable housing as part of the development to be submitted and then approved in writing by the Council before the development permitted can begin. This therefore takes effect as a condition precedent for development commencing on the Site. It is not sufficient for the beneficiary of the planning permission simply to submit whatever it chooses by way of an affordable housing scheme; that scheme also has to be approved by the Council. It is therefore necessarily within the Council’s power to refuse to approve a scheme submitted pursuant to Condition 10 if it is not satisfied with what is proposed.

113. Condition 10 specifies that the scheme that has to be submitted and approved has to include, amongst other things “the numbers, type, tenure and location on the site of the affordable housing provision to be made, which shall consist of not less than 32 affordable dwellings.” It is inherent in this that the beneficiary of the planning permission could submit a scheme for the provision of more than 32 affordable dwellings to be provided as part of the permitted 100 residential units, but it cannot submit a scheme in accordance with Condition 10 if it proposed less than 32 such affordable dwellings. So, whilst the scheme has to include details of the numbers of affordable housing units to be provided, this does not detract from the requirement that a minimum of 32 units has to be provided.
114. The fact that the scheme must also identify the location of the affordable housing within the Scheme is consistent with the point I have already made that the description of development and the plans may not, of themselves, fix the location, even though Blocks G and H were envisaged as the blocks to accommodate such provision. However, it is inherent in the requirement that the location be identified in the scheme, and the need for the Council to approve the scheme, that if the affordable housing were proposed in locations which the Council did not regard as acceptable, then the Council would have the ability to refuse to approve the scheme submitted.
115. The scheme must also specify the “type” and “tenure” of the affordable housing to be provided. This should also be read with the requirement in sub-clause (iii) of Condition 10 which also requires the scheme to specify the arrangements for the transfer of the affordable housing to an affordable housing provider or for the management of the affordable housing. The arrangements under that sub-clause are likely to depend on the type and tenure of affordable housing proposed. The requirement for the scheme to specify the type and tenure of what is proposed is also consistent with the fact that the description of the development does not fix the tenure to be provided. Given that the planning permission granted does not fix the type and tenure of affordable housing to be provided (as opposed to the minimum quantity of units), it is therefore unsurprising that this is a matter which will need to be covered by the scheme that has to be approved by the Council before the development can begin.
116. In reality, there is no real dispute between the parties that this is the effect of the planning permission and Condition 10. The Claimant positively contends that the effect of the planning permission and Condition 10 is “to park” these matters for later determination. Ultimately, I agree; but I do not consider there to be anything unlawful in principle with such an approach. It is common, and in many respects, an intrinsic feature of conditions that they “park” matters for future determination. In this case, the question of (amongst other things) the tenure mix of the minimum number of 32 affordable units has been left for future approval by the local planning authority.
117. Condition 10 also requires the details of the scheme to include a mechanism for delivering an alternative method of providing affordable housing at the same level as approved “in the event that no affordable housing provider acquires some or all of the affordable housing within a reasonable timescale”. The Claimant identifies that this requirement is addressing the potential prospect of the required amount of affordable housing (here no less than 32 affordable dwellings) being provided off-site if no affordable housing provider can be found to deliver it on-site within a reasonable timescale. It is clear from this part of Condition 10 that the scheme to be submitted for approval by the local planning authority must address this prospect and provide a

mechanism to address it. I will deal with the question of “policy compliance” in respect of this provision, along with the other provisions addressed above, shortly.

118. One of the Claimant’s criticisms is that this provision surrenders control of whether affordable housing is provided on-site or off-site to the Interested party. The Claimant submits that the Interested Party could, for example, set the price for the affordable housing too high such that no affordable housing provider would acquire the affordable housing. In this regard, the Claimant points to his legitimate concerns that the Interested Party may have offered too high a price for the Site. He submits that the Interested Party is therefore likely, or even bound, to seek too much for the affordable housing in order to cover its own costs.
119. In my judgment, Condition 10 does not surrender control to the Interested Party in the way that the Claimant suggests. It is true that the scheme that has to be submitted for approval to the local planning authority must contain a mechanism for an alternative method of delivering the affordable housing required if no affordable housing provider is found for some or all of the affordable housing within a reasonable timescale. The intended mechanism is therefore to deal with a situation where the Interested Party has not managed to find an affordable housing provider within a reasonable timescale. It is also true that if the Interested Party sets unrealistic terms for any affordable housing provider (including too high a price), or to fails to seek an affordable housing provider at all, then the Interested Party might try and invoke such alternative mechanism with which this provision is concerned. What this overlooks, however, is that the scheme in which such mechanism is to be specified has to be submitted and approved by the local planning authority. This means that the mechanism itself, within that scheme, will need to be particularised as part of the scheme and it will require the approval of the local planning authority before it can take effect.
120. In my judgment, this means that the local planning authority still has control over any mechanism that is proposed before it is approved. It is inherent in what is envisaged that the specifics of the mechanism will need to be scrutinised before being approved by the local planning authority. As part of that process, one can legitimately expect the local planning authority to ensure that the Interested Party is not given unilateral control as to how the mechanism operates. Thus, for example, one would legitimately expect that the mechanism will need to address the mechanics of what constitutes an effective search for an affordable housing provider, and for judging whether an appropriate and reasonable price has been sought. The local planning authority retains power to decide the detail of such criteria as part of the scheme. These are all ultimately matters for the future judgment and determination of the local planning authority in the discharge of Condition 10 itself. If the mechanism proposed as part of the scheme under Condition 10 is regarded as unsatisfactory by the local planning authority in any of the detail specified (for example, if the envisaged search procedure or the envisaged procedure for determining a reasonable price surrenders all control to the Interested Party in the way that the Claimant suggests), then the local planning authority will have the ability to refuse to approve the scheme in question. In my judgment, Condition 10 still ensures that the local planning authority do have control because the local planning authority’s approval of the scheme that will specify such detail is required.
121. The local planning authority will no doubt wish to be astute to ensure that any mechanism submitted does not surrender control in the way that the Claimant is concerned about. One would expect a local planning authority to be astute in such

matters in order to retain control over the provision of affordable housing on any site. Here, the local planning authority is already well aware of the Claimant's particular concern that the Interested Party has paid too much for the Site. That particular concern may no longer be so acute in the Claimant's mind if the conditional contract for acquisition of the Site by the Interested Party has expired. Whether or not it has expired is not critical, as planning permission runs with the land in any event. The local planning authority's scrutiny of any scheme submitted to discharge Condition 10 will therefore naturally need to ensure that the local planning authority retains appropriate control as to the exceptional circumstances in which off-site affordable housing might be accepted in substitution for on-site delivery (given the local planning authority's policy which I address further below) whatever price has been offered, or comes to be paid, for the Site. The important point for the present challenge is that such control still exists in principle in consequence of Condition 10. The Claimant and others may well be very interested in the way that control is exercised by the Council in the future, but that does not affect the lawfulness of the imposition of Condition 10. It retains control in principle; and, to use the language of the Claimant, it merely "parks" such questions for future determination by the local planning authority.

122. I agree with the submissions made by Mr Green on behalf of the Defendant that there is nothing unusual, but more importantly, nothing unlawful in principle in imposing a condition on a planning permission which requires the submission of further details for future approval in this way (see eg *R v Flintshire CC, ex p Somerfield Stores Ltd* [1998] PLCR 336 at 345F-347A and *R (Hayes) v Wychavon DC* [2014] EWHC 1987 (Admin), [2019] PTSR 1163, at paragraphs 13 and 15).
123. Having considered the effect of the planning permission, and Condition 10 in particular, it is convenient to consider the question of whether Condition 10 means the development is "policy compliant", before turning to deal with each of the Claimant's specific criticisms.
124. The focus of the Claimant's concern in this respect is Policy DM2 of the Council's Adopted Core Strategy and Development Management Policies. This deals with the provision of affordable housing on residential sites. For a location such as this it states:

"Whether in total or in phases, the District Council will expect 1 in 3 units to be affordable housing unless its provision is not required due to:

- a) Lack of identified local need in the area;
- b) Site conditions, suitability and economics of provision

The District Council will need to be satisfied as to the adequacy of arrangements to ensure that these homes are offered to local people who can demonstrate need, at a price which they can afford, and that its enjoyment is by successive, as well as initial, occupiers.

In exceptional circumstances, where the District Council and the developer consider that a site is not suitable to accommodate an element of affordable housing, the District Council will expect a

financial or other contribution towards the provision of affordable housing on a different site within the same area.

Footnote: "Affordable Housing" is defined in paragraph 3.51"

125. Paragraph 3.51 of the Core Strategy identifies that "Affordable Housing" is defined in Annex 2 of the NPPF. It then sets out the corresponding definitions of affordable housing in Annex 2 of the NPPF that existed at the time of adoption, namely comprising "social rented" housing, "affordable rented" and "intermediate housing".
126. The accompanying text to Policy DM2 includes paragraphs 5.11 and 5.12 as follows:
- "5.11 The Council commissioned a Local Housing Assessment, completed in July 2006, which identified the affordable housing need of the district as 24% of all new homes. Policies SP1, SP19, DM1 and DM2 provide the framework within which to provide the estimated 1,896 affordable homes required over the period 2010 to 2027. The breakdown of these homes will be:
- 75% affordable rent and
 - 25% other affordable homes.
- Policy DM2 sets out how this can be achieved."
- 5.12 Based on the proportions arising from the survey, the following targets will be set for affordable housing provision over the plan period 2010 to 2027:
- 1,422 affordable rented units (75% of 1,896);
 - 474 other affordable (25% of 1,896)."
127. It is well-established, as Mr Forsdick accepts, that there is an important distinction between a policy and its supporting text. Whilst the supporting text is plainly relevant to the correct interpretation of a policy, it is not itself a policy, or part of the policy (see *Cherkley* above).
128. In this case, Policy DM2 sets out an expectation that 1 in 3 units on sites to which the policy applies will be "affordable housing" as so defined, unless the exceptions apply. This sets a policy expectation as to the amount of affordable housing that will be provided. The second paragraph of the policy also identifies that the district council will need to be satisfied as to the adequacy of the arrangements in the way set out in the policy. The third paragraph also articulates a policy requirement for provision of that affordable housing on site unless exceptional circumstances apply as articulated in the last paragraph of the policy. By contrast, the policy itself does not impose any requirements as to the size or tenure mix of the affordable housing in order to comply with the policy.
129. Mr Forsdick relies upon paragraphs 5.11 and 5.12 to amplify the meaning of the "adequacy of the arrangements" about which the Council will need to be satisfied under the second paragraph of the policy. As I understood it, he contends that these

paragraphs result in a requirement that the tenure mix of affordable housing on any site should be 75% affordable rented and 25% other affordable homes. I do not accept that interpretation for two main reasons.

130. First, such an approach conflicts with the well-established principle in *Cherkley* of not treating the explanatory text as part of the policy itself. In the absence of any stated requirement within the policy as to the required tenure mix (or indeed size) requirements, it is not correct to import such requirements into this particular policy given the wording of the explanatory text. Had the policy intended to set a tenure mix requirement for a scheme to be policy-compliant, it could have done so; but it does not.
131. Second, even if one used the explanatory text to interpret the policy in the way Mr Forsdick does, or to import requirements into the policy, I do not consider the explanatory text bears the meaning Mr Forsdick advocates. Read as a whole and in a fair way, paragraphs 5.11 and 5.12 are referring to a target tenure mix for the area as a whole in light of the Local Housing Assessment work carried out in July 2006. In the context of an overall requirement for 1,896 affordable homes within the plan period, paragraphs 5.11 and 5.12 are setting the target breakdown of those homes to be provided in the proportion 75% affordable rented and 25% other affordable homes. It does not follow from such targets that there is any consequential policy requirement for each and every site to provide affordable housing in accordance with that proportion. It would, for example, be possible for some sites (because of their nature and form of development) to provide a higher percentage of affordable rented homes and some sites to provide a higher percentage of other affordable homes, without preventing the Council from reaching its overall target provision. Paragraphs 5.11 and 5.12 therefore cannot be construed as setting policy requirements for each and every site in the way Mr Forsdick contends (even if they could be treated as setting policy requirements despite their status as explanatory text).
132. I recognise that if the Council is to achieve its target, it may well have to try and secure the target split on the majority of its sites. The delivery of affordable rented provision is likely to be more challenging than other affordable homes such as intermediate housing. That does not convert that target split expressed in the explanatory text into a policy requirement for each site.
133. For these reasons, I consider that officers were entitled to advise, and the Council were entitled to conclude, that the provision of no less than 32 affordable units out of 100 residential units was compliant with Policy DM2 as properly interpreted. The policy does not prescribe the size or tenure mix of that affordable housing.
134. Even if Policy DM2 had included a required tenure mix, or if I am wrong about the effect of paragraphs 5.11 and 5.12, I do not consider this would assist the Claimant in this particular case. The development approved by the planning permission does not fix the tenure mix to be provided on the site. To the contrary, Condition 10 specifically reserves the question of tenure mix for future determination in accordance with the scheme that has to be submitted and approved by the local planning authority in due course. The local planning authority retains control over the tenure mix to be provided.
135. As to the size of the affordable housing units, neither the policy itself, nor paragraphs 5.11 and 5.12 say anything about the size of the units. It is true that the development approved, as a full planning application fixes the size of the 100 units that will be

provided on the site. There is a necessary limitation on the size of the units of any affordable housing that can be provided. It was also specifically envisaged that the affordable housing units would be provided in Blocks G and H, and in the proportion of 22 1x bed units and 10 2x bed units as set out in the 2019 Report (and its predecessors). In my judgment, none of this can affect the lawfulness of the officer and member view that the scheme complied with Policy DM2. Neither the policy nor the explanatory text imposes any requirements on the size of the units to be provided. It therefore remained a matter of planning judgment for the Council as to whether provision of at least 32 units within the scheme proposed, and more specifically in the form they contemplated, would meet the requirements of Policy DM2. It is very clear from the way in which the matter was reported to the committee, the objections that were made and the record of the committee meeting that members were well aware of the details of the scheme (in terms of the size of units and the affordable housing contemplated). They were also well aware of the objections on affordable housing grounds. In my judgment, members could not have been materially misled in any of these respects. It was a matter for their planning judgment as to the acceptability of what was proposed.

136. I agree with Mr Forsdick that the third paragraph of the policy does set out a policy expectation that affordable housing will be provided on site unless the exceptional circumstances identified in the policy apply. In those circumstances, I agree that a scheme for the site which did not make provision for affordable housing on the site would not be compliant with Policy DM2, absent the sort of exceptional circumstances justifying alternative provision. But this is not what the development proposed, nor is it the inevitable result of the planning permission granted and the terms of condition 10.
137. It is clear from the 2019 Report and the terms of the application that the development proposes delivery of 32 affordable dwellings on the site. It was specifically contemplated that these units would be delivered in Blocks G and H. As to Condition 10, I have already identified why it does not mean that the local planning authority have necessarily agreed to off-site delivery, or surrendered control as to the circumstances in which such off-site delivery would be accepted. The fact that the scheme requires a mechanism to deal with exceptional circumstances does not make the development itself non-compliant with Policy DM2. The local planning authority retains control over the approval of any such scheme. It will be able to assess the scheme against any relevant policy framework at the time of the discharge of the condition and all material considerations.
138. For all these reasons, I consider that the Council officers and the Council were entitled to conclude that the scheme complied with Policy DM2 of the adopted plan.
139. Reference has also been made to what were, at the time, emerging Policy SCLP5.10 and emerging Policy SCLP 12.32 relating to the Site itself.
140. Like adopted Policy DM2, emerging Policy SCLP5.10 also identifies: (1) an expectation of the provision of 1 in 3 units as affordable dwellings on a site of this size and (2) the expectation of provision on-site unless there are exceptional circumstances specified. Unlike adopted Policy DM2, emerging Policy SCL5.10 also set out a policy expectation of the tenure mix – 50% affordable/social rent, 25% shared ownership and 25% for discounted ownership in the policy itself. The inclusion of this expectation within the body of the policy itself reinforces the point that I have already made that if

there had been a policy intention to set a tenure mix in Policy DM2, one would have expected to have seen it within the body of the policy itself.

141. As an emerging policy, rather than an adopted policy, the question of “policy compliance” for the purposes of the adopted development plan did not arise in the same way. However, for the reasons I have already addressed when considering Policy DM2, I consider that officers and the Council were entitled to conclude that the proposal was also “policy-compliant” with Policy SCL5.10. That is because (as set out above), the development it has approved ensures that it is able to secure an appropriate tenure mix for the affordable housing when dealing with the discharge of Condition 10.
142. The Interested Party was contemplating a potential tenure mix that would not have complied with this emerging policy. But this intention does not make the development the Council did approve, with the imposition of Condition 10, non-compliant with the emerging policy. As I read it, one of the benefits of Condition 10 is that it explicitly requires the issue of tenure mix to be dealt with in the future scheme. The Council will have the ability to scrutinise whatever scheme is proposed, including tenure mix, and decide whether or not to accept it in light of relevant policies and all other material considerations.
143. As to emerging Policy SCLP 12.32, I did not understand the Claimant to advance any contention that the Council’s decision was unlawful in light of that policy. The policy itself refers to the inclusion of affordable housing on-site, but I have already identified that is what the scheme proposes.
144. In light of that more detailed analysis of the planning permission and Policy DM2, I turn to each of the Claimant’s specific criticisms under Ground 1.
145. First, Mr Forsdick argues that policy compliance was not secured by Condition 10, but members were repeatedly told that it was and so they were materially misled.
146. I agree that officers advised, and members can be treated as having concluded, that the proposal was “policy compliant” with Policy DM2, and that Condition 10 was part of securing that policy compliance. The reason given for the imposition of Condition 10 identifies as much. But I reject the basic premise of Mr Forsdick’s submission that such policy compliance was not secured by Condition 10, for the reasons I have already articulated. The Council was entitled to conclude that the development with the imposition of Condition 10 *does* secure policy compliance with the requirements of Policy DM2, as properly interpreted. The description of the development specifies the required number of affordable dwellings. Condition 10 thereafter provides for a scheme which will have to be submitted, but critically approved, before any development can begin. The local planning authority retains control over the approval of that scheme. It enables it to secure compliance with whatever policy is extant at the time if it requires such compliance in light of all material considerations at the time of approval.
147. Second, Mr Forsdick submits that since such affordable housing issues had not been resolved, members were materially misled in being told that their previous concerns (as to tenure, size and off-site provision) had been overcome, whereas these matters had been “parked” for later consideration under Condition 10.

148. Out of deference to this and similar submissions that members were materially misled, I have set out in some detail what advice members were given at various stages, along with what the respective minutes record about the meetings. This consequently has made this judgment undesirably lengthy. Having considered all of the relevant material in detail, I ultimately have no hesitation in dismissing any suggestion that members were materially misled (in the sense identified in *Mansell*) on this issue, or in respect of the affordable housing issue generally.
149. To the contrary, it is evident that members would have been conspicuously well-informed about this issue in determining this application. The reasons for this include: (1) the fact that this was the third planning application for a very similar form of development, in circumstances where the issue of affordable housing had been a feature of the consideration for each planning application; (2) members knew that objections were being advanced in relation to the affordable housing proposed on each such application; (3) members were not only informed about the affordable housing issue in each of the respective reports, but also heard specific objections on affordable housing when considering the First and Third Planning Applications; (4) the issue of whether previous concerns expressed by members on affordable housing on the First Planning Application had been reconsidered at a second meeting to deal with that application, at which the equivalent of condition 10 was considered in detail; (5) the issue of whether Condition 10 for the Third Planning Application addressed the Council's previous concerns on the First Planning Application was specifically raised again at the Council's committee meeting to determine the Third Planning Application.
150. When dealing with the First Planning Application for the first time in October 2017, the SCDC Planning Committee resolved that formal approval should not be issued until a detailed scheme for the delivery of affordable housing had first been submitted and approved by the Planning Committee at a subsequent meeting. That Planning Committee did therefore envisage and require a more detailed scheme to be approved before planning permission was granted. This was rather than resort to the sort of condition that ultimately has been approved under Condition 10. But the First Planning Application was reported back to the SCDC Planning Committee in April 2018. In the report back to that committee, officers set out their view that approval to grant with a condition like condition 10 should be given. They considered it was a suitable mechanism for its delivery (see paragraphs 5.2 and 5.3 of the 2018 Report and the second Update Sheet). Objectors did not agree. The SCDC Planning Committee also heard from objectors (including those who expressed themselves in forceful terms) on that point (as can be seen from the Minutes). They also heard about objections to the proposed form of the condition and the potential for the scheme under Condition 10 to have a mechanism for affordable housing off-site. The Head of Planning had a different view. Ultimately the members agreed with their officers. They ultimately decided not to require a more detailed scheme to be provided at that stage, although they had originally contemplated it should.
151. A similar situation arose when the Third Planning Application came to be considered and determined. In the 2019 Report to committee officers advised members that the scheme overcome previous concerns raised by the Council regarding the provision of affordable housing. It is important not to read such advice over-forensically. Members had subsequently accepted the principle of a condition to address their original request for a more detailed scheme when dealing with the First Planning Application. I do not

consider it to be materially misleading for officers to advise that the Third Planning Application overcame previous concerns in this regard. It too involved the use of a condition. It was a condition which members had previously accepted to address their concerns. Moreover, members were provided with the Minutes of the previous meetings at which this issue had been aired. In addition, it is evident from the objections and the Minutes of the meeting in 2019 that members would have continued to be well aware of the strong views on what affordable housing should be secured.

152. It is not for this court to adjudicate on the planning merits of those competing, but rational, points of view. The Claimant argues members were materially misled by officers that their previous concerns had been overcome, whereas Condition 10 “parked” concerns for later determination. In my judgment, there is no realistic basis for this contention. Members would have been very well aware of what was proposed in terms of Condition 10 and its effect. It was explained in the materials. Specific objections to it were raised. Consequential discussions ensued regarding its effect. Members would necessarily have been aware of the extent to which it “parked” matters for later determination, along with objection to that course of action by others. Ultimately members were content to allow those matters to be “parked” for future determination, in accordance with the views of their own officers that this was the appropriate course of action. They were entitled to reach that judgment and did so without being materially misled.
153. The third criticism is the contention that the Interested Party was given control of triggering off-site provision under Condition 10, whereas members were repeatedly told that on site provision could or would be secured. I reject this submission for the reasons I have already identified. It involves a misreading of Condition 10 and its effect. The Council retains control of approving any scheme which sets out a delivery mechanism which would permit delivery of affordable housing off-site. The Council will no doubt need to be astute in the ordinary way to ensure that it exercises that control effectively. Condition 10 does not surrender its ability to do just that. In so doing, the Council can scrutinise any proposed mechanisms, against any relevant policy test that applies at the time, whether that be the question of exceptional circumstances referred to in Policy DM2 as it was then, or as now expressed in an adopted version of what was previously emerging Policy SCLP5.10, or any other policy and all relevant considerations.
154. The fourth point advanced is that the Council failed to take into account “the necessarily material inevitability of a non-policy compliant affordable housing outcome”. The Claimant submits this was demonstrated by the history relating to the inflated asking price. He says that that the 2019 Report “blandly repeated” advice in the 2018 Report on affordable housing, but omitted to refer to subsequent events to the effect that “the 2018 expectation of policy compliance had quickly become just £3.02m payment in lieu”.
155. I am far from satisfied that there was any necessary “inevitability” of a non-policy compliant affordable housing outcome in the way the Claimant suggests. The Claimant certainly has identified evidence which makes it clear the Interested Party had been seeking to reduce the amount of affordable housing to be provided generally. The Interested Party was contemplating and calculating the cost of provision off-site. The Second Planning Application was, of itself, an attempt to reduce the affordable housing requirement provided. At the time the Third Planning Application was made, and then determined, there was material indicating that previous problems in finding an

affordable housing provider might have been overcome. The Third Planning Application was made in conjunction with an affordable housing provider. At the Planning Committee meeting, the agent for the Interested Party identified that agreement had been reached to deliver the affordable housing site and the necessary legal documents to be able to do so were in preparation. I therefore reject the basic premise of the submission as to the inevitability of a non-policy compliant housing outcome.

156. It may be that the Claimant's submission in this respect is bound up with its earlier submission (which I have rejected). That was the contention that compliance with Policy DM2 in fact requires a specific tenure mix and this was not a mix contemplated by the Interested Party or affordable housing provider. If so, the submission is mistaken given the correct interpretation of Policy DM2 that I have identified.
157. In any event, I am not persuaded that there is any substance to the complaint in principle. The difficulties of delivering affordable housing on this Site, as with other sites in the Council's area, were self-evidently well-known to the Planning Committee. This would have been apparent from all the material that had been provided (including the objections which they heard). It was also self-evident from the history of the planning application themselves. Members of the Committee would have been well aware of these challenges. What matters, however, is whether the Council acted lawfully in granting planning permission when imposing the controls in the way it did. I consider it did act lawfully. The description of the development refers to the provision of 32 affordable dwellings. Condition 10 retains control over any future scheme for the delivery of affordable housing in the way I have explained. Even if the provision of affordable housing on the Site proves to be challenging or unachievable, the Council ultimately retains the ability to control the development proceeding if no appropriate affordable housing provision can be delivered.
158. The fifth contention is that the Council tested policy compliance on an "unlawfully narrow basis", looking at the number of units only, rather than also considering tenure, size and the question of on-site provision. It is said the Council misdirected itself as to the correct interpretation and application of its own policy DM2. This largely depends upon the interpretation of Policy DM2 which I have already rejected. But it also ignores the fact that Condition 10 retains control over the question of tenure and off-site provision. As to size, the Council members were necessarily aware of the size of all units (and therefore necessarily any element of affordable housing on site which would have to be within those units) when deciding to approve the scheme.
159. The sixth submission is a contention that the affordable housing offer was not policy compliant because Condition 10 allowed flexibility on tenure mix. It is said the 2019 Report was silent about this and it was not an issue "which could be lawfully parked" under Policy DM2. It is argued that the inverted tenure mix proposed in the planning statement was not policy compliant. I reject this criticism for the same reasons that I have already articulated about policy compliance and the effect of Condition 10.
160. The seventh submission is that the Council failed to take into account the need for larger units as a necessarily material consideration. The Claimant seeks to rely on what he says was the up-to-date need set out in paragraph 5.38 of the emerging Local Plan, and say this refers to a need for 60% of units of 3 bedrooms or more. It is alleged that members were not told that the scheme would not provide larger affordable housing

units and no justification for this failure to provide such units was given. I reject this submission both in light of the facts of this case and as a matter of principle.

161. On the facts, this submission does not get off the ground. The Council members approving the Third Planning Application cannot have been in any doubt whatsoever as to what size units were being provided as part of the scheme (and consequently the size of any affordable housing units). This was a full planning application. The merits of the scheme in terms of its design and layout were the subject of intense scrutiny at every stage. Like their predecessors, the 2019 Report for the Third Planning Application advised members as to the size of units being provided, along with identification of what was proposed in terms of the size of units for the affordable housing within Blocks G and H. It is therefore simply unrealistic to contend that members were not aware that the scheme did not involve larger affordable housing units. On this basis alone, this submission fails.
162. In addition, I cannot accept the particular gloss that the Claimant seeks to put on paragraph 5.38 of the emerging Local Plan in this context as founding the basis for an error of law in the Council's determination as a matter of principle. For a start, paragraph 5.38 of the emerging Local Plan is explanatory text to an emerging plan. It is not even emerging policy. But leave that aside, paragraph 5.38 deals with needs generally throughout the district, not specifically the needs for affordable housing sizes, so it is misplaced to equate these two things. Moreover, even on its own terms it seeks to interpret the figures in a way which actually places an emphasis on the shortage of smaller properties, referring in the text to a need "for at least 40%" of new housing to be 1 or 2 bedroom properties. And as with the explanatory text that accompanies Policy DM2, in referring to needs for the district as a whole, it is not necessarily imposing a policy requirement for each and every site. I therefore do not consider that there was any failure to take account of a material consideration as alleged.
163. The eighth contention is that there was no attempt to justify off-site provision by reference to exceptional circumstances. It is argued there were no such exceptional circumstances given the Site is suitable for affordable housing on site. In this respect, the Claimant also criticises the fact that members were told orally that agreement had been reached with a registered provider, but they were not told that this was limited to the provision of 24 intermediate units, or that such provision would make the provision of affordable rented units more difficult.
164. I reject the basic premise of the first part of this submission for the reasons I have already identified. The Claimant has wrongly interpreted the planning permission and Condition 10 as necessarily permitting off-site provision without demonstration of exceptional circumstances, whereas that is not its effect. As to the second part of the submission, the chronology of events does not provide a sound basis for this criticism either.
165. At the meeting, the Council were advised by the Interested Party's agent that it considered affordable housing could be provided on site and a legal agreement to that effect was in contemplation. That was on 22 October 2019. Planning permission was subsequently issued on 29 November 2019. The Claimant relies on an entry on the Charges Register on the Land Registry title document concerning an agreement for sale that is dated 5 December 2019. That post-dates the Committee meeting and the issue of planning permission.

166. The Claimant has interpreted what is disclosed of that agreement to mean that the agreement with Sage Housing Ltd relates to 24 units only and this is likely to be for 24 intermediate units which the Interested Party had in contemplation, leaving no agreement for the delivery of 8 units of affordable units. There is much inference in this process of interpretation; but the Claimant fairly points out that neither the Defendant nor the Interested Party has filed evidence to contradict that interpretation. I am therefore prepared to proceed on the basis that the Claimant's interpretation is correct (in the absence of other evidence or the sale agreement itself). But even on that basis, it does not provide a basis for impugning the Committee's resolution to grant planning permission or the subsequent issue of the notice on 29 November 2019. Whatever sale agreement has been entered into by the Interested Party and any affordable housing provider after the event, the acceptability of the affordable housing provision proposed will be a matter for control under Condition 10 by the Council as local planning authority. The Council will be able to reject any scheme under Condition 10 if it considers it to be unsatisfactory.
167. It would, of course, be a matter of general concern if the pending legal arrangements to which the council's attention was drawn had been misrepresented in a material way. But there is no direct evidence before me that it necessarily was. The Minutes of the Council meeting simply record the Interested Party seeking to assure members that affordable housing could be delivered on site. He advised that terms had been agreed with the registered provider and an anticipation that the necessary legal documents had been drawn up and were likely to be exchanged on 25 October 2019. He did not actually give detail of those terms (for example, if they were limited at that stage to the provision of 24 intermediate units on site). Any such terms would not have had legal effect until exchange. As the legal agreement does not appear to have been signed until December, it is possible that the terms previously thought to be agreed had changed.
168. It is certainly fair to say that the Minutes indicate that reassurance was being given that a legal agreement for delivery of all the affordable housing on site was in contemplation. But even if that was reassurance was misplaced, unjustified or even misleading, I am not ultimately persuaded that it affects the lawfulness of the Council's decision to grant permission in the way it did. That is because whatever comfort members might have taken from such representations, ultimately the Council granted permission in a way which retains control over the delivery of affordable housing on the Site in the way I have described. If acceptable affordable housing cannot ultimately be delivered (for whatever reason), the Council retains the control to prevent the development from proceeding.
169. The final point advanced by the Claimant is that the Defendant cannot rely upon Condition 10 to overcome the points of unlawfulness it says arose for six reasons. It argues that: (1) the Defendant is not bound by the condition, nor the law, to follow the underlying policy framework in discharging the condition; (2) the construction of the condition is a matter of law and the condition does not allow the Defendant to insist on the offer to a registered provider to be on particular terms; (3) the Interested Party could seek to justify a non-policy compliant scheme on the basis that that is what it had offered and the basis upon which permission had been granted; (4) the Interested Party could seek to justify a non-policy compliant scheme, on the basis that no affordable sale had occurred and this is a matter over which it has complete control under the affordable housing Condition, or on the basis of "other material considerations"; (5) as a result of

the lack of precision in the condition, the Defendant will be unable to set later requirements as to what the scheme must cover which it could and should have imposed at the outset, as this would amount to a derogation from the grant; (6) the Defendant could not insist on a policy compliant size mix given that other conditions fix the size of the units.

170. The bulk of these points raise matters which I have already addressed and rejected in my earlier analysis as to the proper interpretation of Condition 10. Contrary to the Claimant's submissions, the Council does retain control over the matters of concern that the Claimant has identified.
171. It appears that the Claimant's real concern about the principle of Condition 10 is that while Condition 10 *empowers* the local planning authority to approve a scheme which does deliver policy-compliant affordable housing on or off-site, it does not *require* the scheme it approves to be policy-compliant. The Claimant is concerned that the local planning authority will have a wide discretion as to whether or not to approve the scheme that is ultimately submitted, including any mechanism as to off-site delivery. He is concerned that the discharge of that condition will require a planning judgment which would permit the local planning authority to approve a non policy-compliant proposal (see, e.g., *R (Smith-Ryland) v Warwickshire DC* [2018] EWHC 3123 (Admin) at paras 40, 45) and that the decision to grant a permission with such a condition is unlawful.
172. In my judgment, there is no substance to this complaint as a matter of principle. I have already identified that the imposition of conditions which "park" matters for subsequent approval is commonplace in practice; the imposition of conditions on a planning permission is specifically permitted by the statutory scheme. It is correct that on any subsequent application to discharge such a condition, the local planning authority will be exercising a planning judgment. This will inevitably involve the exercise of a discretion. It is also correct to say that the local planning authority will not be required to exercise that discretion in accordance with any particular development plan policy. It would therefore be lawful in principle for a local planning authority to approve a scheme which turned out not to be policy compliant (in terms of whatever policy framework happens to be in place at the time of discharge), subject to the ordinary principles of acting lawfully in a public law sense. An example might be a decision to accept a mechanism to allow for off-site affordable housing provision which was not predicated on the existence of exceptional circumstances if the local planning authority ultimately judged that it was appropriate to approve such a scheme. Its decision to do so would be subject to control by way of judicial review in the ordinary way.
173. In my judgment, however, there is no basis for suggesting that deciding to "park" such determinations into a condition of this kind is unlawful simply because the decision-making will be discretionary, and a non-policy compliant scheme could potentially be approved. It will still be a decision of the local planning authority. The local planning authority therefore retains power over the decision itself in its capacity as a local planning authority, discharging its planning functions. By whom the decision is taken, and what oversight is applied, is a matter for the local planning authority's scheme of delegation in the ordinary way.
174. Even at the stage of determining a planning application (rather than discharging a condition), a local planning authority is entitled to reach decisions which are not policy-

compliant. Whilst the statutory framework creates a presumption at that stage that decisions are taken in accordance with the development plan, that is subject to the principle that material considerations can indicate otherwise.

175. I do not consider there is anything unlawful in a local planning authority deciding to “park” matters relating to the detail of the affordable housing for future determination in a condition of the type specified in Condition 10. I can see that a problem could arise if the local planning authority purported to “park” matters of principle for future determination under a condition, but where the grant of permission itself precluded the authority from reconsidering those principles on the basis that it would derogate from the grant of what had been permitted (see eg *Medina Borough Council v Proberun Ltd* [1990] 61 P&CR 77). In my judgment, that is not what has occurred in this case. Such a conclusion involves misinterpreting the scope of what remains controlled under Condition 10 for the reasons I have identified.
176. For all these reasons, I reject the Claimant’s challenge under Ground 1.

Ground 2 – the tilted balance.

177. I can deal with the Claimant’s challenge under Ground 2 more shortly.
178. The Claimant’s point is relatively simple. The 2019 Report claimed to have updated the 2018 Report. In reality, it essentially repeated advice in the 2018 Report that did not reflect the reality of the situation. He argues that the Report advised the Council that the “tilted balance” in favour of the development under the NPPF was engaged on the basis that policy SP2 was out of date, but without any proper analysis of the situation. The Claimant relied upon the Inspector’s decision on the section 78 appeal concerning land at Aldeburgh dated 21 November 2018 and the fact that she considered that the Council had a five year housing land supply and so Policy SP2 should have been treated as up-to-date, such that the “tilted balance” was not engaged. In any event, so the Claimant submits, that position was confirmed by the Inspector’s decision in the subsequent Street Farm case issued on 5 November 2019 and the officers failed to refer the matter back to Committee in light of that decision.
179. In response, the Council submits that in the Aldeburgh decision, the Inspector had found Policy SP2 out of date. Therefore there was no error in the 2019 Report in proceeding on the basis that the tilted balance was engaged. Whilst the Inspector in the Street Farm decision concluded that Policy was not out-of-date, that decision post-dated the Council’s consideration at committee. The Council submits that there was no need to refer the matter back to committee in light of that decision because the officers had concluded that the proposed development complied with the development plan, such that planning permission should be granted, and that position was not altered by the Street Farm conclusion. Whilst the application of the tilted balance was treated in the report as a consideration supporting the grant of planning permission, the conclusion about compliance with the development plan already justified that conclusion. Further or alternatively, even if the committee report had not applied the tilted balance, or the matter had been reported back to the committee to say that the tilted balance no longer applied, it is highly likely that the outcome would have been the same so that any relief should be refused under section 31 of the Senior Courts Act 1981 anyway.

180. In the particular circumstances of this case, I doubt that it is necessary for me to resolve definitively any dispute as to consequence of the Inspector's decision in the Aldeburgh case. The Inspector did find that Policy SP2 was out-of-date in relation to the housing requirement (see paragraph 14 of her decision). There was therefore a basis for the officers to make a judgment that the "tilted balance" was engaged if they considered that this was one of the most important policies for determining the application. This is despite the fact that the Inspector went on to find that the Council was able to demonstrate a five year housing land supply (see paragraph 91 of her decision). It seems to me that this latter finding might have justified a judgment that the fact that Policy SP2 was out-of-date in one respect should not actually trigger the tilted balance under paragraph 11 on the NPPF when considering footnote 7. But that was not the judgment officers made in this case. The subsequent Street Farm decision was relevant to that question, as a more recent Inspector found Policy SP2 to be up-to-date in light of the existence of a five year supply. But that begs the question of whether officers were required to refer the matter back to the committee in light of the decision overall
181. In my judgment, any debate over whether the tilted balance was applicable in this case at the time the Council's committee considered the application, or whether the application should have been referred back to the committee following the Street Farm is a sterile one on the facts of this case. On a fair analysis of the officers' advice and the Council's consequential decision, when the 2019 Report is read fairly and as a whole, there is no real doubt that the outcome would have been the same. I agree with Mr Green's submission that a fair reading of the officers' report confirms that the conclusion was undoubtedly reached that the proposal complied with the development plan (for all the reasons given in the 2019 Report). Although that was a controversial decision that involved planning judgments on a wide range of issues (including not just affordable housing, but issues relating to design and impacts on heritage assets), there is no doubt that such a decision was reached.
182. It is a conclusion reflected in express terms in paragraph 6.166 of the 2019 Report when the officers were dealing with the tilted balance. It is in that context that officers specifically refer to the first of two alternative limbs to the approach in the NPPF to decision-taking, namely that the presumption in favour of sustainable development means approving development proposals that accord with an up-to-date development plan without delay. Ultimately even if, as the Claimant submits, officers should have advised members that Policy SP2 was not out-of-date, this would have only reinforced the application of the first limb of paragraph 11 of the NPPF in this particular case. Having found that the proposal accorded with the relevant policies in the development plan, the presumption in favour of approving it would still have applied
183. In these circumstances, I consider it is clear that the application of the tilted balance in this particular case did not affect the outcome. Had the tilted balance not been applied in the way it was, officers would still necessarily have advised that the application should be approved in accordance with the first limb of paragraph 11 of the NPPF in light of their detailed analysis of each and every issue. That included, for example, findings that whilst some less than substantial heritage harm arose, such harm was outweighed by the benefits of the proposal. These sorts of judgment involved a straightforward exercise of a planning balance.
184. I am reinforced in my conclusions when reading the conclusions in section 7 of the report. In paragraph 7.7 of the report, for example, officers state expressly that they

remain of the view that the benefits of the scheme outweigh any harm identified. Such an assessment simply reflects a normal balance, without any “tilt” of the type which would arise under the second limb of paragraph 11, which requires adverse impacts significantly and demonstrably to outweigh benefits. It is clear that even without the tilted balance, officers considered that the benefits outweighed the harms. This is consistent with their conclusion that the proposal complied with the development plan as a whole. It is also, of course, consistent with the views that officers and members had reached in 2017 on the First Planning Application (which was very similar in nature), in accordance with the 2017 Report, which did not apply the “tilted balance” at all.

185. For these reasons, I consider that even if the tilted balance should not have been applied to the application (for whatever reason), the outcome would necessarily have been the same. It is, however, sufficient for these purposes for me to be satisfied that it is highly likely that the outcome would have been the same, which I am.
186. Accordingly, I reject the Claimant’s challenge under Ground 2.
187. For all these reasons, notwithstanding the comprehensive and persuasive arguments presented by Mr Forsdick on the Claimant’s behalf, I dismiss this claim for judicial review.



**In the High Court of Justice
Queen's Bench Division
Planning Court**

CO Ref:

Agenda Item 6
CO/2441/2020
ES/0594

In the matter of an application for Judicial Review

The Queen on the application of MIKE KENT

versus EAST SUFFOLK COUNCIL
(FELIXSTOWE FERRY GOLF CLUB LTD, Interested Party)

**Application for permission to apply for Judicial Review
NOTIFICATION of the Judge's decision (CPR Part 54.11, 54.12)**

Following consideration of the documents lodged by the Claimant and the Acknowledgements of service filed by the Defendant and the Interested Party]

Order by Mr C M G Ockelton, Vice President of the Upper Tribunal,
Sitting as a Judge of the High Court

Permission is hereby refused.

Reasons

- 1 Ground 1 is simply wrong. So far from there being a mistake as to whether the development would be in accordance with the development plan and existing policies, it is clear that everybody concerned was perfectly aware that it was not in accordance with them and had to be considered on that basis.
- 2 Grounds 2-4 in general seek to read the Officer's Report (a) in isolation, and (b) as though it were drafted in the same way as a statute. As the authorities make clear, neither approach is permissible. They are unarguable for that reason. In addition, ground 3 clearly misinterprets NPPF para 172.
- 3 Ground 5 would not provide a reason for the quashing of the permission, which is the only remedy sought. In any event the 'tailpiece' is not arguably unlawful.
- 4 The above reasons are expanded in greater detail in the Summary Grounds attached to the Acknowledgments of Service, particularly that of the Interested Party, with which I agree.
- 5 The defendant and the Interested Party agree that this is an Aarhus claim. The Interested Party seeks an Order that the limit be £10,000 on the basis of lack of information as to the claimant's resources. However, this is a case where the two responses do include a considerable measure of duplication and in my judgment the appropriate and proportionate Order in respect of costs is that below. If the application is renewed to a hearing there will no doubt be an opportunity to consider resources and other matters in conjunction with that.

The costs of preparing the Acknowledgments of Service are to be paid by the claimant to the defendant, in the sum of £ 1,600 and to the interested party in the sum of £3,400, unless within 14 days the claimant notifies the court and the defendant or interested party as appropriate, in writing, that he objects to paying costs, or as to the amount to be paid, in either case giving reasons. If he does so, the defendant or interested party has a further 14 days to respond to both the court and the claimant, and the claimant the right to reply within a further 7 days, after which the claim for costs is to put before a judge to be determined on the papers. If the claimant seeks reconsideration, costs are to be dealt with on that occasion.

Signed *C M G Ockelton*

The date of service of this order is calculated from the date in the section below

For completion by the Planning Court

Sent / Handed to the claimant, defendant and any interested party / the claimant's, defendant's, and any interested party's solicitors on (date): 25/09/2020

Solicitors: ASHTONS LEGAL

Ref No: SL/RW/291947-0001

Notes for the Claimant

If you request the decision to be reconsidered at a hearing in open court under CPR 54.12, you must complete and serve the enclosed FORM 86B within 7 days of the service of this order. A fee is payable on submission of Form 86B. **For details of the current fee see the Court website <https://www.gov.uk/court-fees-what-they-are>**. Failure to pay the fee or lodge a certified Application for Fee remission may result in the claim being struck out. The form for Application for Remission of a Fee is obtainable from the Justice website <https://www.gov.uk/get-help-with-court-fees>.



STRATEGIC PLANNING COMMITTEE

Title of Report:

ENFORCEMENT PERFORMANCE REPORT – JULY TO SEPTEMBER 2020

Meeting Date

14 DECEMBER 2020

Report Author and Tel No

Cate Buck
01394 444290

Is the report Open or Exempt?

Open

REPORT

To provide information on the performance of the enforcement section

RECOMMENDATION

That the report concerning Enforcement Team statistics be received.

1. Background

1.1 Following the adoption of the new Local Enforcement Plan in March 2019 and the formation of the new East Suffolk Council section it was decided that a report be presented on a quarterly basis from August 2019.

1.2 Between July and September 2020, no Enforcement Notices were served.

Cases Received and Closed July to Sept 2020

<u>Month</u>	<u>Cases Received</u>	<u>Cases Closed</u>
July	57	32
August	71	44
September	48	38

*Please note all new complaints are logged, site visited and then triaged in accord with the appropriate risk assessment.

Reasons for Closure

<u>Reason</u>	<u>July</u>	<u>August</u>	<u>Sept</u>
No Breach	24	28	17
Compliance/use ceased	1	7	10
Planning Permission Granted	3	5	9
Permitted Development	1	1	0
Immune/Lawful	0	0	0
Duplicate file	0	0	0
Withdrawn	1	0	0
Not Expedient	2	3	2

Time taken to close cases

<u>Time taken to close cases</u>	<u>Cases Closed in July</u>	<u>Cases Closed in August</u>	<u>Cases Closed in Sept</u>
<u>1-10 days</u>	7	7	4
<u>11-20 days</u>	7	8	12
<u>21-30 days</u>	5	10	2
<u>31-40 days</u>	1	0	6
<u>41 + Days</u>	12	19	14
Total	32	44	38

Enforcement Notices Served July to Sept 2020

<u>Type of Notice</u>	<u>Address</u>	<u>Breach</u>	<u>Compliance period</u>
NIL	NIL	NIL	NIL



STRATEGIC PLANNING COMMITTEE

Monday, 14 December 2020

DEVELOPMENT MANAGEMENT PERFORMANCE REPORT

EXECUTIVE SUMMARY

This report provides an update on the planning performance of the Development Management Team in terms of the timescales for determining planning applications.

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 details on the determination timescales for all planning applications at East Suffolk Council when tested against the government set timescales as well as the East Suffolk Council stretched targets.
- 1.2 The Key Performance Indicators (KPIs) are reported on a quarterly basis and included within the East Suffolk Council performance report and tested against the Council's Business Plan.

2 PERFORMANCE STATISTICS

- 2.1 The breakdown for Q2 (April through to end of June 2020) is reported as follows:

	Q1 Percentage	Q1 Total	Targets
Major Development	85.7%	6/7	60% national 65% stretched
Minor Development	82.3%	121/147	65% national 75% stretched
Other Development	88.6%	412/465	80% national 90% stretched

- 2.2 The rolling statistics for the reporting year are as follows

	Q1 & Q2 Percentage	Q1 & Q2 Total	Targets
Major Development	86.6%	13/15	60% national 65% stretched
Minor Development	85.7%	259/302	65% national 75% stretched
Other Development	88.8%	726/817	80% national 90% stretched

- 2.3 The following table is a comparison with the end of Q2 (rolling figures) in the 2019/2020 rolling year.

	Combined Percentage	Combined Total	Targets
Major Development	86%	31/36	60% national 65% stretched
Minor Development	74%	213/313	65% national 75% stretched
Other Development	87%	787/903	80% national 90% stretched

- 2.4 The figures for Q2 of the financial year are promising and show a continued intent to issue decisions in a timely manner. The national performance indicators have been met in all categories and with the exception of 'others' the internally stretched targets have

been met. Members will note that there has been a marked increase in performance on minor applications.

- 2.5 Members will note that there has been less applications submitted and determined by East Suffolk this year compared to last year, and this is a direct result of Covid-19 and the impact this has had on the economy, the development sector and personal finances. Officers have been working proactively with applicants and developers to help stimulate the economy and encourage development.
- 2.6 The Council have successfully offered contracts to three assistants and one trainee planner with the intention that their employment commences January 2021. This will provide additional resource in the department, particularly the 'other' applications and free up some capacity of the planning officers to pick up the more complex applications.
- 2.7 The Council maintains a high approval rate across all types of applications and proactively look to support development where policy permits and work proactively with applicants and agents to secure appropriate schemes. Where applications are refused Officers seek to defend those refusals strongly. Members will note the separate appeals report on the agenda which demonstrates confidence that applications are being refused correctly and those decisions are for the most part upheld at appeal.
- 2.8 Officers continue to work proactively with agents to promote the pre-application service to seek to ensure that where applications are submitted they have the right level of information accompanying them to enable swift decisions on applications to be made.

3 REASON FOR RECOMMENDATION

- 3.1 This report is for information only.

RECOMMENDATION

That the contents of the report are noted.

BACKGROUND PAPERS - None



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
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Wards Affected:	All
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Cabinet Member:	Councillor David Ritchie Cabinet Member with responsibility for Planning and Coastal Management
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Supporting Officer:	Liz Beighton Planning Development Manager 01394 444778 Liz.beighton@eastsoffolk.gov.uk
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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	<p>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>

	<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 kerbs 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.⁵⁹</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 aesthetical 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, Ilkeshall 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 173

<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>	



STRATEGIC PLANNING COMMITTEE

Monday, 14 December 2020

AUTHORITY MONITORING REPORT 2019/20

EXECUTIVE SUMMARY

1. The Authority Monitoring Report (AMR) is produced annually to provide information on the progress of producing and implementing the Council’s Local Plans.
2. The Council monitors planning applications throughout the year to provide a basis on which to judge the implementation and effectiveness of policies contained within Local Plans and Neighbourhood Plans. Monitoring data collected by the Council is used alongside information collected from other sources such as Suffolk Observatory, Office of National Statistics and Natural England.
3. The AMR 2019/20 covers the monitoring period 1st April 2019 to 31st March 2020.
4. This is the second report covering the East Suffolk area. Previous AMR’s have been produced individually by Suffolk Coastal District Council and Waveney District Council since 2005

Is the report Open or Exempt?	Open
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Wards Affected:	All
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Cabinet Member:	Councillor David Ritchie Cabinet Member with responsibility for Planning and Coastal Management
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Supporting Officer:	<p>Adam Nicholls Principal Planner 07881 005429 adam.nicholls@eastsoffolk.gov.uk</p> <p>Caroline Clamp Assistant Planner 01502 523029 Caroline.clamp@eastsoffolk.gov.uk</p>
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1 INTRODUCTION

- 1.1 The Council produces the Authority Monitoring Report (AMR) each year to show progress on producing and implementing the Local Plans. This report covers East Suffolk, but provides specific information on the Local Plans and Neighbourhood Plans which cover the former Suffolk Coastal area and the former Waveney area.
- 1.2 The Town and Country Planning (Local Planning) (England) Regulations 2012 require key pieces of information to be covered by an Authority Monitoring Report, such as:
- Progress on the Local Plan against the timetable in the Local Development Scheme,
 - Details of any Neighbourhood Plans or Neighbourhood Development Orders that have been adopted,
 - Any Community Infrastructure Levy receipts,
 - Any action taken under the duty to cooperate,
 - Details of any policies not being implemented,
 - Net amount of additional affordable housing, and
 - Total housing (and affordable housing) completed against annual requirements.
- 1.3 This AMR covers the monitoring period 1st April 2019 to 31st March 2020 and provides monitoring information against indicators in the Local Plans, such as housing completions, town centre uses, tourism applications, environmental designations and the planning applications that the Council received.
- 1.4 The Local Plan covering the former Suffolk Coastal area was, for the 2019/20 year, made up of various documents (Core Strategy and Development Management Policies, Site Allocations and Area Specific Policies, Felixstowe Peninsula Area Action Plan). These were superseded upon adoption of the Suffolk Coastal Local Plan on 23rd September 2020 (outside the 2019/20 monitoring period). Previous AMRs have recorded information and progress on the implementation of these existing policies which has informed the emerging policies.
- 1.5 The Local Plan covering the former Waveney area was adopted in March 2019. This is therefore the first monitoring report covering a full year since adoption.
- 1.6 The previous individual local authorities have a long and established history of producing the AMR. Suffolk Coastal District Council and Waveney District Council both first published their AMR in December 2005 to cover the monitoring period 2004/05.

2 AUTHORITY MONITORING REPORT FOR EAST SUFFOLK

- 2.1 In accordance with the regulations and examples of best practice, the Authority Monitoring Report for East Suffolk includes several sections which focus on specific

aspects of the Local Plan process.

- 2.2 Chapter 1 introduces the document, with Chapter 2 outlining the content and structure of the report.
- 2.3 Chapter 3 provides information in relation to the progress of the Local Plan documents against the milestones outlined in the Local Development Schemes which guide the production of the Local Plan.
- Suffolk Coastal Local Plan – Local Development Scheme adopted in October 2015 and amended in June 2020 and milestones for the examination of document by the Planning Inspectorate were met within the monitoring period.
 - Waveney Local Plan – As the Local Plan was adopted in March 2019, there were no milestones for this monitoring period.
- 2.4 Chapter 4 provides details on Neighbourhood Plans which have been progressed by the local community and the Council within the monitoring period.
- Five Neighbourhood Plan areas were designated in the monitoring period at i) Carlton Colville, ii) Corton, iii) Mettingham, Barsham, Shipmeadow, Ringsfield and Weston, iv) Otley and v) Rushmere St Andrew
 - One Neighbourhood Plan was “made” in the monitoring period at Mutford
 - Many other Neighbourhood Plans progressed their production stages during 2019/20.
- 2.5 Chapter 5 relates to the Community Infrastructure Levy. The Council is now required to produce an annual Infrastructure Funding Statement (IFS), which details infrastructure income and spending. The 2019/20 IFS was approved by Cabinet on 1 December 2020 <https://eastsuffolk.cmis.uk.com/eastsuffolk/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/156/Committee/5/Default.aspx> and contains full details, which no longer need to be reported in the AMR. However, the headline figures (included in the AMR) for 2019/20:
- CIL received in the monitoring period was £5,090,000, of which £832,000 was passed directly to the relevant Town/Parish Council
 - CIL Demand Notices (issued once commencement of development has begun) totalling £3,966,000 were issued
 - Total developer contributions received (S106 legal agreements) to East Suffolk Council was £385,000 (other contributions were made to Suffolk County Council)
 - The Council is also preparing a single CIL Charging Schedule for the whole of East Suffolk (to replace the current Suffolk Coastal and Waveney Charging Schedules) based on the policies and allocations in the new Local Plans.
- 2.6 Chapter 6 focuses on the Council’s actions under the Duty to Cooperate with neighbouring authorities and statutory bodies as part of the Local Plan process and preparation.
- Under the Localism Act 2011, local planning authorities are required to engage constructively, actively and on an on-going bases in relation to strategic cross-boundary planning matters. East Suffolk Council regularly engages with neighbouring authorities and other prescribed bodies to ensure cooperation on

various matters throughout the production and implementation of Local Plan documents.

2.7 Chapter 7 details how the Suffolk Coastal and Waveney Local Plans have been implemented, performed and delivered over the monitoring period. The chapter is split into sub sections that are outlined below.

- Planning appeals – a big increase in appeals (total 119) but the dismissal rate remains high (about 75%), which shows that the Council is generally making correct decisions, with very few costs awards made by inspectors because of “unreasonable” behaviour by the Council in defending appeals.
- Employment – overall there has been a net gain of employment floorspace across East Suffolk. Within the former Suffolk Coastal area the largest increase is within B1 Offices; this includes the Riduna Park development (Melton). Although employment floorspace has been lost at the former Zephyr Cams factory (Lowestoft) the site has been re-developed for retail uses.
- Retail – the number of vacant units in the town centres has increased slightly overall – and the rates are likely to rise further in 2020/21 because of the effects of Covid-19.
- Housing – **819** new homes completed during the monitoring period (660 in Suffolk Coastal and 159 in Waveney); in terms of affordable homes, a total of **222** were completed (197 in Suffolk Coastal and 25 in Waveney). The Council has a housing land supply of **5.88** years in Suffolk Coastal and **6.04** years in Waveney. The Housing Delivery Test showed **127%** delivery in Suffolk Coastal and **89%** delivery in Waveney, against housing requirements/need over the period 2016/17 to 2018/19. An update to the Housing Action Plan was published in August 2020.
- Transport – applications received generally in conformity with the Suffolk County Council guidance on parking standards. Local Plan policies seek to further increase use of sustainable modes of transport.
- Community Facilities and Assets – Seven assets have been identified under the Community Right to Bid – pubs, meeting places and sports facilities. Planning permissions will create or enhance community facilities in Framlingham, Grundisburgh, Leiston, Oulton Broad, Saxmundham and Trimley St Mary. An application to re-develop Southwold Police Station (an Asset of Community Value) for residential use was refused.
- Climate Change – No planning applications have been approved in the monitoring period against Environment Agency advice on flood risk. A 220-dwelling scheme in Reydon was approved (subject to a S106 agreement) with seven “relocation” plots available for those who have lost/will lose properties in Easton Bavents due to coastal erosion.
- Natural Environment – no instances of nitrogen dioxide about the national objective level of 40µg/m³ but two Air Quality Management Areas remain (Woodbridge and Stratford St Andrew).
- Historic Environment – South Lowestoft Heritage Action Zone designated in September 2019 and five replacement Conservation Area appraisals approved.
- Health – communities in the former Suffolk Coastal area generally have better health and life expectancy than communities in the former Waveney area. Rates of physical activity are below the national average and obesity rates are higher

than the national average. Anxiety levels have increased; they are now above the national average in the former Waveney area.

- Site Allocations – this section provides a summary of site allocations with planning permission as at 31st March 2020. It also includes the site allocations identified in Neighbourhood Plans covering Framlingham, Kessingland, Leiston and Melton.

2.8 Chapter 8 relates to the Sustainability Appraisals that support the Local Plan documents. Tables provide a summary of potential significant effects (positive and negative) identified in the Council’s Sustainability Appraisals. Monitoring of these enables the potential significant effects to be assessed and any remedial action to be taken if required.

2.9 The document also includes four appendices to provide further detail, justification and information in respect of the details included in the AMR.

2.10 The AMR for the monitoring period 2019/20 shows that the policies in the Local Plans and Neighbourhood Plans across the district are generally performing as expected. The policies are all evidenced based, in general conformity with the National Planning Policy Framework, the Planning Practice Guidance and examples of best practice. They provide consistency of decision making for those wishing to bring forward applications and certainty for the local communities in respect of the future development and infrastructure requirements across the District.

3 HOW DOES THIS RELATE TO THE EAST SUFFOLK STRATEGIC PLAN?

3.1 The AMR is a key document to report on the progress of the Local Plan. The Local Plans across the district are central to the East Suffolk Strategic Plan as they provide policies that enable communities to fulfil their potential, whilst promoting economic growth and maintain a special quality of life. Central to the Local Plans for the district is significantly improving the economic, social and environmental wellbeing of the area.

3.2 The East Suffolk Strategic Plan focuses on Enabling Communities, Economic Growth and Financial Self-Sufficiency. The AMR provides monitoring information of policies and actions that collectively contribute to this strategy, through the implementation of the Local Plans.

3.3 The AMR provides monitoring information in respect of the health and wellbeing of communities across East Suffolk. Fundamental to the Local Plans in East Suffolk is the delivery of healthy and thriving communities which provide significant benefits in respect of access to the countryside, areas of recreation, community facilities and employment opportunities.

3.4 Overall, therefore, the following themes and priorities of the Strategic Plan are relevant:

Growing our Economy – Support and deliver infrastructure

Enabling Communities – Maximising health, well-being and safety in our District

Delivering Digital Transformation – Digital by default and Effective use of data

Caring for our Environment – Protection, education and influence

4 FINANCIAL AND GOVERNANCE IMPLICATIONS

4.1 The AMR has been prepared by the Planning Policy and Delivery Team who continually monitor the progress of the Local Plan policies and planning applications that are

received and determined by the Council. The financial costs of this are already accounted for within existing staff budgets for the Planning and Coastal Management Service Area.

- 4.2 The AMR has been prepared in accordance with Regulation 34 of the Town and Country Planning (Local Planning) (England) Regulations 2012 and will be published on the Council's website.

5 OTHER KEY ISSUES

- 5.1 This report has been prepared having taken into account the results of an Equality Impact Analysis. No specific issues have been identified through the Equality Impact Analysis.

6 CONSULTATION

- 6.1 The preparation of the AMR does not require any public consultation before it is published on the Council's website.
- 6.2 The AMR has been prepared by officers in the Planning Policy and Delivery Team as they have responsibility for the monitoring of Local Plan policies and indicators. Other teams across the Council, such as Housing, Economic Development and Infrastructure have also been involved with the preparation and collation of information included in the AMR.
- 6.3 A draft of the AMR was presented to the Local Plan Working Group on Wednesday 18th November 2020 and one or two minor adjustments were made as a result.
- 6.4 As last year, a significant amount of monitoring data (updated to include 2019/20 information) will be available on the [East Suffolk Open Data webpage](#), enabling users to search for and obtain monitoring information on a range of different themes and elements.

7 OTHER OPTIONS CONSIDERED

- 7.1 The Council is also required to publish its AMR in accordance with Regulation 34 of the Town and Country Planning (Local Planning) (England) Regulations 2012.
- 7.2 The Council could choose to not monitor and publish the AMR, but this would be contrary to the Town and Country Planning (Local Planning) (England) Regulations 2012. Not undertaking the AMR would result in the Local Plan policies not being subject to monitoring and therefore the Council not being able to judge the usefulness of them.

8 REASON FOR RECOMMENDATION

- 8.1 In order to publish the AMR for the monitoring period 2019/20, the Constitution outlines that Strategic Planning Committee is required to review and monitor the operational impact of the Council's planning policies and development management activities.

RECOMMENDATIONS

1. That the Council publish the East Suffolk Authority Monitoring Report covering the period 1st April 2019 to 31st March 2020.
2. That the Cabinet Member for Planning and Coastal Management, in conjunction with the Head of Planning and Coastal Management Service, be given delegated authority to make minor typographical or presentational changes to the document following Strategic Planning Committee.

APPENDICES	
Appendix A	East Suffolk Authority Monitoring Report 2019/20

BACKGROUND PAPERS		
Date	Type	Available From
November 2020	Equality Impact Analysis	Planning Policy and Delivery Team

DRAFT East Suffolk Authority

Agenda Item 10
ES/0598

Monitoring Report 2019/20

Covering the Suffolk Coastal Local Plan area and the Waveney Local Plan area

An update on progress of the Local Plans, delivery of policies and proposals and other monitoring information for East Suffolk

Published December 2020



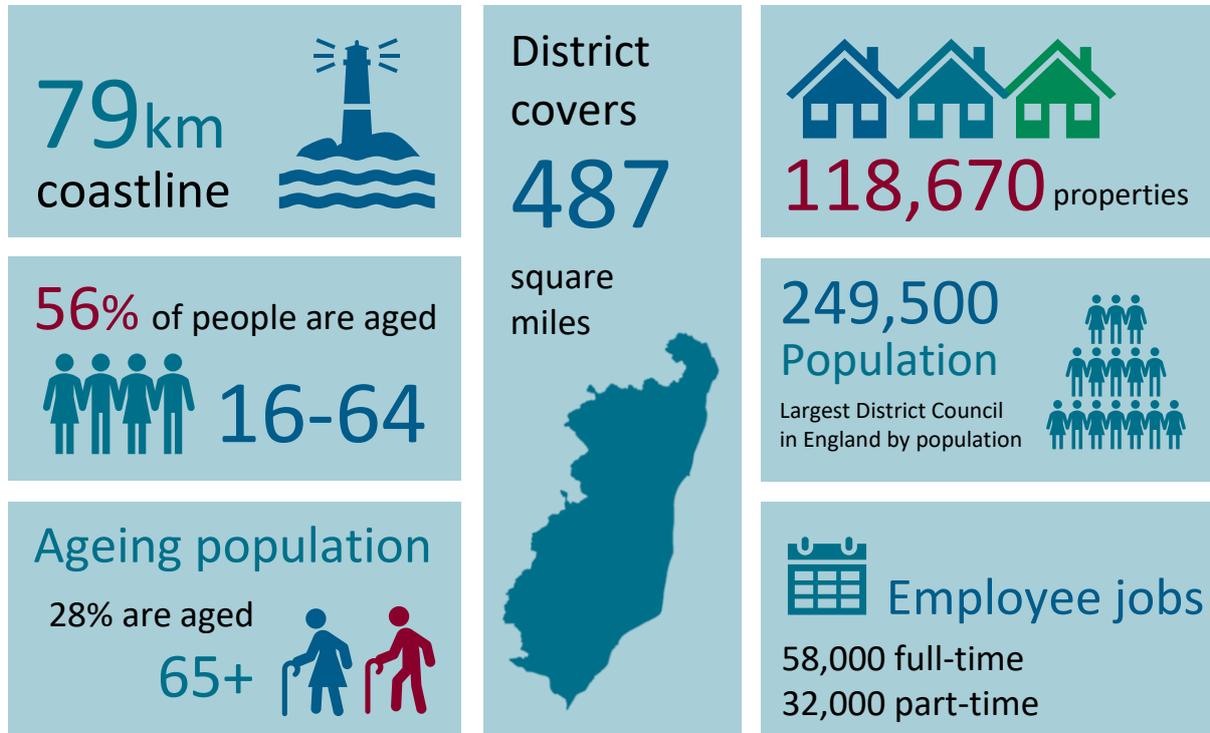
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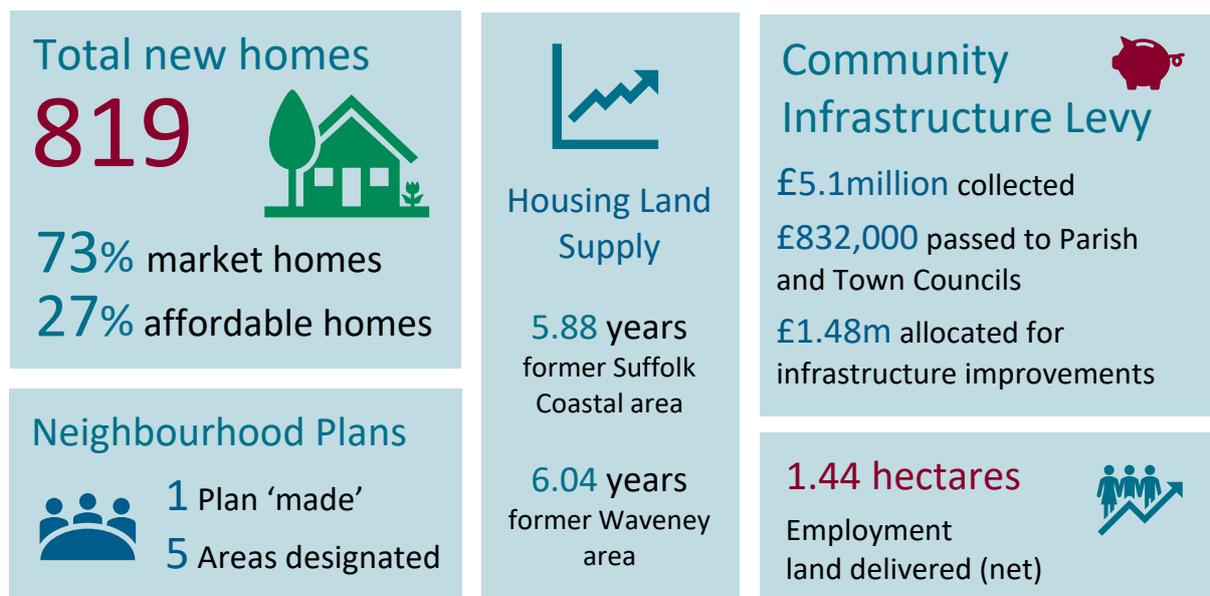
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Whilst every effort is made to ensure the accuracy of data in this report it cannot be guaranteed free of errors.

About East Suffolk



Key statistics 2019/20



Source: About East Suffolk - Office for National Statistics population estimates 2019; Valuation Office Agency Council Tax Stock of Properties 2020; Business Register and Employment Survey 2018. Key statistics 2019/20 - see Appendix 1 Indicators and sources.

1 Introduction

- 1.1 Authority Monitoring Reports (AMRs) provide an assessment on the progress of the preparation of Local Plans and monitor the effectiveness of policies and the delivery of allocations in the Local Plans.
- 1.2 This Authority Monitoring Report covers the monitoring period 1st April 2019 to 31st March 2020 and includes any significant progress that has been made or milestones achieved in this monitoring period.
- 1.3 Monitoring plays an important role in the successful delivery of Local Plans. The AMR is the main mechanism for assessing the effects of the Local Plan and the performance of its policies. The results of monitoring will feed into any future review or revision of policies that may be required. The AMR therefore performs an important role by assessing performance and informing the review of outdated or redundant planning policies.
- 1.4 East Suffolk Council was created on 1st April 2019, covering the former districts of Suffolk Coastal and Waveney. East Suffolk Council is the Local Planning Authority for the District (other than the part that lies within the Broads Authority area).
- 1.5 Both former Councils have produced an AMR each year since 2004/05. This is the second AMR for East Suffolk. The Broads Authority produces its own monitoring report to cover that part of East Suffolk that lies within the Broads Authority area.
- 1.6 The East Suffolk Waveney Local Plan was adopted on 20th March 2019, superseding the adopted planning policies and site allocations in the Waveney Local Development Framework documents. It is therefore the effectiveness of the East Suffolk Waveney Local Plan policies that will be reflected in this Authority Monitoring Report.
- 1.7 A new Local Plan for the former Suffolk Coastal area was adopted on 23rd September 2020, superseding the former Local Plan documents listed in the table below. However, as this has come after the end of the 2019/20 monitoring period, it is the effectiveness of the Local Plan policies listed below that are reflected in this AMR.

Local Plan Document	Adopted date	Geographical coverage
Suffolk Coastal District Local Plan Core Strategy and Development Management Policies	July 2013	Former district of Suffolk Coastal
Suffolk Coastal Site Allocations and Area Specific Policies	January 2017	
Felixstowe Peninsula Area Action Plan	January 2017	
Saved Policies from the First and Second Alteration Suffolk Coastal Local Plan (Suffolk Coastal Local Plan	2001 and 2006	
Waveney Local Plan	20 th March 2019	Former district of Waveney (excluding the Broads Authority area)

2 Content and structure of the report

2.1 There are key pieces of information that must be covered by an Authority Monitoring Report:

- progress on the Local Plan against the timetable in the Local Development Scheme;
- details of any neighbourhood plans or neighbourhood development orders that have been adopted;
- any Community Infrastructure Levy receipts;
- any action taken under the duty to cooperate;
- details of any policies not being implemented;
- net amount of additional affordable housing; and
- total housing (and affordable housing) completed against annual requirements.

2.2 This report covers the monitoring period 1st April 2019 to 31st March 2020, and is structured as follows:

Section 3 – reports on the progress of the Suffolk Coastal and Waveney Local Plans against their respective Local Development Scheme key milestones

Section 4 – reports on Neighbourhood Plans / Neighbourhood Development Orders across East Suffolk

Section 5 – reports on Community Infrastructure Levy receipts and payments for the former Suffolk Coastal and Waveney areas

Section 6 – reports on the way in which the authority has continued to fulfil the requirements under the Duty to Cooperate associated with Local Plans covering the former Suffolk Coastal and Waveney areas

Section 7 – reports on the implementation, performance and delivery of the Local Plans in East Suffolk

Section 8 – monitors the predicted Sustainability Appraisal significant effects of the Local Plans in East Suffolk

2.3 Section 7 is broadly arranged to reflect the Local Plan chapters in the Suffolk Coastal and Waveney Local Plans. In addition, a section on Health is included to reflect the theme of enabling communities which is central to the East Suffolk Business Plan and a cross cutting theme in the Local Plans. The

Council seeks to support healthy communities and promote healthy lifestyles through Local Plan policies that respect the varied demographics across the District, including policies for new or improved sporting facilities, and extra care / care homes to support the ageing population.

- 2.4 Each Local Plan has a Monitoring Framework setting out how the performance of the policies they contain will be monitored. Many of these indicators are similar for both areas. A Sustainability Appraisal was carried out for each Local Plan which identified additional indicators to monitor any potential significant positive or negative effects of the Plans.
- 2.5 Whilst some indicators are monitored annually by the Council or external bodies, others are monitored less frequently (for example through the national Census or specially commissioned studies). Results for some indicators change near-constantly or regularly such as housing completions, employment figures or the number of vacant shops in town centres; such indicators can have information on timescales ranging from monthly to quarterly. Others, such as health, education and many environmental indicators, will show changes and trends over a longer timescale. This means it is not always possible, practical or useful to report on every indicator every year.
- 2.6 A list of indicators common to both the Waveney Local Plan 2019 and the (now-adopted) Suffolk Coastal Local Plan have been used to provide the basis for monitoring and reporting in this AMR. The analysis and commentary provided for the data presented has focused on the main findings and will assist in providing a baseline for future monitoring of the new Local Plans. See Appendix 1 for full list of indicators and data sources.
- 2.7 Where appropriate or available, data for East Suffolk is presented. Unless stated, data is for the 2019/20 monitoring period.
- 2.8 Where relevant, an assessment of the performance of policies and objectives against the indicators is given for each adopted Local Plan.
- 2.9 To ensure this document focuses on the assessment of the outcomes rather than the presentation of data indicators, the Council's open data portal provides further detailed information for the monitoring period in the form of spreadsheets and/or maps at <http://data-east Suffolk.opendata.arcgis.com>. Weblinks to third party data are also provided.
- 2.10 Section 8 reports on the Sustainability Appraisal indicators to monitor potential significant effects of the Local Plans.

2.11 Further planning information can be found on East Suffolk Council's webpages:

Planning Policy and Local Plans www.eastsuffolk.gov.uk/localplan

Open Data Portal <http://data-eastsuffolk.opendata.arcgis.com>

Neighbourhood Planning www.eastsuffolk.gov.uk/neighbourhood-planning

Self Build and Custom Build Register www.eastsuffolk.gov.uk/self-build-and-custom-build-register

Community Infrastructure Levy www.eastsuffolk.gov.uk/CIL

Brownfield Land Register www.eastsuffolk.gov.uk/brownfield-land-register

Planning Applications www.eastsuffolk.gov.uk/planning-applications



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3 Progress of Local Plan against Local Development Scheme milestones

Suffolk Coastal Local Plan

- 3.1 The Suffolk Coastal [Local Development Scheme](#) was adopted on 16th October 2015 and amended in June 2020 to take account of the latest Local Plan examination timescale. Whilst the examination of the Local Plan ended up taking longer than originally expected (due to a variety of reasons), the key milestones (taking matters up-to-date to the adoption of the Local Plan) were:

August/September 2019	Examination Hearing
Late summer-early autumn 2020	Receipt of Inspector's report
Adoption of Local Plan	By December 2020

- 3.2 These milestones were met, with the Local Plan adopted on 23rd September 2020.

Waveney Local Plan

- 3.3 The Waveney [Local Development Scheme](#) was adopted and came into effect on 28th September 2018. There are no milestones for this monitoring period as the Local Plan was adopted by (the now-former) Waveney District Council on 20th March 2019.

4 Neighbourhood Plans / Neighbourhood Development Orders

- 4.1 Neighbourhood Plans are optional plans prepared by the local community which set out detailed planning policies and proposals for their specific area e.g. a parish. Once ‘made,’ they form part of the Development Plan against which planning applications must be determined.
- 4.2 A Neighbourhood Plan allows communities to create a vision and planning policies for the use and development of land for their area, for example, where new homes should be built and what they should look like.
- 4.3 Neighbourhood Development Plans must be in general conformity with the strategic policies in the Council’s adopted Local Plan.
- 4.4 With a Neighbourhood Development Order, communities can grant planning permission for development they want to see go ahead in a neighbourhood, for example allowing home extensions to be built without the need to apply for planning permission.

Neighbourhood Planning 2019/20	Locality	Date
Neighbourhood areas designated	Carlton Colville	6 June 2019
	Corton	3 March 2020
	Mettingham, Barsham, Shipmeadow, Ringsfield and Weston	3 March 2020
	Otley	26 April 2019
	Rushmere St Andrew	22 February 2020
Neighbourhood Plan Examinations	Bredfield	September 2019 – July 2020
	Kesgrave	March – June 2020
	Reydon	April – July 2020
Neighbourhood Plans ‘made’	Mutford	16 December 2019
Neighbourhood Development Orders	N/A	

- 4.5 Five Neighbourhood areas have been designated and the Mutford Neighbourhood Plan ‘made’ (adopted) in 2019/20.
- 4.6 Neighbourhood plans for Bredfield, Kesgrave and Reydon have successfully been through examination. Due to Covid-19 restrictions it is not possible to hold the referendum which would take place under normal circumstances. Nevertheless, recently published Government guidance says that these plans carry significant weight in decision-making once the Examiner has recommended that the Plan can move to the referendum.
- 4.7 A number of ‘made’ neighbourhood plans allocate sites for specific purposes such as housing, employment or mixed use. Section 7 reports on the progress and delivery of these sites along with those allocated in the Local Plans.
- 4.8 Further information on Neighbourhood Planning including information on all designated neighbourhood areas, ‘made’ Neighbourhood Plans and guidance notes can be found at www.eastsuffolk.gov.uk/neighbourhoodplanning.

5 Community Infrastructure Levy

- 5.1 The Community Infrastructure Levy (CIL) is one of the ways in which the Council collect financial contributions from developers to help pay for new and improved infrastructure including infrastructure to make development sustainable and support delivery of the Local Plan.
- 5.2 The Waveney Community Infrastructure Levy Charging Schedule was adopted by Waveney District Council on 22nd May 2013 and charges came into effect on 1st August 2013. The Suffolk Coastal Community Infrastructure Levy was adopted 28th May 2015 and came into effect on 13th July 2015.
- 5.3 Community Infrastructure Levy receipts are distributed as follows:
- 15%¹ is passed to the relevant Town/Parish Council. For areas covered by a ‘made’ Neighbourhood Plan or Neighbourhood Development Order, 25% is passed to the Town/Parish Council
 - 5% is retained by the Council to cover administration expenses associated with setting, collecting, monitoring and spending CIL
- 5.4 The remaining Levy amount, known as District CIL, is retained by the Council to be spent on infrastructure to support development in the Local Plan and in Neighbourhood Plans. The allocation of District CIL to different required infrastructure projects is made through an annual process, in consultation with infrastructure service providers.
- 5.5 Changes to the CIL legislation in 2019 now require the production of annual Infrastructure Funding Statements (IFS). The annual IFS must set out which projects are to be funded by CIL in the future, as well as how much CIL has been collected, what it has been spent on and how much has been passed to parish councils. Similar information is also required to be published in relation to Section 106 legal agreements (planning obligations).
- 5.6 The Council has published its first (2019-20) Infrastructure Funding Statement, which can be found here ([insert weblink](#)). As a result, the contents are not duplicated in this AMR, other than the summary figures below for 2019/20:

¹ Subject to a cap of £100 (indexed) per council tax dwelling

CIL received	£5,090,000
CIL Demand Notices issued (total)	£3,966,000
Neighbourhood CIL passed to parishes	£832,000
Total developer contributions (S106 legal agreements) received	£385,000

- 5.7 The Council will, in 2021, be able to publish all current and historic information on developer contributions, updated in real-time, on its website, through the use of software called Exacom. This will enable interrogation of particular planning permissions (to see the quantity of developer contributions, and for which areas of infrastructure and/or (as relevant) affordable housing and how the spending and delivery of this infrastructure is progressing)..
- 5.8 The Council is also preparing a single CIL Charging Schedule for East Suffolk, which on adoption will replace the existing two CIL Charging Schedules. Further information on this will be available on the website in early 2021.
- 5.9 Further information on Community Infrastructure Levy in East Suffolk can be found at www.eastsuffolk.gov.uk/CIL.

6 Duty to Cooperate

6.1 The Localism Act 2011 requires planning authorities to engage constructively, actively and on an on-going basis with other prescribed bodies in relation to strategic cross-boundary planning matters. There are a number of strategic cross-boundary planning matters that are relevant to East Suffolk, including those which have involved co-operation with adjoining planning authorities throughout the production of the recently adopted Suffolk Coastal Local Plan and the adopted Waveney Local Plan.

Suffolk Growth Partnership

6.2 Suffolk Growth is funded by Suffolk Public Sector Leaders (SPSL). Suffolk Growth is a partnership organisation that brings together local authority teams to develop and deliver our shared inclusive growth agenda. The partnership works closely with New Anglia Local Enterprise Partnership (NALEP), Suffolk Chamber of Commerce (SCoC), the University of Suffolk, Suffolk Constabulary, and wider public sector teams, including communities and health.

6.3 Suffolk Growth is leading in the delivery of a number of projects related to enabling growth, including the Suffolk Design project and associated guidance. Covid-19 has impacted the progress of Suffolk Design however work on Suffolk Design for Streets is continuing and public consultation is expected in the new year. The Suffolk Design Management Process is being reviewed and further developed, lead by the Suffolk Design officer group. Further information can be found at <http://www.suffolkdesign.uk/>

6.4 Suffolk Growth leads the economy and business response and recovery to Covid-19 in Suffolk. This includes details of the different local and national funding support available to all businesses which is regularly updated, including the Suffolk Inclusive Growth Investment Fund. Local surveys have been carried out to assess the impact of Covid-19 on the economy and businesses, and collated, summarised and provided links to the Government's latest guidance and legislation to support businesses operating safely. Suffolk Local Authorities distributed over £178m in grants to 15,292 local business between March and September 2020.

6.5 Further details on the work of the Suffolk Growth Partnership including Suffolk's Framework for Growth can be found at <https://www.suffolkgrowth.co.uk/suffolks-growth-framework>

Coastal Zone Management

6.6 East Suffolk Council, along with other coastal authorities, co-operate in relation to strategic cross-boundary matters relevant to the management of the coast. East Suffolk Council, along with the Borough Council of King's Lynn and West Norfolk, North Norfolk District Council, Great Yarmouth Borough Council and The Broads Authority signed a Statement of Common Ground in relation to Coastal Zone Planning in September 2018. This sets out a series of shared aims and an agreed approach in relation to working together on coastal planning issues. The Statement of Common Ground can be viewed at www.coasteast.org.uk/plans-and-policies/local-plans/.

6.7 The day to day management of the coast in the district is covered by Coastal Partnership East, a partnership which brings together the coastal management resources and expertise from Great Yarmouth Borough Council, North Norfolk District Council and East Suffolk Council.

Ipswich Strategic Planning Area

6.8 The Ipswich Strategic Planning Area (ISPA) comprises the geographic area of the former Suffolk Coastal District, along with Ipswich Borough and Babergh and Mid Suffolk Districts. The authorities within this area have a long-established history of working together on cross-boundary planning matters, including through the former Ipswich Policy Area Board.

6.9 The ISPA Board, which evolved from the Ipswich Policy Area Board, comprises a councillor representative from each of these authorities and also from Suffolk County Council. The Terms of Reference for the Board were produced in March 2018 and updated in July 2019, and identify the function of the Board as being to provide a forum in which the five local authorities can work together to develop, promote and deliver their vision for the Ipswich Strategic Planning Area; to co-operate on the preparation and monitoring of local plans; and to provide a mechanism to ensure that all partners and stakeholders work together to deliver the housing and employment growth requirements for the area and coordinate the delivery of the necessary infrastructure.

6.10 The local planning authorities within the ISPA are committed to the production of joint or aligned Local Plans through their Local Development Schemes and have subsequently worked together on the production of evidence and the identification of appropriate outcomes to address cross-boundary planning matters.

6.11 As advocated by the National Planning Policy Framework (paragraph 27), this work has been documented through the production of a Statement of Common Ground. The Statement of Common Ground covers the following cross-boundary matters:

- Alignment of timetables;
- Strategic Policies and Vision for the Ipswich Strategic Planning Area;
- Agreeing the approach to the delivery of the housing requirement;

- Impact of bordering strategic housing developments;
- Defining the functional economic market area and objectively assessed need;
- Impact of bordering strategic employment land developments;
- Enhancement and regeneration of retail centres;
- Strategic Infrastructure Priorities;
- Identification of cumulative / cross border infrastructure requirements resulting from planned growth, and mitigation measures;
- Mitigation of potential impacts upon internationally protected sites.

6.12 The Statement of Common Ground has been updated and evolved to respond to the progression of the production of Local Plans, the production and updating of evidence and changes in national policy and guidance. The Statement of Common Ground was updated once further during the 2019/20 monitoring period. Version 5 was agreed in October 2019 and signed in January 2020 to accompany the publication of the Ipswich Final Draft Local Plan (January 2020).

6.13 Much of the work on joint evidence to inform the local plans in the Ipswich Strategic Planning Area was undertaken prior to the 2019/20 monitoring period and is documented in the Statement of Common Ground. During the monitoring period, in progressing Local Plans the Councils co-operated further on the production of the following evidence:

- Transport modelling – a number of iterations of transport modelling work have been undertaken to model the cumulative impacts of growth identified through local plans in the ISPA on the highways network. In the 2019/20 monitoring period, further modelling was undertaken to consider the potential for modal shift and to help to inform a package of mitigation.

6.14 The Statement of Common Ground documents outcomes in relation to agreements on strategic cross-boundary planning matters. These are set out in the Statement of Common Ground and include:

- That the Local Plans being prepared will adopt a common time scale to cover the period up to 2036;
- That the standard method will form the starting point for calculating housing need and that each local planning authority will plan to meet its own housing need;
- The identification of baseline jobs growth and land requirements, and the roles of strategic scale employment sites within the respective authorities of the ISPA;
- That Local Plans will recognise the regional role of Ipswich town centre;
- The strategic infrastructure projects that are identified as being priorities;

- Cross-boundary infrastructure requirements related to growth being planned for in Local Plans, including the production of a transport mitigation and funding strategy, to identify funding and delivery mechanisms related to modal shift;
- The role of the Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) in mitigating the cumulative impacts of recreational disturbance on protected European sites from growth in the ISPA;
- The Statement of Common Ground further identifies land at Humber Doucy Lane as a cross-border housing allocation involving land within Ipswich Borough and the Suffolk Coastal area which has been progressed through the production of Local Plans for the two areas.

6.15 Action Notes from Ipswich Strategic Planning Area Board meetings, the Terms of Reference and the signed Statement of Common Ground (March 2019) can all be viewed on the ISPA website at www.ipswich.gov.uk/content/ipswich-strategic-planning-area.

The Norfolk and Suffolk Broads

6.16 The Norfolk and Suffolk Broads is a National Park that include Britain's largest protected wetlands and third largest inland waterway. The National Park covers parts of East Suffolk, South Norfolk, Great Yarmouth, Broadland, Norwich and North Norfolk and is managed by the Broads Authority² (which was set up 1989). The Broads overlaps the northernmost part of East Suffolk along the River Waveney and Oulton Broad and takes in parts of Bungay and Beccles. Under the Duty to Cooperate a 'Memorandum of Understanding' with the Broads Authority was signed by all the Authorities that border the Broads Authority area.

6.17 The 'Memorandum of Understanding' notes the statutory purposes imposed by the Norfolk and Suffolk Broads Act 1989 (as amended) including:

- Conserving and enhancing the natural beauty, wildlife and cultural heritage of the Broads;
- Promoting opportunities for the understanding and enjoyment of the special qualities of the Broads by the public; and
- Protecting the interests of navigation.

6.18 The 'Memorandum of Understanding' states the Broads Authority will not have a strategic housing target or the need to deliver a particular quantum of housing or employment development. The Districts will assess, for planning purposes the housing and employment needs for their administrative areas and deliver wholly outside of the Broads area. The 'Memorandum of Understanding' was last updated in 2012 as part of a Statement of Common Ground to support the examination of the Broads Local Plan.

² www.broads-authority.gov.uk

6.19 A Statement of Common Ground was signed in 2018 that confirms the housing agreement between the Broads Authority and former Waveney District Council. The Broads' Objectively Assessed Need forms part of the Waveney's Housing Market Area. The Broads Authority agreed to report any housing completions in their area to the former Waveney District Council to be counted towards housing delivery targets.

6.20 The 'Memorandum of Understanding' and 'Statement of Common Ground' with the Broads Authority are reproduced in the Appendices of the 'Duty to Cooperate Statement for the Waveney Local Plan' which can be viewed at www.eastsuffolk.gov.uk/assets/Planning/Waveney-Local-Plan/Final-Draft-Local-Plan/Duty-to-Cooperate-Statement.pdf.

Great Yarmouth Borough Council

6.21 The former Waveney area and Great Yarmouth Borough Council area share similar characteristics, economies, regeneration plans, and aims to attract offshore energy investment. Despite their similarities the two areas have their own separate Housing Market Areas and Functional Economic Areas. Great Yarmouth Borough Council and the former Waveney District Council signed a 'Memorandum of Understanding' in 2014 agreeing to work on strategic planning matters. These priorities include:

- The homes and jobs needed in the Housing Market Areas;
- Retail, leisure and other commercial development;
- Infrastructure for transport, telecommunications, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy;
- Health, security, educational, community, cultural and green infrastructure and other local facilities; and
- Climate change mitigation and adaptation, habitat impact mitigation, conservation and enhancement of the natural and historic environment including landscape.

6.22 The two areas have an extensive history of working together on a range of strategic planning and cross boundary issues including the production of evidence base studies to support the development of Local Plans, Area Action Plans and Supplementary Planning Documents. The 'Memorandum of Understanding' is kept under annual review and regular meetings are held between the two Councils.

6.23 The 'Memorandum of Understanding' with Great Yarmouth Borough Council is reproduced in the Appendix of the 'Duty to Cooperate Statement for the Waveney Local Plan' which is available to view at www.eastsuffolk.gov.uk/assets/Planning/Waveney-Local-Plan/Final-Draft-Local-Plan/Duty-to-Cooperate-Statement.pdf.

7 Implementation, performance and delivery of the Suffolk Coastal and Waveney Local Plans

Appeal decisions

- 7.1 Appeal decisions provide a useful indicator as to how individual planning policies are performing, the overall performance of the development strategy and where they may need to be updated for example if they no longer reflect national policy or are not being interpreted as intended.

Appeal decisions	Suffolk Coastal	Waveney
Dismissed	66	23
Allowed with conditions	19	7
Allowed without conditions	4	0
Withdrawn	1	0
Total determined	89	30

- 7.2 The number of appeals rose significantly from 2018/19, when the total determined appeals were 46 in Suffolk Coastal and 7 in Waveney. There do not appear to be any obvious factors explaining the rise, although it could be surmised that in the former Suffolk Coastal area, some policies were considered out of date by appellants, given the relative age of the (now-former) Suffolk Coastal Local Plan. However, there is little hard evidence to support this; the mere age of a Local Plan does not automatically mean that it is “outdated” and the policies were generally found to be relevant and up-to-date.
- 7.3 A small number of appeals in 2019/20 in the former Suffolk Coastal area stated that the Council could not demonstrate a 5-year housing supply; however given the emerging Suffolk Coastal Local Plan, it was generally found that the Council could demonstrate a sufficient land supply. Where it was suggested that the land supply was not sufficient, there were other grounds to dismiss the appeals. Furthermore, some policies in the Suffolk Coastal Local Plan were considered out of date; however, again, the appeals were refused on different grounds. As noted elsewhere in this AMR, the

Council has concluded that there is a 5.88-year supply of land in the former Suffolk Coastal area (as at the end of 2019/20) and the Suffolk Coastal Local Plan was adopted on 23rd September 2020.

- 7.4 In the former Waveney area, none of the appeals decisions referenced any challenges to policies or inconsistencies with national planning policy. The Waveney Local Plan was adopted in March 2019 and the policies in the plan have been applicable for a full year (to the end of the 2019/20 period).
- 7.5 Decisions where permission was refused partly or fully on design grounds were also robustly upheld in most cases; design remains a significant consideration for applications and appeals.
- 7.6 The high dismissal rate (about 75% for each area) shows that the Council was, overall, making 'correct' decisions on planning applications. Even in cases where appeals were allowed, it does not automatically mean that the Council got these decisions 'wrong' – in many such cases, the Inspector simply reached a different planning judgment on the overall balance.
- 7.7 It is not clear why there was such a significant rise in appeals received in the monitoring year 2019/20 however it could be surmised that in the former Suffolk Coastal area, the policies were considered out of date by appellants, given the emerging Suffolk Coastal Local Plan but there is little hard evidence to support this, and the policies were generally found to be relevant and up-to-date despite the emerging local plan and replacement policies, and there were additional grounds for dismissal of the appeals.
- 7.8 As the East Suffolk (Waveney) Local Plan was adopted in 2019 the monitoring of its policies is obviously still in its infancy. The East Suffolk (Suffolk Coastal) Local Plan was only adopted in September 2020 (so outside the 2019-20 monitoring year) there is no data available on the new policies; the first picture will be available in the next AMR (2020/21).

Local Plan policies not being implemented

- 7.9 Regulation 34 of the Local Planning Regulations 2012 requires local authorities to identify which of their policies are not being implemented, to state the reasons why, and identify the steps (if any) being taken to rectify this. Such policies may need to be amended or replaced, for example if they no longer reflect national guidance or are no longer relevant to the local area.
- 7.10 As Local Plans are spatial plans, policies are implemented partly through the determination of planning applications but also through other actions, for example supporting new infrastructure delivery (determined through Nationally Significant Infrastructure Projects) such as the Lake Lothing Third Crossing or provision of school places.

Suffolk Coastal Local Plan

- 7.11 All policies in the (now-former) Suffolk Coastal Local Plan (including ‘saved’ policies) were being implemented, with the exception of those affected by Government changes regarding Code for Sustainable Homes compliance, and water and energy efficiency now set through Building Regulations. The changes affected parts of Policy DM24 Sustainable Construction rather than the whole policy intent. The Council’s Planning Policy Position Statement in relation to the revoking of the Code for Sustainable Homes can be found at www.eastsuffolk.gov.uk/assets/Planning/Suffolk-Coastal-Local-Plan/SCDC-Planning-Policy-Position-Statement.pdf.
- 7.12 As noted earlier in the AMR, although this monitoring year is 2019/20, the replacement Suffolk Coastal Local Plan was adopted on 23rd September 2020 and so the new suite of policies will be assessed in the next AMR (2020/21).

Waveney Local Plan

- 7.13 As the Waveney Local Plan was only adopted at the end of March 2019, there is currently no evidence of policies not being implemented as adopted – one year is obviously only a short period of time in the life of the Local Plan, which runs until 2036. Future AMRs will identify if any policies are not being implemented and actions required to address any issues.

Employment

- 7.14 This section provides information on the delivery of new employment land, the types of uses on existing employment areas and contextual data on employment, unemployment, earnings and qualifications.
- 7.15 The Council monitors employment land and planning permissions for employment uses. This is done on an annual basis and provides details of the amount of land across the district which is available for industrial and business type uses.
- 7.16 Industrial and business land has been classified as that which falls within business and industrial uses as defined by the Town and Country Planning (Use Class) Orders 1987 as amended. Land is considered to be available if it:
- (i) has a valid planning permission for industrial and business use and construction has not been completed;
 - (ii) is allocated for industrial and business use in the Local Plan or a Neighbourhood Plan.

7.17 Major changes were made to the Use Classes Order in September 2020, with the new Class E encompassing the former B1 use classes (offices, R&D and low-impact industrial processes), as well as various forms of retailing (formerly A1-A3), clinics and day centres (formerly D1) and gyms and indoor recreation (formerly D2). For the purposes of this AMR, however, the analysis is based on the position before this change (i.e. at the end of March 2020).

7.18 Due to the Covid-19 situation, it was not possible to undertake the surveys during May and June (as is more usual) – instead they took place in September and October. It is possible that the information is therefore not directly comparable to previous years, although it is considered that relatively little construction on employment land took place from April-summer 2020.

Employment land Indicator	Use Class	Suffolk Coastal	Waveney	East Suffolk	Link to further information
Amount and type of employment uses completed (hectares)	B1a	0.65	0.11	N/A	East Suffolk Open Data Portal
	B1b	0.19	0		
	B1c	0.01	-0.08		
	B2	-0.04	-1.72		
	B8	0.41	0.11		
Amount and type of employment uses floorspace completed (m ²)	B1a	11,399	1,531	N/A	East Suffolk Open Data Portal
	B1b	1,868	-3,092		
	B1c	150	-525		
	B2	-2,262	-4,331		
	B8	3,232	1,075		
Percentage of uses within existing employment areas / allocations. <i>NB employment surveys undertaken during September-October 2020</i>	B1a	23.7%	7.4%	N/A	East Suffolk Open Data Portal
	B1b	0.5%	0%		
	B1c	4.5%	6.6%		
	B1 (General)	8.6%	4.0%		
	B2	10.4%	23.3%		
	B8	17.8%	29.8%		
	Non-B uses	28.4%	28.8%		
Uncategorised	6.1%	0.0%			
Percentage of vacant units within existing employment areas / allocations.	B1-B8 uses	2.7%	11.7%	N/A	East Suffolk Open Data Portal
	All uses	(15 of 594)	(87 of 742)		
		9.7%	15.4% (114 of 742)		

Employment land Indicator	Use Class	Suffolk Coastal	Waveney	East Suffolk	Link to further information
<i>NB employment surveys undertaken during September-October 2020</i>		(54 of 594)			
<p><u>Employment use classes:</u> B1a business office; B1b research and development; B1c light industrial; B2 general industrial; B8 storage or distribution</p> <p>B1 (General) category includes units unable to be distinguished between B1b and B1c uses from site surveys</p> <p><i>NB: within the former Suffolk Coastal area it has not been possible to identify a use for a number of vacant units during site surveys. It is intended that future surveys will identify the use of these units to provide more robust data</i></p>					

Suffolk Coastal Local Plan

- 7.19 In respect of employment land needs in the former Suffolk Coastal area, the Council worked with neighbouring authorities to compile a comprehensive evidence base focusing on the Ipswich Economic Area. The Ipswich Economic Area Sector Needs Assessment (2017) identified a growth of 7,940 new jobs over the period 2014-2036. Considering the jobs forecast and the past trends in take up of employment land, the study identifies a need for 14.4ha of new employment land to meet needs. The then-emerging (now-adopted) Local Plan recalculates these requirements to the plan period 2018-2036 and also includes land allocations which significantly over-provide to enable key economic activities to maintain and enhance their role and contribution to the national and local economies over the plan period.
- 7.20 Within the former Suffolk Coastal area, employment land is identified in towns and villages as well as a number of dispersed airfields. The mix of land allocated provides for a variety of functions to take place. The identification of employment land in rural locations complements the offer provided in the towns and significant areas of employment such as the Port of Felixstowe, Adastral Park and the edge of Ipswich. It is important to maintain a supply of employment land to facilitate investment and enterprise. This needs to be balanced against over-provision, restricting potential to meet other commercial or housing needs.
- 7.21 Within the former Suffolk Coastal area, 25,290m² of employment floorspace has been completed of which almost half comprises B1a offices. Employment floorspace losses total 10,903m² therefore net additional floorspace for the monitoring year is 14,387m². However, a number of developments

completed in previous years are only now being reported, including over 6,000m² for a number of office units at Riduna Park, Melton on the site the former Girdlestone factory (loss of 3,400m²).

- 7.22 5,900m² net additional employment floorspace has been completed in the rural areas – outside of settlement boundaries, protected employment sites or employment allocations. A number of these rural completions involve the conversion of agricultural buildings in parishes such as Earl Soham, Kelsale cum Carlton, Letheringham, Pettistree and Sudbourne.
- 7.23 Net employment completions this year (14,387m²) are significantly higher than last year (1,496m²). The biggest increase has been in the B1 use class (particularly office uses) from 95m² net additional floorspace in 2018/19 to 13,417m² this year. However, as previously noted, some completions recorded this year may have completed in previous years.
- 7.24 As at 31st March 2020, outline and full planning consents, if implemented, will provide 155,089m² net additional employment floorspace.
- 7.25 Within the employment areas/allocations defined in the now-adopted Local Plan for the former Suffolk Coastal area, almost a quarter of all units are use class B1a (Offices, excluding those within A2 Financial and Professional Services). The Port of Felixstowe, Bentwaters, Rendlesham and Martlesham Heath all had a high proportion of B8 uses (storage and distribution), given their good connectivity to rail and/or roads.
- 7.26 Neighbourhood Plans can allocate land for employment uses. Neighbourhood plans for Framlingham, Leiston, Martlesham and Melton include policies that allocate land either for standalone employment uses or as part of mixed-use employment development, albeit in relatively small quantities.

Waveney Local Plan

- 7.27 The Waveney Employment Land Needs update (2017) identified a growth of 5,000 new jobs over the period 2014-2036. Around 500 net new jobs will be in sectors requiring employment premises such as offices, factories and warehouses (use classes B1-B8). Considering the jobs forecast and the past trends in take up of employment land, the study identified a need for 43 hectares of new employment land development and the Local Plan allocates enough land to deliver 53.6 hectares within the plan period. Policy WLP8.12 identifies existing employment areas and protects premises in employment uses (B1-B8) from conversion and redevelopment to other uses.
- 7.28 In this monitoring year, 5,794m² of B1-B8 employment floorspace has been completed, the majority of which is on existing employment sites providing additional floorspace for existing and new businesses including the Scottish Power Renewables operations and maintenance building at

Hamilton Dock (Lowestoft). However, this has been more than offset by losses of 11,136m² employment floorspace. This includes the former Zephyr Cams factory in south Lowestoft which has been re-developed as a retail park and re-development at the Centre for Environment, Fisheries and Aquaculture Science in Pakefield.

- 7.29 The Great Yarmouth and Lowestoft Enterprise Zone covers six sites in and around Great Yarmouth and Lowestoft with four of these within East Suffolk. Within these sites, any new structures built and occupied prior to April 2022 will receive 5 years' worth of business rate relief up to a maximum of £275,000 (£55,000 per annum). In this monitoring year, 1,249m² floorspace was completed on 0.38 hectares at Mobbs Way (Oulton) and Hornbill Business Park (Ellough).
- 7.30 An increased net loss of employment floorspace has been recorded this monitoring year, 5,342m² compared to 1,764m² in 2018/19. However, the majority of losses are outside of existing employment areas and are generally being lost to other commercial uses such as retail, other sui generis uses or providing modern replacements albeit with a reduced floorspace.
- 7.31 As at 31st March 2020, outline and full planning consents, if implemented, will provide 34,833m² net additional employment floorspace.
- 7.32 Meeting the jobs forecast will be challenging but enough land has been allocated in the Local Plan and existing employment areas are protected. Policy WLP8.13 supports new employment development within existing employment areas and on adjacent land. In the rural areas, Policy WLP8.14 supports the conversion of rural buildings for employment use. Kessingland Neighbourhood Plan (2017) includes a requirement of up to 500m² B1 floorspace suitable for start-up businesses alongside residential development (Policy SA1).

Employment Land Summary

14,387m² of net additional employment (B1-B8) floorspace has completed in the former Suffolk Coastal area, with the largest gain being B1a offices. B1 light industrial uses make up over a third of uses within existing employment areas.

Although there has been an overall net loss of employment (B1-B8) floorspace in the former Waveney area, within existing employment areas and allocated employment sites a net gain of employment floorspace (4,916m²) has been completed. Just over a quarter of units within existing employment areas are occupied by B8 storage or distribution uses.

Next steps

- Improve intelligence and monitoring of jobs and job creation

- Work with landowners and the Economic Development team to ensure delivery of adequate amounts of employment land
- Explore funding opportunities to help deliver new employment land

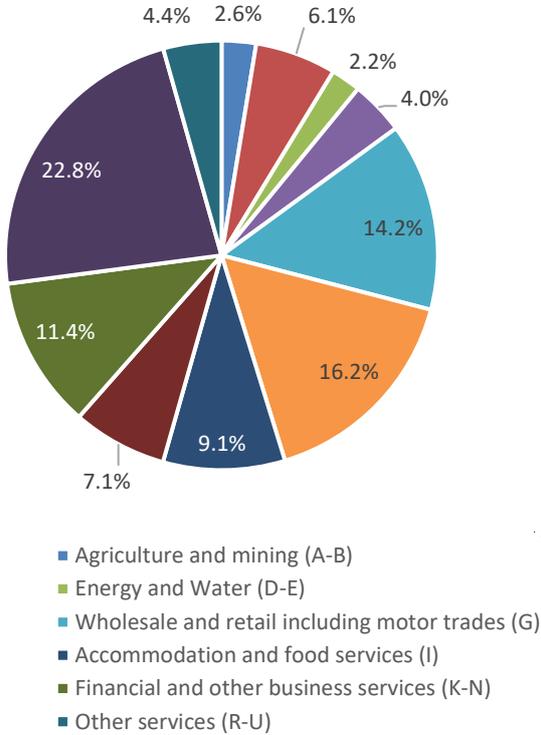
Employment, earnings and qualifications of working age population

Indicator	East Suffolk	Link to further information
Jobs density ³ (2018)	0.90	NOMIS Official Labour Market Statistics website
Employee jobs by industry (2018)	see chart below	
Employment by occupation (2020)	see chart below	
Earnings Full time workers (median) by residence and workplace (2019)	Residence: £29,666 Workplace: £29,950	
Employment	111,000 (77.7%)	
Unemployment	3,700 (3.2%)	
Aged 16+ (Apr 2019-Mar 2020)		
Qualifications of working age population (2019)	see chart below	GOV.UK School Performance tables
% of pupils achieving strong 9-5 passes in both English and mathematics GCSEs (2018-19)	see chart below	
<u>Employment</u> - numbers are for those aged 16 and over, % are for those aged 16-64		
<u>Unemployment</u> - numbers and % are for those aged 16 and over. % is a proportion of economically active		

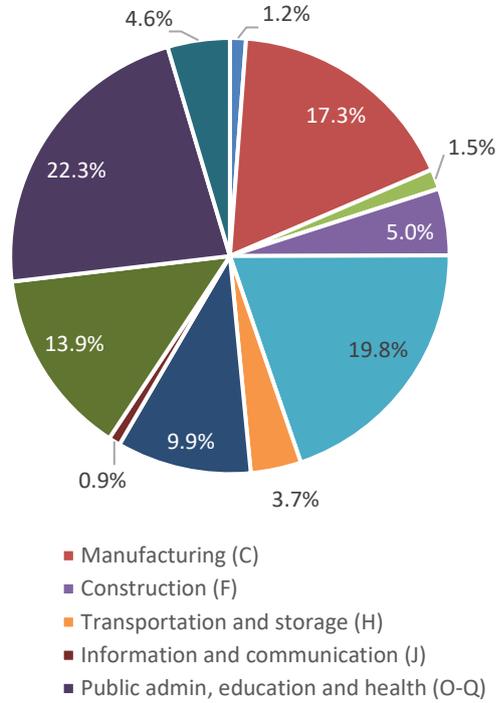
³ defined as the number of jobs in an area divided by the resident population aged 16-64 in that area. For example, a job density of 1.0 would mean that there is one job for every resident aged 16-64.

Employee jobs by industry (2018)

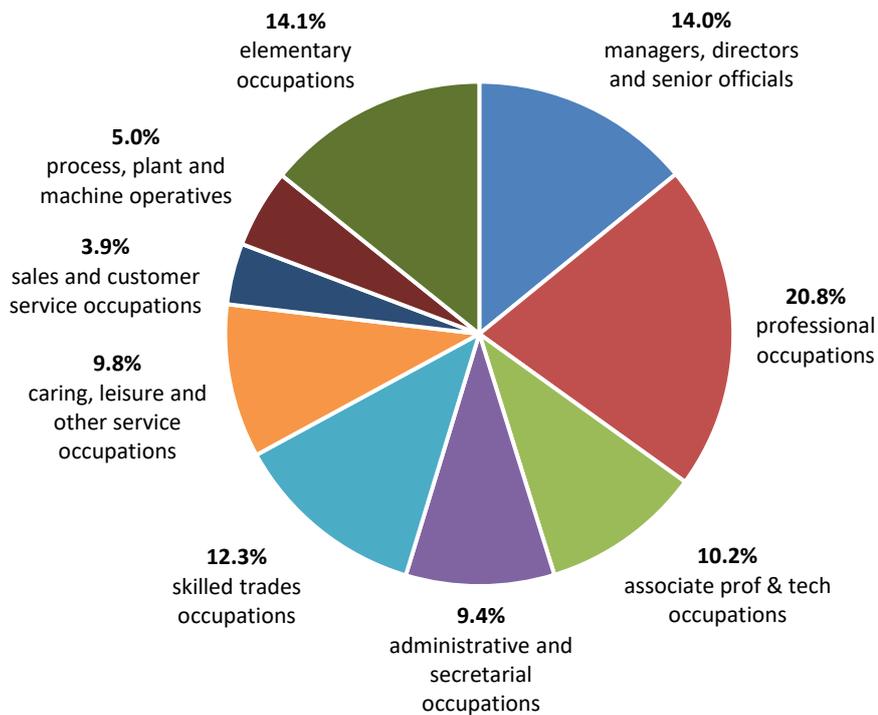
Suffolk Coastal



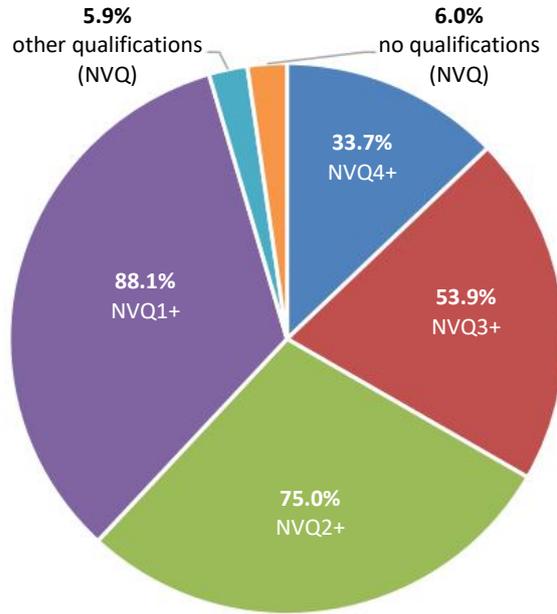
Waveney



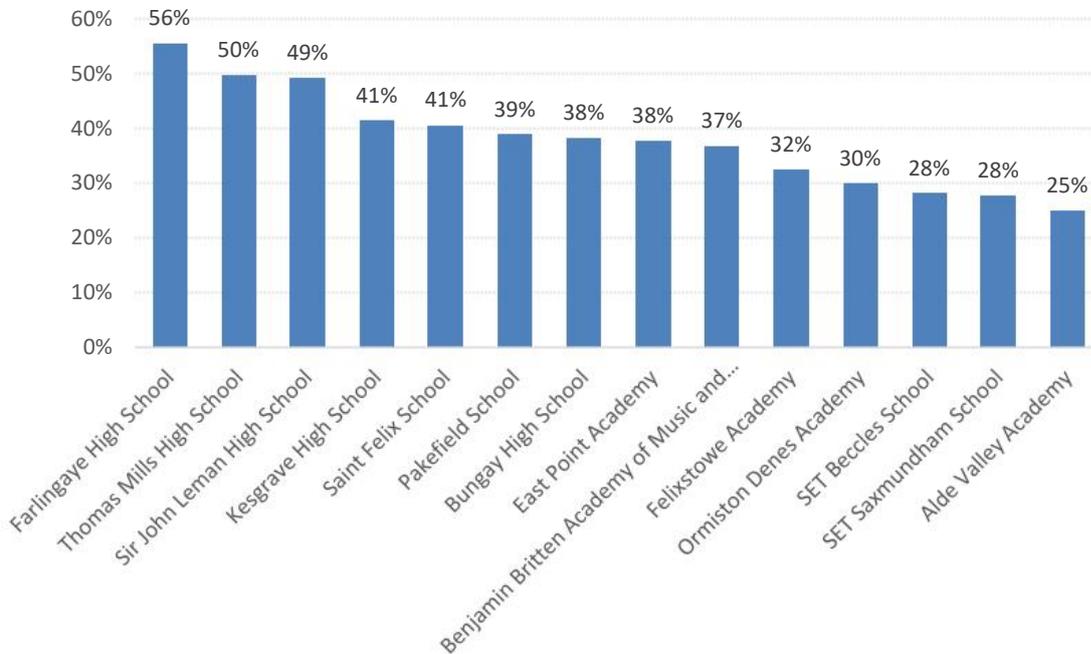
Employment by occupation – East Suffolk (March 2020)



Qualifications of working age population – East Suffolk (aged 16-64) (2019)



% of pupils achieving 'strong' 9-5 passes in both English and mathematics GCSEs (2018-19)



NB some data not published for independent schools and independent special schools, or breakdowns by disadvantaged and other pupils for independent schools, independent special schools and non-maintained special schools e.g. Framlingham College, Woodbridge School

- 7.33 The data above provides further economic contextual information. The proportion of jobs by industry jobs are generally similar in both the former Suffolk Coastal and Waveney areas. The most noticeable differences are in manufacturing reflecting the large number of manufacturing businesses in the former Waveney area and transportation and storage related to the Port of Felixstowe in the former Suffolk Coastal area. Within Waveney 17.3% of the workforce is employed in manufacturing, compared with 6.1% in Suffolk Coastal and 7.4% in the East of England. Within Suffolk Coastal 16.2% of the workforce is employed in transportation and storage compared with 3.7% in Waveney and 5.1% in the East of England. Employment by occupation are broadly similar to the East of England, the most notable differences are those employed in major group 8-9 process/plant operatives and elementary occupations with East Suffolk at 19.2% compared to the East of England at 16.6% and major group 1-3 managers, professionals and associate professionals with East Suffolk 1.9% lower than the East of England (46.9%).
- 7.34 East Suffolk workplace (£29,950) and resident (£29,666) average earnings for full time workers are broadly similar. Both figures are marginally higher than for Suffolk and just below regional and national averages.
- 7.35 Unemployment in East Suffolk is the same as the East of England at 3.2%, and lower than the national figure of 3.9%.
- 7.36 Farlingaye High School in Woodbridge recorded the highest pass rate with 56% of pupils achieving 'strong passes' (grade 9-5) in both English and Mathematics. This is an improvement on last year with Farlingaye and Thomas Mills High School pupils both achieving 46%, the highest passes for that year. Also recording a 10% improvement on last year is Sir John Leman High School in Beccles. Beccles and Saxmundham Schools, both part of the Seckford Education Trust (SET), recorded -15% and -11% change (respectively) from the previous year.
- 7.37 A £11.7m energy and skills centre opened in October 2019 at Lowestoft Campus, part of East Coast College, to provide training designed for the needs of the engineering, maritime, energy and offshore sectors. Also part of East Coast College is the Eastern Civil Engineering and Construction Campus at Lound, which opened February 2020 to provide training in a range of construction roles.
- 7.38 The proposed development of Sizewell C nuclear power station would – if permitted – lead to enormous opportunities in construction, engineering and the related supply chains (although some of the negative impacts are also noted, such as construction traffic), with thousands of jobs expected to be generated during the construction period, and hundreds of jobs during the operational phase. More information on this is available in the section on Major Infrastructure Projects below.

Employment, earnings & qualifications Summary

East Suffolk has a high proportion of jobs in the manufacturing and transportation sectors. Earnings are marginally higher than for Suffolk county and the unemployment rate is the same as for the East of England.

Qualifications of the working age population in East Suffolk is comparable to Suffolk as a whole. Those with the highest level of qualifications (NVQ4+) at 34% is slightly lower than the England average of 40%.

The opening of new training centres in Lowestoft (East Coast College) provides opportunities for training in the energy and construction sectors.

Next steps

- Encourage inward investment to the district to encourage the take-up of allocated employment land in the two Local Plans for businesses to develop and grow successfully
- Encourage opportunities for training initiatives and apprenticeship schemes in locations well related to key employment sectors
- Encourage better paid jobs to be created across the district
- Continue to promote the District's involvement in the growing offshore renewable energy industry.
- Continue to explore the potential employment benefits of Sizewell C

Retail and Leisure

7.39 Town centres nationally are experiencing increasing competition from out-of-town retail, and in particular from online shopping. This has led to reduced demand for retail floorspace within town centres, which in turn has led to a decline in many town centres. Town centres are rapidly changing from, primarily, places to shop more to places where people spend leisure and recreation time. Many of the town centres are experiencing greater demand for food and drink premises and other leisure activities such as craft businesses. The Covid-19 pandemic has clearly impacted shopping and leisure habits, boosting the demand for online retailing further, but it is too early to say how this will alter land use patterns in town centres in the longer-term.

7.40 It is important for town centres to be able to address the continued changes in the retail and leisure sectors and to provide (or continue to provide) an offer/destination which makes them unique. East Suffolk Council is responding to these pressures by working with local businesses and other stakeholders to better understand the pressures facing town centres and their communities through

initiatives such as Felixstowe Forward, Leiston Together and Lowestoft Rising. Town centre policies in the new Local Plans seek to better reflect the changing nature of the retail sector; the progress of these will be reported in future AMRs.

- 7.41 A new Use Class Order was introduced on 1st September 2020 by the Government, which amalgamated the A1, A2, A3 and B1 use classes into a new class E. The new class E also includes some D1 and D2 uses. The stated intention of this is to increase flexibility and enable changes of use within town centres to take place more easily in response to changing trading conditions. The introduction of the new Use Class Order is beyond the scope of this year's AMR but will be dealt with in greater detail in the 2020/21 AMR.
- 7.42 Within Lowestoft, a [Town Centre Masterplan](#) has been completed to attract regeneration funding, which will help to improve the town centre environment and attract more businesses and visitors in the future. Local Plan policies seek to protect town centres as retail destinations but also to allow them to adapt to changing circumstances.

Indicator	Use Class	Suffolk Coastal	Waveney	East Suffolk	Link to further information
Amount and type of retail and leisure development completed within local plan area (m ²).	A1	1,528	7,416	N/A	East Suffolk Open Data Portal
	A2	-207	200		
	A3	1,275	795		
	A4	-166	-578		
	A5	0	-27		
	D2	3,371	2,365		
Amount and type of retail and leisure development completed within town centres (m ²).	A1	-70	-553	N/A	East Suffolk Open Data Portal
	A2	-207	133		
	A3	465	140		
	A4	-209	-208		
	A5	0	0		
	D2	0	186		
Percentage of uses (at ground floor) within town centres <i>NB retail surveys undertaken September-October 2020</i>	A1	57.3%	55.3%	N/A	East Suffolk Open Data Portal
	A2	10.9%	14.8%		
	A3	9.5%	7.5%		
	A4	2.2%	2.0%		
	A5	3.4%	2.7%		
	D2	1.0%	1.9%		
		15.7%	15.8%		

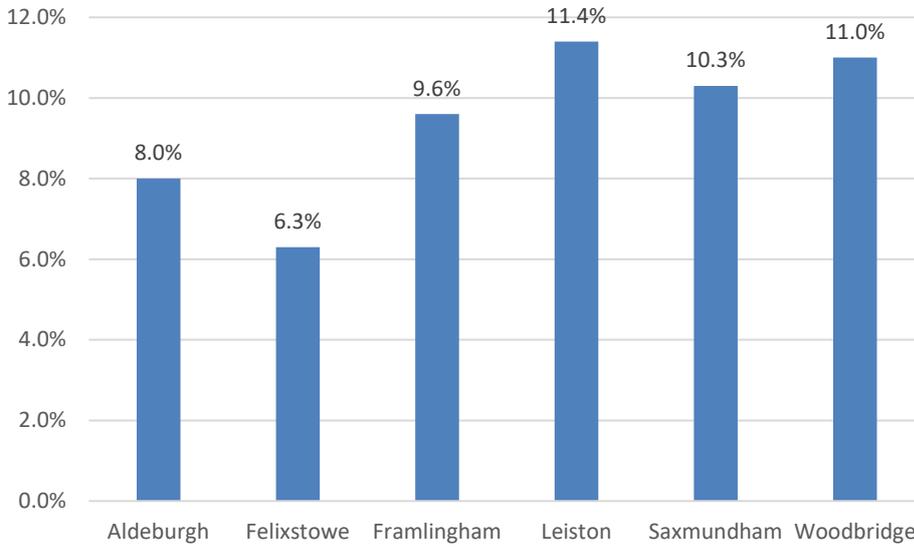
Indicator	Use Class	Suffolk Coastal	Waveney	East Suffolk	Link to further information
	Other commercial uses				
Percentage of vacant units (at ground floor) within town centres (as % of all units in commercial uses) <i>NB retail surveys undertaken during September-October 2020</i>	A1-A5; D2 and other commercial uses	9.1% (72 of 790) (6 town centres ranging from 6.3% to 11.4%)	15% (135 of 898) (5 town centres ranging from 8.0% to 21%)	N/A	East Suffolk Open Data Portal

Town Centres: Aldeburgh; Felixstowe; Framlingham; Leiston; Saxmundham; Woodbridge; Lowestoft; Beccles; Bungay; Halesworth and Southwold.

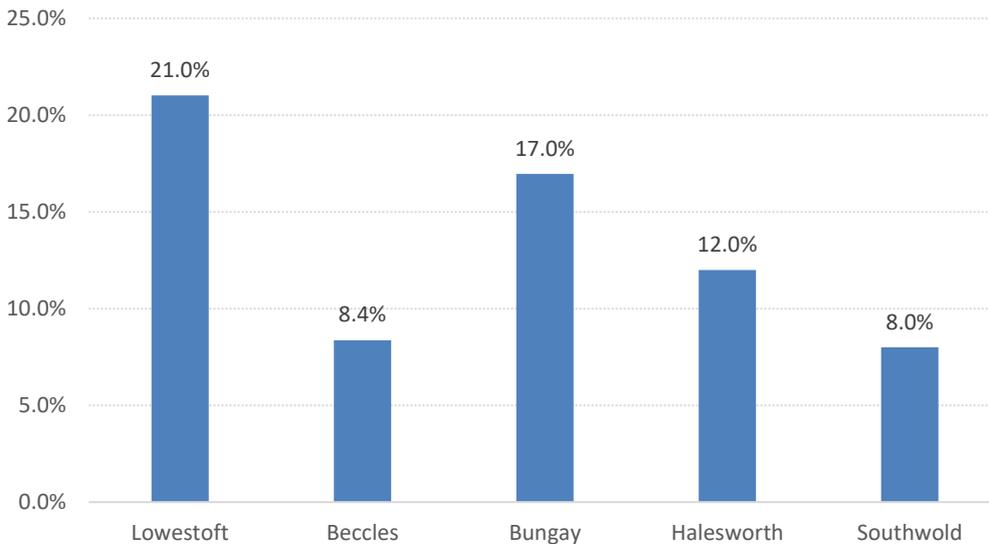
Town centre uses: A1 retail; A2 financial and professional; A3 restaurants and cafes; A4 drinking establishments; A5 hot food takeaway; D2 assembly and leisure.

Other commercial uses includes B1a Offices; B1c Light Industry; B8 Storage and Distribution; C1 Hotels D1 Non-Residential Institutions e.g. place of worship; GP surgery; dental surgery and *sui generis* - certain uses not falling within any use class e.g. bookmaker; beauty salon; tattoo studio; car sales; car repairs; veterinary surgery.

Suffolk Coastal – vacancy rates in town centres



Waveney – vacancy rates in town centres



7.43 The Council is working with the People and Places Partnership to produce the East Suffolk Towns Initiative. This is a project that seeks to identify common themes and challenges that exist across town centres within East Suffolk. The People and Places Partnership is working with the Council and other stakeholders to develop an action plan that seeks to address key challenges within town centres. This will in turn help to direct investment in town centres and support individual projects there. At the same time, the Council is working on a parking review in town centres and has plans to introduce a Smart Towns Initiative, to provide investment in businesses’ digital skills and infrastructure.

Suffolk Coastal Local Plan

- 7.44 The Council's updated evidence ([Retail and Commercial Leisure Town Centres Study 2017](#)) for the Ipswich Borough Council and former Suffolk Coastal area shows that by 2036, there will be a need for approximately 5,000sqm of convenience goods development and approximately 13,000sqm of comparison goods development with the most significant forecasts seen at Woodbridge and in areas east of Ipswich. It is anticipated that the floorspace growth is most likely to be met in Felixstowe, Ipswich and Woodbridge over the plan period as these are locations which are considered to have demand for additional retail capacity. The Council's approach is to support and monitor retail and town centre development and present a clear and comprehensible range of policies to support a balance of retail and services including commercial leisure in town centres.
- 7.45 The town centres are popular with tourists and visitors from nearby areas within and beyond the district. The towns have varying functions that benefit from a blend of shopping and leisure facilities supported by national retailers and chains alongside many specialist and artisan shops. The Suffolk Coastal Local Plan seeks to provide a balanced mix of town centre shops and services alongside out-of-centre retail destinations such as Martlesham and the neighbouring county town of Ipswich. Through policies which seek to secure retail activities and other town centre activities in appropriate locations, the Local Plan provides clear direction to enable town centres to evolve over the plan period.
- 7.46 5,808m² net additional floorspace of town centre uses has been completed within the former Suffolk Coastal area this year, however, within designated town centres a net loss of -21m² is recorded (implemented planning permissions). By far the largest change has been in the amount of D2 assembly and leisure floorspace completed with a net gain of 3,371m². Uses include gyms, sports centres (Leiston Leisure Centre) and clubhouses for golf/football clubs.
- 7.47 Within the town centres there has been a slight decrease in vacant units, from 73 in 2018/19 to 72 this monitoring period, with the largest number of vacant units in Woodbridge and Felixstowe with 22 and 14 respectively. Aldeburgh has seen the largest increase in vacancy rates from 3% last year to 8% this year (7 units are currently vacant).

Waveney Local Plan

- 7.48 The [Waveney Retail and Leisure Needs Assessment \(2016\)](#) estimates that by 2032, there will be a need for at least another 2,197sqm of food store development and 11,063sqm of non-food types of retail development. However, the study states that forecasts of need beyond five years need to be treated with caution due to the uncertainties in expenditure growth forecasts and market share beyond this time-frame. The study forecasts need based on population growth and forecasts of

expenditure on food and non-food products. It takes into account the amount of online shopping and the leakage to other centres such as Norwich. In the five-year period there is no need for new non-food retail and only a need for 850sqm of food store development.

- 7.49 Over 10,000m² net additional floorspace of town centre uses has been completed within the former Waveney area this year, of particular note being the development of just over 6,200m² at Tower Road, Gisleham. However, within designated town centres (WLP8.18) a net loss of 300m² has been recorded.
- 7.50 Vacancy rates are an important measure of town centre health and vitality. The Waveney Local Plan has a target of no more than 10% vacant units in any town centre or local shopping centre. Site surveys in September 2020 reveal vacancy rates above 10% in Bungay (17%) and Lowestoft (21%) town centres. These figures are very similar to those recorded in 2019. Halesworth has also seen a 3% increase and now has a vacancy rate of 12%. The vacancy rate in Beccles has increased to 8.4% from 5.5% but it is still below 10%. Southwold's vacancy rate has increased to 8%.
- 7.51 Three major retail units have closed in Lowestoft Town Centre within 12 months. Beales department store closed April 2019 (recorded as vacant at time of 2019 survey), Tesco supermarket in September 2019 and Palmers department store in February 2020. Beales in Beccles also closed in February 2020.
- 7.52 The Future High Street Fund provides funding to successful bidders for high street rejuvenation as part of wider economic development. A Future High Street Fund Expression of Interest Bid for Lowestoft Town Centre was submitted in February 2019 and has subsequently been unsuccessful. The Lowestoft [Town Centre Masterplan](#) will help to support any future opportunities for funding bids.
- 7.53 The Council has been selected to bid for funding from the Town Fund for up to £25 million pounds, which will fund regeneration projects in Lowestoft. The Council has submitted a Town Investment Plan which, if successful, will support regeneration projects in Lowestoft over the next five years with a value of £24.9 million.
- 7.54 The Council has also been working with consultants Think in Place on the Lowestoft Place Making project. This project identified key assets within the town and considers what defines Lowestoft as a place. From there it developed a brand for Lowestoft, which is used in presentations and publicity by key stakeholders.

Retail and Leisure Summary

Vacancy rates remain high in many town centres across East Suffolk.

Across the former Suffolk Coastal area there has been an increase in A1, A3 and D2 use floorspace, but a small contraction of A2 and A4 uses. Within town centres there have been small contractions of A1 retail use floorspace. A2 and A3 uses have increased slightly.

Within the former Waveney area there has been considerable expansion in A1 use class floorspace, but this has taken place in out of town locations. There has also been an expansion in A2 and A3 use class floorspace, although most A3 use class expansion again took place in out of town locations. There has been an overall contraction in A4 and A5 use class floorspace. There was an expansion in D2 use class floorspace, but mostly in out of town locations. Vacancy rates within Lowestoft, Bungay and Halesworth are both above the target maximum vacancy rate of 10% identified in the Waveney Local Plan.

Next steps

- Improve town centres as destinations.
- Provide support for the People and Places Town Centre Project.
- Provide support for the area-based initiatives such as Felixstowe Forward, Leiston Together and Lowestoft Rising.
- Work with the Economic Development Team to develop regeneration strategies such as the North Lowestoft Heritage Action Zone for parts of town centres that suffer from high vacancy rates and poor-quality environment.
- Implement the Lowestoft Town Centre Masterplan in cooperation with the local community and other stakeholders including Suffolk County Council Highways, Waveney Chamber of Commerce, East Suffolk Building Preservation Trust, Lowestoft Town Council and Lowestoft Vision.

Tourism

Indicator	Suffolk Coastal	Waveney	East Suffolk	Link to further information
Applications permitting new / loss of tourist accommodation & development	20 New 2 Loss	4 New 1 Loss	24 New 3 Loss	-
Total day trips (2019)	-	-	11,777,000	East Suffolk
Total staying trips (2019)	-	-	701,000	Means Business -
Total visitor spend (2019)	-	-	£524,988,000	Economic Impact of Tourism 2019

- 7.55 Tourism is an important part of the East Suffolk economy and the District has many types of visitor destinations and attractions. Alongside the natural and environmental attractions such as the Heritage Coast, Area of Outstanding Natural Beauty and historic market towns, events such as hosting stages of the Tour of Britain/Women's Tour cycling road races, Latitude Festival and the First Light Festival draws visitors from both within and outside of the district. Trips within the district and from neighbouring districts for shopping and leisure purposes may also be considered as tourism. The overlap with town centre and retail policies is demonstrated in a growing emphasis on leisure and the experience of town centre users.
- 7.56 Guided by the Council's Business Plan, the Council has embarked on a programme to redevelop leisure centres across the district. The aim of the redevelopment programme is to ensure that the leisure centres are quality, modern and fit for purpose; meeting the needs of local communities, to increase health and fitness in welcoming and affordable facilities. Through investment in modern facilities, the Council will secure savings in operating costs and maintenance fees. Deben Leisure Centre in Woodbridge and Leiston Leisure Centre have recently been redeveloped and works to Bungay Leisure Centre began in September 2019 and is scheduled to re-open October 2020.

Suffolk Coastal Local Plan

- 7.57 The Suffolk Coastal Local Plan includes policies which seek to encourage and protect tourism uses across the district. The Site Allocations Development Plan Document (adopted January 2017) and the Felixstowe Peninsula Area Action Plan (adopted January 2017) both contain location specific policies to guide development in certain locations such as Snape Maltings and Felixstowe Seafront.
- 7.58 The recently adopted Suffolk Coastal Local Plan includes a strategic policy (Policy SCLP6.2) which supports tourism destinations that contribute to the broad appeal, accessibility and year-round nature of tourism across the district. This policy seeks to replicate the area specific policies found

within the Site Allocations Development Plan Document but provide general support to the wider range of tourism facilities and destinations that are found in the district. The recently adopted Local Plan retains the area specific policies which focus on the Felixstowe Seafront (Policies SCLP12.11 to SCLP12.15).

- 7.59 Within the former Suffolk Coastal area, the majority of consents for new tourism uses propose single units of self-catering accommodation of which a number are for the conversion of barns or outbuildings into new uses. Two permissions result in the loss of single units for holiday let, one to become a residential annex to the host dwelling and the other as garage/games room for the host dwelling. A further 24 permissions are for upgrading/replacement or additional facilities to existing tourism sites, intensification by increasing the number of units / pitches or changes to the occupancy period.

Waveney Local Plan

- 7.60 Within the former Waveney area, consents for new tourism uses are for of self-catering accommodation (including barn conversions) and camping sites mainly in the rural areas. One permission involves the loss of a guest house to residential in Lowestoft. A number of other proposals will intensify existing tourism uses such as increasing the number of holiday apartments or providing a more flexible occupancy period.

Tourism Summary

It is recognised that tourism is a key contributor to the local economy and supports a high proportion of employment opportunities. The Local Plans provide support for new tourism activities in sustainable locations to ensure that tourism opportunities are retained, protected, enhanced and encouraged in a plan led manner. A variety of new and updated tourism uses across a number of locations across the whole of East Suffolk show that tourism continues to play a significant role in the district's economy and development and construction sectors. The Council is welcoming of tourism activities and will continue to facilitate tourism activities with partners.

Next steps

- Continue to monitor the impact of tourism and its contribution to the district's economy
- Safeguard and retain tourism uses
- Support the work of place-based initiatives such as Felixstowe Forward, Leiston Together and Lowestoft Rising
- Support the district-wide Leisure Centre Redevelopment Programme

- Provide support for the Council's programme to deliver seafront projects along Lowestoft South Beach

Housing

- 7.61 This section reports on progress on delivery against the Council's housing targets including net housing completions, the location of new housing in relation to the settlement strategy, affordable housing and Gypsy and Traveller sites.

Housing completions

Indicator	Suffolk Coastal	Waveney	East Suffolk	Link to further information
Net additional homes completed	660	159	819	East Suffolk Open Data Portal
Affordable homes completed (subset of net additional homes completed)	197	25	222	East Suffolk Open Data Portal
Gypsy and Traveller pitches permitted / completed (subset of net additional homes completed)	0 permitted 0 completed	0 permitted 0 completed	0 permitted 0 completed	-
Total housing delivered within plan period (plan period date)	4,395 (2010-2027)	1,275 (2014-2036)	N/A	East Suffolk Open Data Portal

Suffolk Coastal Local Plan

- 7.62 Annual monitoring identifies completions and planning permissions which contribute towards the overall housing requirement. Over the period 2010-2016, the former Suffolk Coastal area effectively relied on sites being put forward for planning permission due to a lack of specific housing allocations. This changed with the 'making' of Neighbourhood Plans for some parishes and towns and adoption of the Site Allocations and Area Specific Policies document and the Felixstowe Peninsula Area Action Plan in January 2017. Comparison with past completions rates shows that completion rates are steadily improving since the adoption of the Core Strategy in 2013, with completion rates exceeding the Core Strategy annual requirement figure of 465 since 2015/16.

Suffolk Coastal total housing completions 2010-20

2010/ 11	2011/ 12	2012/ 13	2013/ 14	2014/ 15	2015/ 16	2016/ 17	2017/ 18	2018/ 19	2019/ 20
216	270	324	215	427	565	548	582	588	660

- 7.63 Housing completions in the former Suffolk Coastal area for 2019/20 totalled 660, an increase of 72 dwellings on the previous year and the highest since at least 2009/10. A total of 197 affordable homes were completed during the monitoring year, an increase on the 125 dwellings on the previous year. This monitoring year, affordable housing accounted for almost 30% of all housing completions and above the Core Strategy requirement of 24% (Core Strategy paragraph 3.57).

Suffolk Coastal affordable housing completions 2010-20⁴

2010/ 11	2011/ 12	2012/ 13	2013/ 14	2014/ 15	2015/ 16	2016/ 17	2017/ 18	2018/ 19	2019/ 20
47	25	81	17	79	101	139	99	125	197

- 7.64 Policy SP4 of the Core Strategy identifies a need for 31 Gypsy and Traveller pitches over the Plan period. The assessment of need was updated in 2017 (Gypsy, Traveller, Travelling Showpeople and Boat Dwellers Accommodation Needs Assessment) and identified a need for 15 pitches over the period 2016 – 2036. No additional pitches have been permitted or completed during the monitoring period however this is reflective of planning applications not being submitted.

Waveney Local Plan

- 7.65 Housing completions in the former Waveney area for 2019/20 totalled 159, a significant decrease on the 297 homes completed in the previous year. The Housing Land Supply Statement 2019 anticipated approximately 220 dwellings to be completed during the monitoring period, acknowledging the low number of major sites being developed by volume housebuilders. The Waveney Local Plan (March 2019) identifies a need for 8,223 new homes over the plan period, 2014-2036. This equates to an annual requirement of 374 new homes per year; however, delivery has only averaged 212 dwellings per year. This is a shortfall of 969 homes over the period 2014 to 2020.

Waveney total housing completions 2014-20

2014/ 15	2015/ 16	2016/ 17	2017/ 18	2018/ 19	2019/ 20
136	135	264	284	297	159

⁴ A number of Variation of Legal Agreement applications and a successful appeal decision have changed the amount of affordable housing to be provided on particular sites. These changes and a couple of other corrections have only recently been recorded and affect affordable delivery in 2012/13, 2014/15 and 2018/19. Although the total net number of new homes delivered is unchanged it does result in a reduction of 9 affordable homes across the plan period to that reported in previous AMRs.

- 7.66 25 affordable homes have been completed this monitoring year, compared to the 89 in the previous year and reflecting the lower overall housing completions delivered. 28% of all housing completed between 2014-20 is affordable housing (359⁵ of 1,275 new homes). All new housing developments of 11 or more dwellings must make provision for a proportion of the total dwellings to be affordable. The provision ranges from 20% to 40%, based on defined affordable housing areas (Policy WLP8.2 Affordable Housing).

Waveney affordable housing completions 2014-20

2014/ 15	2015/ 16	2016/ 17	2017/ 18	2018/ 19	2019/ 20
24	13	88	120	89	25

- 7.67 The Waveney Local Plan allocates approximately 12% more homes than the minimum level required to help enable more affordable homes to be delivered and ensure the objectively assessed need will be met if some allocations fail to come forward or there is a delay in delivery (Policy WLP1.1 Scale and Location of Growth).
- 7.68 The Gypsy, Traveller, Travelling Showpeople and Boat Dwellers Accommodation Needs Assessment (2017) identifies a requirement for 17 additional Gypsy and Traveller pitches in Waveney over the period 2016-2036, and this provides the context for Policy WLP8.5 Gypsy and Traveller Sites. No additional pitches have been permitted or completed during the monitoring period however this is reflective of planning applications not being submitted. WLP8.5 provides a criteria-based policy to support such development both within settlement boundaries and within the Countryside and to date 4 pitches have been provided (2018/19 monitoring period).

Housing types and sizes

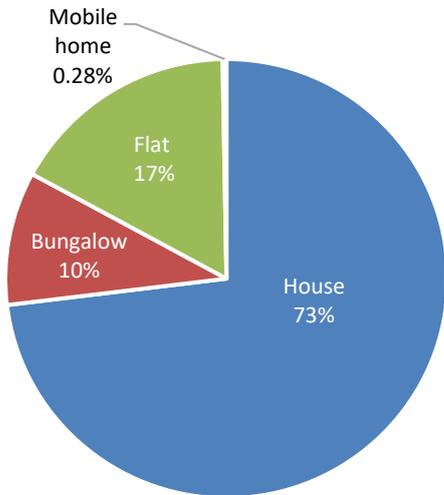
Indicator	Suffolk Coastal	Waveney	Link to further information
Type and size of completed dwellings (gross completions)	See charts below		East Suffolk Open Data Portal
Number and percentage of affordable housing completed by tenure. (subset of net additional homes completed)	See charts below		East Suffolk Open Data Portal
Sites of 11 or more dwellings to provide affordable housing (preferably on site)	New indicator in emerging Suffolk	Four relevant sites providing 192	-

⁵ Affordable housing figure for 2015/16 was previously reported as 12.

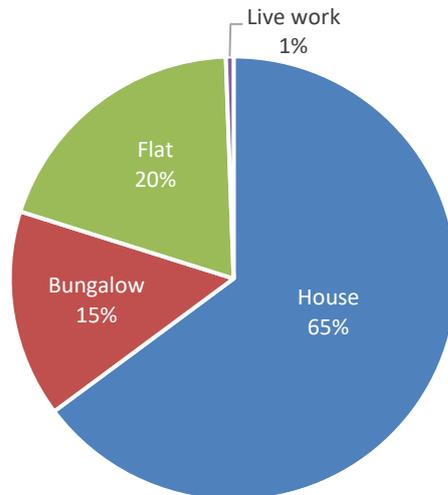
Indicator	Suffolk Coastal	Waveney	Link to further information
(through permissions granted)	Coastal Local Plan – see note below	affordable homes of a total of 193 required by policy	
Number of refusals for self-contained flats / HMOs within flat saturation zones as identified on the Polices Map	N/A	No relevant applications submitted	-
Net additional bedrooms in C2 care homes	0	23	-
Types and size of completed dwellings (gross completions) – gross completions does not account for losses such as demolitions			
<u>Number/percentage of affordable dwellings provided on sites of 10 units or more</u> – the indicator in the recently adopted Suffolk Coastal Local Plan is number/percentage of affordable dwellings provided on sites of 10 units or more and which have combined floorspace of 1,000sqm. This will be reported on in future AMRs.			

Completed dwellings by type

Suffolk Coastal
(702 gross completions)



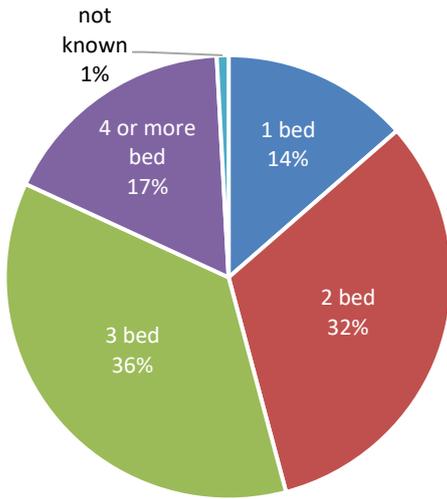
Waveney
(179 gross completions)



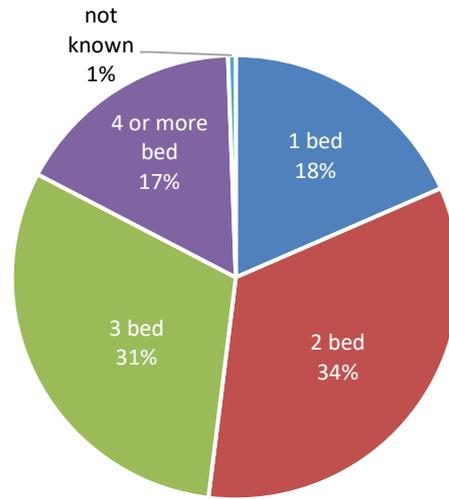
Completed dwellings by number of bedrooms

Note: not known category includes caravans / mobile homes or certain types of application such as certificate of lawful use or prior approval.

Suffolk Coastal
(702 gross completions)

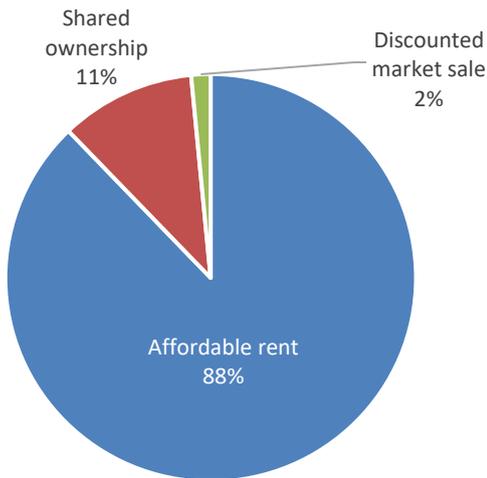


Waveney
(179 gross completions)

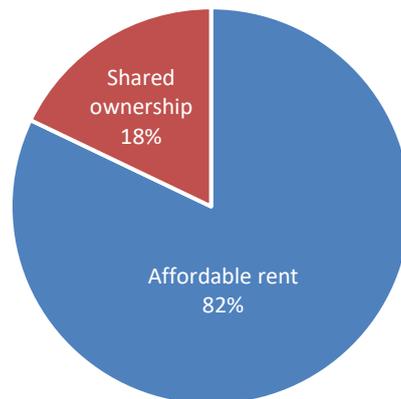


Affordable housing completed by tenure

Suffolk Coastal
(197 net affordable completions)



Waveney
(25 net affordable completions)



NB Waveney chart based on 28 gross affordable homes completed. Three council housing properties were converted into a single dwelling and sold as market housing.

Suffolk Coastal Local Plan

- 7.69 The Core Strategy sets out the size of dwellings that should be delivered as a percentage of the overall need for housing (Table 3.6). The percentages achieved during 2019/20 align with these needs.
- 7.70 88% of the affordable homes completed were for affordable rent. This is a higher percentage than that identified in the Core Strategy which sets out that 75% should be for affordable rent and 25% for other affordable housing types (paragraph 5.12).
- 7.71 The Strategic Housing Market Assessment (2017) identifies a need for 1,118 additional spaces in care homes and nursing homes to 2036; this additional accommodation is required to meet the future institutional population and therefore falls outside of the housing need figures. Policy to further support the delivery of accommodation for older people has been taken forward through the new Suffolk Coastal Local Plan.

Waveney Local Plan

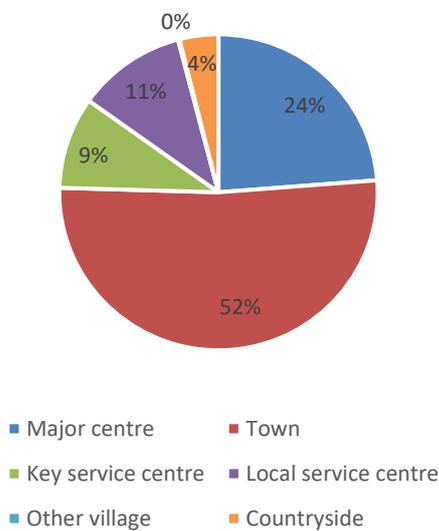
- 7.72 82% of affordable homes completed this monitoring year are affordable rent. This generally reflects the policy approach of the now superseded Local Plan in that the majority of affordable housing should be social rent and not more than 10% for intermediate tenures including rent and shared equity. It is expected that future delivery of affordable housing will more generally reflect the approach in Policy WLP8.2 with 50% of affordable housing provision for affordable rent and 50% for intermediate housing tenures.
- 7.73 Policy WLP8.2 Affordable Housing requires all new developments of 11 or more dwellings to provide affordable housing, preferably on site. Four relevant applications were permitted during the monitoring year. A total 193 affordable homes are expected to be provided under Policy WLP8.2 on these sites and 192 have been permitted. One site provides an additional 8 dwellings over the requirement (outline consent only). One site provided a viability assessment sufficient to discount an affordable housing requirement (Retirement community including care home, Beccles). In addition, one scheme includes provision of 11 self-build plots of which 3 are to be provided at a price where a discounted value has been applied.
- 7.74 The Strategic Housing Market Assessment (2017) identifies a need for 905 additional spaces in care homes and nursing homes over the plan period of which the majority will be delivered on larger allocations. The Local Plan does not have a specific target for this sector and has a permissive and flexible approach to delivery. This monitoring year, a 23-bedroom extension has been completed at an existing care home in Carlton Colville. Over the plan period (2014-20) a net gain of 73 bedrooms within care homes has been recorded.

Location of new housing

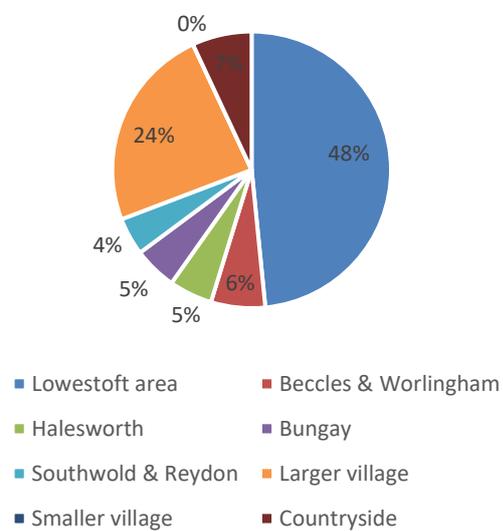
Indicator	Suffolk Coastal	Waveney	East Suffolk
% of housing development by settlement hierarchy	See charts below		N/A
% of housing development in the countryside - outside of settlement boundaries (Local Plans and Neighbourhood Plans)	18% (120 of 660)	14% (22 of 159)	17% (142 of 819)
% of residential development in Lowestoft and the market towns achieving at least 30 dwellings per hectare [new build developments of 10 or more when wholly complete]	N/A	100% (1 of 1 schemes)	N/A
% of new housing completed on previously developed land	14% (92 of 660)	52% (83 of 159)	21% (175 of 819)

% of housing development by settlement hierarchy 2019/20

Suffolk Coastal



Waveney



Suffolk Coastal Local Plan

7.75 Policy SP19 Settlement Policy of the Core Strategy sets out the percentage of housing growth to come forward within the categories of the Settlement Hierarchy. The focus is growth in Major

Centres and Towns, followed by Key Service Centres and completions this monitoring year is consistent with this.

- 7.76 14% of new housing completed this monitoring year is on previously developed land, reflecting the fact that the former Suffolk Coastal area does not have much of a supply in terms of large brownfield sites. Paragraph 3.46 of the Core Strategy outlines a nominal target of 12% of units to be built on previously developed land over the plan period.
- 7.77 The Council's Local Plan evidence base, including updates of the Strategic Housing and Economic Land Availability Assessment, has consistently shown that the available supply of brownfield sites in the former Suffolk Coastal area to be modest and concentrated away from the towns and 'A' road and rail routes at former and underused airfields in rural locations. Indeed, there is a clear divergence between the distribution of brownfield land and the Core Strategy settlement hierarchy that identifies the most sustainable settlements for growth in the district.

Waveney Local Plan

- 7.78 Policies WLP1.1 and WLP7.1 set out the scale and location of growth in the former Waveney area with half (56%) of future development allocated to Lowestoft as the largest town with its potential for economic growth. This monitoring year housing delivery generally meets the housing growth requirements in Lowestoft and the market towns. Housing delivery in the rural areas accounts for a third of all completions, the majority being delivered in the larger villages of Blundeston (former prison site) and Wrentham (re-development of former care home). However, over the plan period as a whole, it is anticipated that housing delivery will be consistent with the distribution strategy.
- 7.79 Policy WLP8.32 Housing Density and Design expects residential development to make the best use of the site whilst protecting or enhancing the distinctiveness and character of the area. Development in and around the built-up area of Lowestoft and the market towns should aim for urban scale development of at least 30 dwellings per hectare. This monitoring year, just one scheme of 10 or more dwellings has completed within the relevant areas and achieves a density of 39 dwellings per hectare.
- 7.80 Half of all new housing completed this monitoring year is on previously developed land. It is expected the number of homes completed on previously developed land will decrease over the coming years as the majority of the Local Plan housing allocations are on greenfield sites. Only 20% of new homes allocated are on previously developed land including 1,380 at Kirkley Waterfront and Sustainable Urban Neighbourhood (Policy WLP2.4).

Housing Commitments

7.81 Within East Suffolk over 9,000 new homes have planning permission (either outline or full consent) as at 31st March 2020. 847 new homes are under construction.

Geographic area	Total commitments	Full consent	Outline consent	Market housing	Affordable housing
Suffolk Coastal Local Plan area	5,362	1,940	3,422	4,098	1,264
Waveney Local Plan area	3,726	1,912	1,814	2,954	772
East Suffolk	9,088	3,852	5,236	7,052	2,036

7.82 More information on these planning consents can be found on the [East Suffolk Open Data Portal](#).

Statement of Housing Land Supply (5 year land supply)

7.83 National policy requires local planning authorities to identify and update annually a supply of specific, deliverable sites, sufficient to provide five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than 5 years old. The supply is required to include a 5% buffer to ensure choice and competition in the market for land or a 20% buffer where there has been a persistent under delivery of housing (NPPF para. 47). For sites to be considered deliverable they should be available now, offer a suitable location for development now, be achievable with a realistic prospect that housing will be delivered on the site within the five years.

7.84 Following the introduction of the revised National Planning Policy Framework in July 2018 (further revised in February 2019), due to the Suffolk Coastal Core Strategy being older than five years from July 2018, the calculation of housing land supply for the former Suffolk Coastal area at 31st March 2020 is based upon the housing requirement contained in the new Suffolk Coastal Local Plan which was well-advanced at the 31st March 2020 and adopted at the point at which the Statement of Housing Land Supply was published.

7.85 For the former Waveney area, as the Local Plan was adopted in March 2019 the housing requirement of 374 dwellings per year forms the basis of the calculation of housing land supply.

7.86 The East Suffolk Statement of Housing Land Supply 2020 confirms (as at 31st March 2020):

- The Suffolk Coastal Local Plan area of East Suffolk has a housing land supply of 5.88 years.
- The Waveney Local Plan area of East Suffolk has a housing land supply of 6.04 years.

- 7.87 Further information can be found at <https://www.eastsuffolk.gov.uk/planning/planning-policy-and-local-plans/open-data/>

Housing Delivery Test and Housing Action Plan

- 7.88 The Housing Delivery Test was introduced by the Government in 2018 and assesses how successful each Local Authority has been at supplying the required number of houses in the previous three financial years. In Local Planning Authority areas where less than 95% of the required housing has been delivered over the past three years, authorities must produce a Housing Action Plan. Where less than 85% of the requirement was delivered there is an additional requirement to apply a 20% buffer in calculating the 5-year housing land supply. Where less than 75% is delivered the 'presumption in favour of sustainable development' would apply in decision making although this specific requirement has been phased in with a 25% threshold applying to the February 2019 results and 45% threshold applying to the November 2019 result.
- 7.89 The first set of results of the Housing Delivery Test were published in February 2019, covering the period 2015/16-2016/18, and relate to the areas covered by the Council's Plans. The result for the former Suffolk Coastal area was 128% and for the former Waveney area was 72%. The result required no further action to be taken for the former Suffolk Coastal areas and the former Waveney area to produce a Housing Action Plan and apply a 20% buffer when calculating the 5-year housing land supply.
- 7.90 The first East Suffolk Housing Action Plan was published in August 2019. As both areas are within East Suffolk, and in view of the corporate objectives surrounding housing delivery and the desire to ensure strong delivery is maintained across East Suffolk, the Housing Action Plan covers the whole of East Suffolk local planning authority area.
- 7.91 The second set of Housing Delivery Test results, covering the period 2016/17-2018/19, were published in February 2020. The result for the former Suffolk Coastal areas is 127% and for the former Waveney area is 89%. The improvement for the former Waveney area in achieving a result of 89% has meant that a 5% buffer can be applied in calculating the 5-year housing land supply. The result still requires a Housing Action Plan to be produced for the former Waveney area (and this was updated in August 2020 outside of the monitoring period). Regardless of future Housing Delivery Test results, East Suffolk Council intends to produce an annual Housing Action Plan as a 'tool' to check the progress and success of actions to secure housing delivery and enable to Council to take early steps to minimise any future risk of under delivery. Further information can be found at www.eastsuffolk.gov.uk/planning/housing-action-plan/.

Self-build and custom build register

Indicator	Suffolk Coastal	Waveney	East Suffolk	Link to further information
Number of entries on self-build / custom build register as at 31 st March 2020	N/A	N/A	413	East Suffolk Self Build and Custom Build webpage
Number of plots approved for self or custom build (2019/20)	37	23	60	East Suffolk Self Build and Custom Build webpage
Developments of 100 or more dwellings to provide 5% self or custom build properties (2019/20)	N/A	Three relevant developments approved. One site provides 11 plots; two are outline only	N/A	East Suffolk Self Build and Custom Build webpage
<u>Number of plots approved for self or custom build:</u> Approvals can be via planning permission for self or custom build plots or plots which have been granted self-build CIL relief				
<u>Developments of 100 or more dwellings to provide 5% self or custom build properties:</u> This is a new indicator in the recently adopted Suffolk Coastal Local Plan and there are therefore no relevant applications for this monitoring period				

- 7.92 The Self-Build and Custom Housebuilding Act 2015 (as amended) places a duty on local councils in England to keep and have regard to a register of people who are interested in self build or custom build projects in their area. Registers help inform councils of the level of demand for self-build and custom build plots in their area and develop a strategy for providing plots. The Council has three years in which to grant sufficient development permissions to meet the need recorded on the register in a 'base period'. Beginning in 2015, a base period begins on 31st October and finishes on 30th October the following year.
- 7.93 In light of the Self-Build and Custom Housebuilding Act 2015 (as amended), both the Waveney Local Plan and the recently adopted Suffolk Coastal Local Plan include a policy approach to meet the needs identified on the Council's register. This includes policies WLP8.3 and SCLP5.9 which specifically support proposals for self / custom build plots and require developments of 100 or more dwellings to provide 5% self or custom build properties.
- 7.94 Three applications for 100 or more dwellings have been determined within the former Waveney Local Plan area this monitoring period. All developments are on allocated sites. One development

provides a total of 11 plots in Beccles. The other two developments are outline planning permissions in Halesworth and planning conditions require at submission of first reserved matters application an area of land sufficient to accommodate at least at least 5% of the total number of dwellings to be self-build / custom build dwellings and details of servicing the plots, marketing and design principles. Further information on Self-Build and Custom Housebuilding can be found at www.eastsuffolk.gov.uk/planning/self-build-and-custom-build/

7.95 60 custom and self-build plots were given permission across East Suffolk during the monitoring period. However, a total of 137 single new dwellings were given permission during the monitoring period. Given the ability to claim CIL relief for self-build homes, it is likely that a significant number of these single dwellings will be self-build projects, suggesting that the overall number of self-build developments being delivered will in fact be significantly higher.

Other housing indicators

Indicator	East Suffolk	Link to further information
Population estimates (mid-year 2019)	249,461	ONS population estimates
Homelessness – total households assessed and total households assessed as owed a duty (Apr 2019-Mar 2020)	1,541 households assessed, 1,511 assessed as owed a duty	MHCLG Homelessness statistics
Housing affordability. (2019) (Ratio of median house price to median gross annual (where available) workplace-based earnings)	7.85	ONS Housing affordability
<u>Homelessness</u> - Prevention duties include any activities aimed at preventing a household threatened with homelessness within 56 days from becoming homeless. Relief duties are owed to households that are already homeless and require help to secure settled accommodation		

7.96 The data above provides further contextual information relating to housing provision. The population of East Suffolk has been increasing and is projected to continue to increase over the lifetime of the Local Plans, as reflected in housing requirements.

7.97 The data on homelessness shows that 1,511 households were assessed as owed a duty, of which 498 households owed relief duty within East Suffolk during 2019/20. The figures for the previous year showed 1,493 households assessed with 1,437 households owed a duty, of which 519 owed relief duty (former Suffolk Coastal and former Waveney areas). The delivery of new housing and affordable housing contributes to addressing this, alongside the role of the Council’s Housing Service.

7.98 Historically, the ratio of house prices to earnings in the former Suffolk Coastal part of East Suffolk has been higher than in the former Waveney area. In 2018, housing affordability in the former Suffolk Coastal part of the district was 10.07 compared to 7.45 in the former Waveney area. The re-calculated 2018 figure for East Suffolk as a whole is 8.70. Details of the amount of affordable housing provided are set out in the sections above.

Housing Summary

Housing completions have in the past been increasing each year across both the former Suffolk Coastal and Waveney areas over recent years. However, the completions in the former Waveney area were lower than expected this year and were lower than the previous year. However, the most recent Housing Delivery Test results, covering the period 2016/17 to 2018/19 were an overall improvement on the former results. The new Local Plans set out allocations to meet housing need over the period to 2036, and it is expected that through the implementation of these the housing needed will be delivered.

The affordability of housing remains an issue within East Suffolk, and affordable housing continues to be delivered through Council's planning policies, and completions have predominantly provided affordable housing for rent. To meet the identified district wide requirements, it is anticipated that in future years a greater proportion of affordable ownership tenures will be provided.

A supply of at least five years' worth of housing land can be demonstrated across East Suffolk, consistent with national policy requirements. This demonstrates that permissions are being granted, and allocations made, to help enable development to come forward.

The distribution of housing completions in the former Suffolk Coastal area is consistent with the spatial strategy set out in the Suffolk Coastal Core Strategy. Within the former Waveney area, distribution is higher than the proportions set out in the Local Plan for the Rural Areas, however the proportions relate to the plan period (2014-2036) and it is anticipated that over time these will be met.

Next steps

- Continue to monitor the supply of housing land in the District through the [Statement of Housing Land Supply](#)
- Implement the actions contained in the [East Suffolk Housing Action Plan](#) (published August 2020), and review as necessary
- Preparation of an Affordable Housing Supplementary Planning Document
- Continue to maintain the [Brownfield Land Register](#) (update by December 2020)

- Continue to maintain the [East Suffolk Self Build Register](#) and develop ways to match people on the Register to self and custom build plots within the District

Transport

- 7.99 This section provides information on the delivery of transport measures and the implementation of parking standards in developments across East Suffolk. Travel-to-work modes are also considered in this section through analysis of census data.
- 7.100 Although not a Highway Authority, the Council has a role to play in ensuring transport initiatives and measures are implemented in consultation with Highways England and Suffolk County Council (the Highway Authority). The requirement to include Travel Plans and Transport Statements as part of planning applications based on thresholds are typically used by planning authorities to implement such measures, and this is reflected in the Council's development management policies.

Indicator	Suffolk Coastal	Waveney	East Suffolk	Link to further information
Number of applications permitted which are contrary to Suffolk County Council Parking Standards	0	0	0	-
Submission of Transport Statements for residential developments between 50-80 dwellings	N/A	1	N/A	-
Submission of Transport Assessments and Travel Plans for residential developments over 80 dwellings	N/A	3	N/A	-
Provision of pedestrian and cycle access / public rights of way as required by site allocations	2	2	4	-
Implementation of measures set out in the Waveney Cycle Strategy (2016 and updates)	N/A	See assessment below	N/A	-
Traffic counts (all motor vehicles) (2019)	See maps below			Department for Transport road traffic statistics
Travel to work modes (Census 2011)				NOMIS Census 2011 Table QS701EW
Sustainable modes	19.0%	21.6%	N/A	



Suffolk Coastal Local Plan

- 7.101 The monitoring of the major planning applications and the Highway responses found that none of these applications were permitted contrary to the formal Highway Authority consultation response. This shows that the standards are achievable and that policy DM19 Parking Standards is serving its function in this regard. Two planning applications permitted during 2019/20 for major residential development include either the submission of or a condition for the submission and/or implementation of a Travel Plan. (Now-superseded) Policy DM20 Travel Plans does not explicitly require this submission. This is remedied in the recently adopted Suffolk Coastal Local Plan which includes a Sustainable Transport policy (SCLP7.1) that specifically references Transport Statements. It is, therefore, expected that the number of residential developments of 50-80 dwellings submitting Transport Statements will rise for the next monitoring period.
- 7.102 A comparison of the census figures for 2001 and 2011 shows a slight decrease in the amount of both sustainable and non-sustainable modes of transport relating to work journeys; this corresponds with an increase in the number of people working from home. It is expected that this trend will continue with the introduction of better and faster broadband speeds across the District in the future. This is supported by the fact that Strategic Policy SP1 seeks to reduce the overall need to travel.

7.103 It is noted that the average distance travelled to work in Suffolk Coastal is higher than the national (England) average of 14.9km. This can be attributed to the fact that the District is predominantly rural by nature, characterised by dispersed settlements. This is also reflected by the fact that non-sustainable modes of travel to work are higher than the national average. Notwithstanding this, the Local Plan includes policies that aim to reduce the need to travel and the use of private cars. The effectiveness of such policies will need to be considered and strengthened in consultation with transport infrastructure providers going forward.

Waveney Local Plan

7.104 The recently adopted Waveney Local Plan reinforces the need to adhere to Suffolk County Council (Highway Authority) parking standards through policy WLP8.21 Sustainable Transport. There were no major residential and non-residential applications approved contrary to a Highway Authority objection on parking standards grounds, this represents a reduction from last year's AMR.

7.105 Policy WLP8.21 of the Waveney Local Plan requires the submission of a Transport Statement for residential developments of between 50 and 80 units and the submission of a Transport Assessment and Travel Plan for development of over 80 units. Within the monitoring period one Transport Statement and three Transport Assessments/Travel Plans were submitted. It is expected that these numbers will increase over time.

7.106 The Waveney Cycle Strategy was published in 2016 with the aim of encouraging a greater level of cycling for work and leisure throughout the former Waveney district. The document assessed the quality of cycle routes within the district, identified 162 potential improvements and provided guidance on cycle provision design for use in the assessment of planning applications. During Nov 2019 and Feb 2020, 142 of the 162 potential improvement sites were visited to assess if the recommendations had been implemented. The findings are summarised as:

- 9 improvements recommended in the strategy have been either partially or fully completed or alternative works have been undertaken to fully or partially address the issue raised. (representing 6%)
- 13 improvements are in progress normally by way of a submitted planning application (representing 9%)
- 120 improvements have no evidence of any action (representing 85%)

7.107 The majority of completed improvements are highway improvements on highway land and those in progress are more likely to be related to a specific development and related planning application. Many of the potential improvements require Suffolk County Council Highways and/or Town and Parish Councils to prepare an individual programme of works and secure funding hence the likelihood of the relatively small number of completed improvements to date.

- 7.108 When comparing the census figures for 2001 and 2011, there has been a decrease in the use of sustainable transport modes used to get to work in the former Waveney area. As well as this, there has been an increase in the use of non-sustainable modes and a decrease in the percentage of people working from home. The Waveney Local Plan contains a number of policies that seek to increase the use of sustainable modes and potentially could increase the percentage of people working from home. WLP1.3 Infrastructure outlines that the Council will work with the telecommunications industry to maximise the use of super-fast broadband which could assist with home working.
- 7.109 The average distance travelled to work in the former Waveney area (16.6km) is similar to the national (England) average of 14.9km. However, there are a higher percentage of people travelling less than 5km to work compared to the UK average of 35%. This suggests that there may be opportunities to increase sustainable transport modes, such as cycling and walking, given that people in the Waveney area appear to travel shorter distances. Again, Policy WLP8.21 reinforces the encouragement of these sustainable transport modes.

Transport Summary

Applications are generally complying with Suffolk County Council parking standards and Travel Plan standards, which is reflective of the effectiveness of Local Plan policies. There is, however, a greater emphasis on cycle provision in the former Waveney area compared to the Suffolk Coastal area due to the adopted Waveney Cycle Strategy. It is the intention therefore, of the Council to develop an East Suffolk Cycling and Walking Strategy to improve both walking and cycling provision across the whole District.

Next steps

- Develop an East Suffolk Cycling and Walking Strategy
- Develop a standardised monitoring process for the provision of pedestrian and cycle access and public rights of way across the district in line with the emerging East Suffolk Cycling and Walking Strategy

Community Facilities and Assets

- 7.110 This section provides information on the delivery of new community facilities, including open space, permissions granted this monitoring year for new or the loss of such facilities and an overview of the accessibility of key services and facilities to the resident population.
- 7.111 Ensuring the provision of community facilities and assets across the District is essential to the creation of sustainable communities. Central to the Council’s Business Plan is the priority of “Enabling Communities” and through Local Plan policies which seek to deliver, develop, protect and enhance facilities, the Council can ensure that all members of the community can make use of these facilities.
- 7.112 Through the Community Right to Bid, local groups have the right to nominate land or property to be listed as an Asset of Community Value (ACV) if certain principles are met. Listing (for a maximum of 5 years) allows the community group time to express an interest in buying the asset when it comes up for sale and prepare and submit a bid for the asset. During this monitoring year seven assets have been listed, including public houses, meeting places and sports facilities. No nominations for listing were unsuccessful this year. An outline planning application for the redevelopment of Southwold police station ACV for housing was submitted this monitoring year and subsequently refused in October 2020 due in part as being contrary to Policy WLP8.22, which seeks the protection of existing community facilities and services in such uses. The [East Suffolk Community Asset List](#) provides a comprehensive list of all listed assets and further information is available at www.eastsuffolk.gov.uk/community/community-rights/community-right-to-bid/how-the-right-to-bid-works/.
- 7.113 The existence of the Community Infrastructure Levy in each of the former Suffolk Coastal and Waveney areas has in most cases largely replaced the collection of financial contributions from planning obligations (Section 106 agreements). Further information on planning obligations and an online Section 106 database of all monies by town/parish can be found at www.eastsuffolk.gov.uk/planning/s106/.
- 7.114 For details of the CIL and planning obligations income and expenditure, please see the 2019/20 Infrastructure Funding Statement (add weblink when available)

Indicator	Suffolk Coastal	Waveney	East Suffolk	Link to further information
Applications permitting new / loss of	See table below			-

Indicator	Suffolk Coastal	Waveney	East Suffolk	Link to further information
community services and facilities				
Applications permitting new / loss of open space including allotments	See table below			-
Proportion of population with access to different types of open space	The Waveney Open Space Needs Assessment (July 2015) provides a comprehensive assessment on the quantity, accessibility, and quality of open spaces. Work will be undertaken to further develop a standardised monitoring process across the district. This work will be informed by new evidence currently being produced for the Council, which includes an updated Open Space Assessment			
Proportion of population with access to key services and facilities	Work will be undertaken to further develop a standardised monitoring process across the district			
Number of cultural facilities in the District – applications permitting new / loss of cultural facilities	N/A	0 Loss 5 Gain	N/A	-
<u>Cultural facilities indicator:</u> museums, libraries and art galleries (use class D1); appropriate assembly and leisure uses (D2); theatres (<i>sui generis</i>).				

Applications permitting new / loss of community services and facilities.

Parish / Plan Ref	Gain, loss or enhancement	Description
Framlingham DC/19/3035/FUL	Enhancement/Loss	External and internal alterations including floorspace allocated to various uses
Grundisburgh DC/19/4773/OUT	Replacement	Demolition of existing village hall and erection of residential development. This application amends an existing condition (DC/16/1389/OUT) to allow for the sale of the site prior to completion of the new village hall (on land opposite)
Leiston DC/19/3066/FUL	Enhancement	New windows to leisure centre and new barrier and bollards to car park

Parish / Plan Ref	Gain, loss or enhancement	Description
Oulton Broad DC/19/2796/RG3	Enhancement	Provision of pedestrian and cycle bridge over railway at Oulton Broad North
Saxmundham DC/19/2685/FUL	Enhancement	Alterations to Saxmundham railway station building following fire
Trimley St Mary DC/19/2787/FUL	Enhancement	Renewal of planning permission for development of outdoor/indoor rifle range [relocation of existing indoor rifle club]
Indicator excludes A1 retail shops within designated shopping area i.e. town centres, district shopping centres, local shopping centres.		

Applications permitting new / loss of open space including allotments.

Parish / Plan Ref	Gain, Loss or Enhancement	Description
Beccles DC/18/4312/FUL	Gain	Residential development of 228 dwellings and public open space
Felixstowe DC/19/2226/CCC	Enhancement	Installation of multi-use games area
Gisleham DC/19/1894/CCC	Loss	Provision of additional car parking area
Heveningham DC/19/4130/FUL	Gain	Provision of multi-functional amenity space
Oulton DC/17/1680/ARM	Gain	Residential development of 220 dwellings and public open space
Oulton DC/18/2231/FUL	Gain	Residential development of 30 dwellings and public open space
Southwold DC/18/4621/FUL	Gain	Change of use of land as community garden, public car park and visitor information point
Trimley St Mary Dc/192787/FUL	Enhancement	Renewal of planning permission for development of outdoor/indoor rifle ranges with associated infrastructure (relocation of existing facility)
Tunstall DC/20/0214/FUL	Enhancement	Installation of multi-use games area
Westerfield DC/18/3850/OUT	Gain	Residential development of up to 75 dwellings, open space and commercial floorspace

Suffolk Coastal Local Plan

- 7.115 Poor access to services in rural and urban areas can contribute to social exclusion. The percentage of households more than 2km from key health amenities is high across the former Suffolk Coastal area, particularly in the rural areas. Accurate monitoring of the change in access to services is difficult, therefore further work is needed to develop a standardised monitoring process across the district.
- 7.116 The Green Flag Award⁶ is a scheme which recognises and rewards well-managed parks and green spaces. Two sites in the former Suffolk Coastal district area have been awarded Green Flags in 2019, Felixstowe Seafront Gardens (Green Flag with Green Heritage Site Accreditation) and Bredfield Jubilee Meadow and Orchard (Green Flag Community Award).
- 7.117 The majority of planning applications approved in the financial year relating to community facilities and services were for enhancements to the existing facilities. An application in Grundisburgh (reference: DC/19/4773/OUT) approved a replacement village hall and an application in Framlingham (reference: DC/19/3035/FUL) approved the enhancement of the community facility but also the loss of some community space for business purposes.

Waveney Local Plan

- 7.118 The Waveney Green Infrastructure Strategy (2015) identifies a list of recommended projects to improve green infrastructure⁷ in the District. During 2019/20, a self-contained toddler play area has been delivered at Royal Green on the seafront in Kirkley, which benefitted from an allocation of funds from the district Community Infrastructure Levy.
- 7.119 Work officially commenced in January 2020 to deliver The Ness⁸, formerly known as the East of England Park. As well as providing play equipment and landscaping the area will include heritage interpretation, improved linkage and signage within the area including Ness Point, High Street via The Scores and Belle Vue and Sparrows Nest parks.
- 7.120 Works commenced February 2020 to build a replacement community centre in Bungay at Old Grammar Lane; the site was allocated in the previous Waveney Local Plan (BUN4, Site Specific Allocations 2011). Approval was first granted in September 2011 and following a number of scheme changes the final plans were approved June 2019 and Community Infrastructure Levy funds have been provided to bring the site forward. Once completed the current community centre site in

⁶ <http://www.greenflagaward.org.uk/>

⁷ All types of green space which can be natural or man-made such as public and private green spaces; parks and gardens; play areas; village greens; playing fields; allotments cemeteries and churchyards etc.

⁸ <https://www.lowestofttowncouncil.gov.uk/local-information/the-ness/>

Upper Olland Street is expected to be re-developed for housing as allocated in the previous Local Plan (BUN3).

- 7.121 Nicholas Everitt Park, Oulton Broad is the only site in the former Waveney area to receive the Green Flag Award.
- 7.122 The [Waveney Sustainability Appraisal](#) (Table 3.5) shows that the majority of the Waveney population are within walking and cycling distance⁹ of six key services. This is because the majority of the population are within Lowestoft and the market towns where there is generally good service provision. However, “The Saints” area in the west have limited access to basic services and facilities and all parts of the District suffer from under provision / accessibility to some type of open space. Accurate monitoring of the change in access to services is difficult, therefore further work is needed to develop a standardised monitoring process across the district.
- 7.123 No applications permitted this monitoring year result in the loss of cultural facilities. Five applications have been approved for two art galleries in Lowestoft; expansion of Lowestoft Museum; provision of Beccles Men’s Shed and a visitor information point in Southwold.
- 7.124 ‘Cultural facilities’ is an umbrella term that covers a wide range of different uses and as a result it is difficult to identify trends from gains and losses, which can often be very different to each other. Nonetheless the increase in the provision will provide important new community facilities.
- 7.125 Overall, it appears that the policies covering community facilities and open space in the former Waveney area are working well. There are few examples of open areas being detrimentally harmed or lost due to development. The Waveney Local Plan will continue to protect community facilities and open space through policies WLP8.22 Built Community Services and Facilities and WLP8.23 Protection of Open Space.

Community Facilities and Assets Summary

The Council consider that the policies which provide for the continued provision of community facilities and assets across the District are performing well. These policies are fundamental to successful and healthy communities and give areas an identity. The policies do not distinguish between urban and rural communities, but the Council is aware that facilities in rural parts of the District are likely to come under greater pressure over the plan period – due in part to the smaller populations found in rural areas. In urban areas, the demand for community facilities can be greater due to a more concentrated population.

⁹ Walking distance – up to 400 metres; Cycling distance – between 400m and 2km

Next steps

- Continue to work with Active Communities Team to maintain and enhance community facilities across the District, particularly in rural areas.
- Encourage communities to identify Assets of Community Value in their areas.
- Continue to support communities through the preparation of Neighbourhood Plans.
- Work with partner organisations to ensure that funding for community facilities and assets is made available at the appropriate time.
- Further develop a standardised monitoring process of accessibility to key services & facilities and open space.

Climate Change

- 7.126 This section provides information on renewable energy instalments, the implementation of energy and water efficiency standards, and assessments of applications at risk of coastal erosion and flood risk.
- 7.127 The Council, as a Risk Management Authority, is responsible for addressing coastal erosion and coastal flooding across the District. The Council, in its role as Coastal Erosion Risk Management Authority, has identified a Coastal Change Management Area, in line with national policy. This is identified on the Policies Maps of the Suffolk Coastal Local Plan and the Waveney Local Plan.

Indicator	Suffolk Coastal	Waveney	East Suffolk	Link to further information
New schools or offices of 1,000m ² or more gross floorspace achieving BREEAM 'Very Good' standard or equivalent (submission of post construction certificate)	N/A This is a new indicator in the recently adopted Suffolk Coastal Local Plan (and applies to all new non-residential development) and will be reported in future AMRs	No relevant schemes have completed this monitoring year	N/A	-
Sustainability Statement to be submitted with applications for 10 or more homes	This is a new indicator in the Waveney Local Plan. An assessment of relevant schemes within the Waveney Local Plan area are provided below			
Number of renewable energy schemes permitted [commercial]	1 (150kw)	0	1 (150kw)	-
Applications permitted in flood zones – planning applications approved against	0	0	0	GOV.UK Environment Agency objections to

Indicator	Suffolk Coastal	Waveney	East Suffolk	Link to further information
Environment Agency advice on the basis of flood risk				planning applications
Number and type of permissions granted within the Coastal Change Management Area	No relevant planning applications determined	1 x householder 1 x retail 3 x tourism use	N/A	-
Number of replacement homes permitted under coastal relocation / replacement policy	No relevant planning applications determined	1 application determined and approved subject to legal agreement but decision not issued within monitoring period	N/A	-
Carbon dioxide emissions – Total for all sectors (2018)	N/A	N/A	1,058kt	National Atmospheric Emissions Inventory
<u>Renewable energy:</u> Not all renewable energy installations require planning permission, so it is not always possible to accurately monitor renewable energy capacity. As a result of changing Government subsidies for small scale renewable energy schemes, applications for this type of development are no longer likely to be as attractive as they once were				
<u>Carbon dioxide emissions:</u> This indicator measures total greenhouse gas in kilotonnes of CO ₂ equivalent. Total greenhouse gas emissions are composed of CO ₂ totals excluding short-cycle biomass burning (such as agricultural waste burning) but including other biomass burning (such as forest fires, post-burn decay, peat fires and decay of drained peatlands), all anthropogenic CH ₄ sources, N ₂ O sources and fluorine based-gases (HFCs, PFCs and SF ₆). (Source: landportal.org / N.A.E.I)				

Suffolk Coastal Local Plan

- 7.128 Preventing inappropriate development in areas at risk of flooding is key to minimising the impact of climate change. The Environment Agency originally objected on flood risk grounds to five planning applications during 2019-20. However, the Environment Agency withdrew their objections following either the submission of further information or the proposed imposition of a planning condition

three of these, which were then subsequently permitted. The other two applications were refused by the Council either on the basis of insufficient information in the flood risk assessment (FRA) to assess the application, or in the absence of such documentation.

- 7.129 The renewable energy scheme permitted, as identified in the above table, is for the change of use of an agricultural building to house a biomass boiler to provide heating for a bed-and-breakfast and holiday let business.
- 7.130 The energy efficiency of all new and renovated buildings for residential and non-residential use is covered by Building Regulations. All developers must build and renovate to Building Regulation standards. The setting of Building Regulations is not within the control of the Council. However, Local Planning Authorities can, through planning policy in Local Plans, set energy performance standards for new housing that are higher than Building Regulations, but only up to the equivalent of Level 4 of the, now withdrawn, Code for Sustainable Homes (approximately 20% above current Building Regulations). In the recently adopted Suffolk Coastal Local Plan Policy SCLP9.2 Sustainable Construction requires new developments of more than 10 dwellings to achieve energy efficiency standards that result in a 20% reduction in CO₂ emissions below the Target CO₂ Emission Rate (TER) set out in current Building Regulations. All new non-residential developments of 1000m² or more floorspace are required to achieved BREEAM 'Very Good' standard or equivalent.
- 7.131 Outside the monitoring period, the recently adopted Suffolk Coastal Local Plan (September 2020) includes Policy SCLP9.3 Holistic Water Management which details the expectation that new development incorporate water efficiency and re-use measures to maximise the opportunities to reduce water use.

Waveney Local Plan

- 7.132 Policy WLP8.28 Sustainable Construction requires the submission of BREEAM postconstruction certificates for non-residential new build developments of 1,000m² or more floorspace to be secured as a planning condition. No relevant schemes have completed during 2019/20.
- 7.133 Policy WLP8.28 also requires the submission of a Sustainability Statement for new major development to demonstrate how the development can reduce its impact on the environment. Three major residential schemes have been permitted this monitoring year and a variety of energy statements/documentation has been submitted as supporting documentation. An updated planning application validation checklist for East Suffolk dated October 2020 is [available online](#) and will help ensure that Sustainability Statements submitted demonstrate how sustainability of the development has been considered by the applicant.

- 7.134 The Environment Agency objected to three applications on the basis of flood risk this monitoring year and following the submission of additional/revised documentation withdrew their objections to two applications. A technical meeting with stakeholders involved in the project resulted in the Agency's holding objection on the final application. Two of the applications involve the protection of areas of Lowestoft from fluvial or tidal flood risk as part of the Lowestoft Flood Risk Management Project.
- 7.135 Five planning applications have been permitted within the Coastal Change Management Area (Policy WLP8.25) this monitoring year for minor development related to existing tourism, commercial or residential uses. Of note is an application for the placement of a single rock groyne as part of a coastal protection scheme for the Potter Leisure Resort (Hopton, Norfolk) to help protect the eroding coastline at Hopton-on-Sea following the severe depletion of beach and eroding cliff face. The application has been submitted as part of a large masterplan and works that have been approved and carried out at the adjacent cliffs at Hopton (which is within the adjoining Great Yarmouth Borough Council area).
- 7.136 Minimising inappropriate development in areas at risk of coastal erosion is an important part of managing climate change. It has not been necessary to refuse any planning applications based on Policy WLP8.25 Coastal Change Management Area and no planning permissions are considered contrary to policy.
- 7.137 Policy WLP6.1 Copperwheat Avenue, Reydon allocates land for 220 homes of which seven plots are to be reserved for the relocation of dwellings already lost or at risk from coastal erosion. An outline planning application was submitted in March 2019 and approved by Planning Committee in March 2020 subject to legal agreement. However, the decision has not been issued within the current monitoring period.
- 7.138 Lowestoft has significant areas within Flood Zone 3. Construction of a new pumping station and flood wall to reduce the risk of future flooding to homes along Kirkley Stream in Lowestoft is underway. Ground investigation works for the tidal flood walls began in May 2020 and East Suffolk Council has also been awarded £43 million by the Government to deliver tidal flood walls and a tidal barrier. The construction of the flood defences is expected to get underway in 2021 and will, when complete (expected to be in 2025), significantly reduce the risk of tidal flooding to areas adjacent to Lake Lothing, including the Kirkley Waterfront and Sustainable Urban Neighbourhood.

Climate Change Summary

In light of the Climate Emergency, both nationally and locally, the Council is taking proactive steps to address the planning-related implications www.eastsuffolk.gov.uk/news/east-suffolk-to-battle-climate-change/.

The Council continues to address climate change through proactive policies in the Local Plans which promote sustainable construction techniques and the use of renewable technologies across the district. The impacts of climate change are being seen through the impact of coastal erosion and flooding in areas at risk. East Suffolk Council is at the forefront of the Energy Sector and works in partnership with energy companies and providers to deliver schemes and projects that address the implications of climate change.

An [Environmental Guidance Note](#) has been developed which provides simple, concise information on a range of key environmental topics for developers. The guidance has been developed in consultation with Building Control, Development Management, Design and Conservation, Environmental Protection, Ecology, Housing, Asset Management and Building Maintenance. The guidance has been produced to support the environmental vision of this council and in response to the climate emergency as declared by the Council in July 2019.

Despite the Environment Agency issuing objections on the basis of flood risk for a number of planning proposals, no planning applications were approved against Environment Agency advice on flood risk. This shows that the Council is addressing concerns raised by the Environment Agency.

Next steps

- The Environmental Guidance Note was presented to Full Council in November 2020 for endorsement
- Develop East Suffolk Sustainable Construction Guidelines/Supplementary Planning Document
- Develop a Coastal Adaptation Supplementary Planning Document (a joint document with North Norfolk District Council, Great Yarmouth Borough Council, the Broads Authority, and Coastal Partnership East covering the coastline from Holkham in Norfolk to Felixstowe in Suffolk)
- Develop processes to ensure climate change indicators can be effectively monitored

Design

- 7.139 This section provides information in relation to the effective monitoring of design quality. As Local Planning Authority, the responsibility for consenting development requiring planning permission rests on the Council's shoulders, to which the quality of design 'is fundamental to what the planning and development process should achieve' (paragraph 124 of the 2019 Framework). Planning policies are in place to support delivery of high-quality design and resist poor design in the district. The Council recognises and rewards high quality design and building conservation through the Quality of Place Awards, which have been operating in the former Suffolk Coastal area since 2010 and across the whole of East Suffolk from 2019. Further information about the Quality of Place Awards and details as regards nomination of a scheme can be found at www.eastsuffolk.gov.uk/planning/design-and-conservation/quality-of-place-awards/.
- 7.140 Part M of the Building Regulations 2010 establishes the standards that must be achieved regarding the access to and use of buildings. Part M4(2) covers the requirement for new dwellings to provide reasonable provision for most people to access the dwelling, including features which make it suitable for a range of potential occupants. The M4(2) Building Regulation standard is encompassed within Policy SCLP5.8 Housing Mix of the recently adopted Suffolk Coastal Local Plan and the Waveney Local Plan makes provision within Policy WLP8.31 Lifetime Design. The specific policy requirement is consistent across both the emerging Suffolk Coastal Local Plan and adopted Waveney Local Plan therefore the monitoring approach taken should be the same across both Local Plans.
- 7.141 Building for Life 12 is a tool used to assess the design quality of new major residential developments. It details 12 criteria through which developments are evaluated, ranging from consideration of the connections through development into the existing public realm, to ensuring the adequate provision and siting of external bin storage. A traffic light system is used to show the outcome in each criterion. Green scores indicate the design of the scheme responds positively to the criterion, amber scores indicate that there is clear evidence of local constraints on the scheme beyond the control of the applicant that prevent it from achieving a green score, and red scores identify aspects of a proposal that need to be changed and where the scheme design at the time of assessment fails to respond positively to the criterion in question. Further information can be found at www.designcouncil.org.uk/resources/guide/building-life-12-third-edition.
- 7.142 During 2019/20, 73 planning applications for new dwellings were refused, at least in part, on design grounds. A common reason cited for refusal was due to the proposal being a cramped form of development, of poor or not of high quality design and out of character or harmful to the character of the area and or neighbouring properties.

Indicator	Suffolk Coastal	Waveney	East Suffolk
Major residential developments performing positively against Building for Life 12 guidelines	These are new indicators in the Waveney Local Plan and recently adopted Suffolk Coastal Local Plan. An assessment of relevant schemes within the Waveney Local Plan area is provided below		
Sites with a capacity of 10 or more dwellings to make provision for accessible and adaptable dwellings under Part M4(2) of the Building Regulations			

Suffolk Coastal Local Plan

- 7.143 In the recently adopted Suffolk Coastal Local Plan Policy SCLP11.1 Design Quality aims to ensure development proposals demonstrate an understanding of local character, with particular regard to the key features of local character, and that such features are enhanced through locally distinctive and innovative design. Embedded in Policy SCLP11.1 is a requirement for Building for Life 12 to be used to assess the design quality of new major residential developments. Proposals are expected to perform positively when assessed against Building for Life 12 guidelines. Developments should avoid red outcomes unless there are exceptional circumstances. All Building for Life 12 assessed schemes will also be reviewed once built out and compared to the initial assessment.
- 7.144 In the recently adopted Suffolk Coastal Local Plan Policy SCLP11.2 Residential Amenity sets out the considerations to be made when ensuring development proposals do not cause an unacceptable loss of amenity to future occupiers of new development and existing and future occupiers of development in the vicinity.

Waveney Local Plan

- 7.145 The Waveney Local Plan includes a number of polices (WLP8.29 to WLP8.31) to ensure that high quality design is achieved in new development
- 7.146 Policy WLP8.29 Design expects new development to demonstrate high quality design and provides a framework of good design principles to be applied to the design of all new development. These principles take in matters including understanding of form; responding to local context; landscaping; amenity; public safety and crime; and highway layout amongst others. Furthermore, the policy states that major residential developments will be supported where they perform positively against Building for Life 12. This monitoring year, two schemes of 10 or more dwellings have been approved

and deemed compliant with the design policy (WLP8.29). It is expected that future proposals will be assessed against Building for Life 12 guidelines as part of the assessment of the application.

- 7.147 Policy WLP8.31 Lifetime Design seeks development proposals to support the needs of older people and those with dementia, where appropriate. The policy also requires developments of 10 or more dwellings to provide 40% of the dwellings to the requirements of part M4(2) of the Building Regulations. In this monitoring year, three proposals for 10 or more dwellings have been permitted and should have provided such. One scheme for an extra care village (care home and dwellings) provides all dwellings to level M4(2) and the nature of the scheme ensures the design supports those with dementia. Two other schemes, for 16 affordable homes and 27 market homes respectively, appear to miss an opportunity to provide a mix of dwellings to support residents through changing needs.

Design Summary

Achieving well-designed developments is a fundamental element of creating excellent places, within which people want to live, work and play. Delivering such developments requires an understanding of the principles of good design, expressed succinctly within the Building for Life 12 Guidelines.

Through the application of the Building for Life 12 Guidelines in concert with the other provisions of both SCLP11.1, WLP8.29 and other design policies, the Council will be able to monitor design quality across the District which will help identify both opportunities and constraints to achieving high quality design.

Next steps

- Implementation of design policies to ensure delivery of development of high design quality including supporting people throughout their lifetime
- Develop Local Plan site allocation Development Briefs
- Develop East Suffolk Sustainable Construction Guidelines / Supplementary Planning Document
- Develop an East Suffolk Cycling and Walking Strategy
- Develop processes to ensure new design indicators can be effectively monitored

Natural Environment

7.148 This section provides information on the adoption of habitat mitigation, a baseline of environmental designations and planning permissions allowed within defined gaps and areas to be protected from development.

Indicator	Suffolk Coastal	Waveney	East Suffolk	Link to further information
Habitat mitigation (Adoption of Recreational Disturbance Avoidance and Mitigation Strategy)	Future Authority Monitoring Reports will report on the collection and spend of receipts on projects			
Designated land (hectares)	Area of Outstanding Natural Beauty		37,214	Natural England website
	Special Protection Areas		10,709	
	Special Areas of Conservation		4,422	Suffolk
	Sites of Special Scientific Interest		11,672	Biodiversity Information
	Ramsar Sites		6,440	Service website
	County Wildlife Sites		7,450	
Number of applications permitted within gaps – Coalescence of Settlements [excluding householder applications]	N/A	1 application (housing allocation WLP4.1)	N/A	-
Number of applications permitted in areas to be protected from development as identified on the Suffolk Coastal Local Plan Policies Map. [excluding householder applications]	3 applications	N/A	N/A	-

Habitat mitigation in East Suffolk

- 7.149 Suffolk contains extensive areas of nationally and internationally protected landscapes and habitats. A particular issue is the need to ensure that new development, through increased recreational pressure, does not result in harm to the integrity of Special Protection Areas, Special Areas of Conservation and Ramsar sites. Many of the European designated sites cross administrative boundaries, therefore a collaborative approach is required to ensure that mitigation measures are delivered across the wider area in a consistent manner.
- 7.150 The Suffolk Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) has been developed with East Suffolk Council, Ipswich Brough Council, Babergh District Council and Mid Suffolk District Council. The RAMS document identifies a 13km 'Zone of Influence' (ZOI) around the designated sites and requires new residential development within that zone to make a financial contribution towards a suite of measures to mitigate the impacts of increased recreational pressure. The relevant sites within East Suffolk are:
- Alde - Ore Estuary Special Protection Area (SPA) and Ramsar site
 - Benacre to Easton Bavents SPA and Benacre to Easton Bavents Lagoons (SAC)
 - Deben Estuary SPA and Ramsar site
 - Minsmere to Walberswick Heaths and Marshes Special Area of Conservation (SAC)
 - Minsmere - Walberswick SPA
 - Orfordness - Shingle Street SAC
 - Sandlings SPA
 - Stour and Orwell Estuaries SPA and Ramsar site
- 7.151 The RAMS Executive Board, which oversees the project and delivery of the mitigation, has been established and is now working on developing a framework for taking forward the implementation of the RAMS mitigation measures. East Suffolk Council have worked in partnership with Ipswich Borough Council to draft a RAMS Supplementary Planning Document (SPD). This SPD will support the delivery of the RAMS project, it includes the per-dwelling tariff and provides further guidance for applicants within the RAMS Zone of Influence, including detail around which kinds of development need to pay the tariff and the options for making that payment. The SPD was adopted by Ipswich Borough Council in February 2020. Consultation on the East Suffolk SPD was delayed due to Covid-19 so did not commence until after the after the monitoring year (October 2020).
- 7.152 The RAMS project includes separate arrangements for monitoring the collection and spend of the tariff and this will be reported through the RAMS Executive Board. Future Authority Monitoring Reports will summarise the overall collection and spend. Further information can be found at www.eastsuffolk.gov.uk/planning/s106/habitat-mitigation/.

7.153 This monitoring year, three applications have been permitted within areas identified on the Policies Map as areas to be protected from inappropriate development. Two approved schemes are minor development within residential curtilages or school grounds and considered to be policy compliant. The final application is for the redevelopment of land and buildings formerly used as part of a garden centre in Woodbridge to 24 flats. Although the decision was finally issued in January 2020 the planning application had been approved by Planning Committee in 2017, subject to finalising the S106 legal agreement.

Waveney Local Plan

7.154 Policy WLP8.36 Coalescence of Settlements aims to protect the identity and character of separate settlements. One application has been approved between the settlements of Holton and Halesworth on an allocated site for a mix of uses including health care, residential and sports facilities. Although the site sits within the gap between Halesworth and Holton, the fields comprising the eastern part of the site are well screened with mature vegetation and the placement of open space here will limit the impact on the landscape and the potential for coalescence between Halesworth and Holton.

7.155 Overall, policies covering the natural environment in the former Waveney area appear to be working well. Permissions within gaps should not increase urbanising effects. While there is a large proportion of the District under protected designations, the Waveney Local Plan includes policies which protect valuable landscapes and biodiversity and encourage biodiversity gains where possible. These will ensure that development takes account of the natural environment and mitigates any impacts that occur, especially when development takes place in designated areas. A number of sites allocated in the Local Plan also require new open spaces to be provided which will enhance the biodiversity offer of the District.

Natural Environment Summary

East Suffolk contains a varied and valuable natural environment which is home to numerous protected species and habitats. Policies in the relevant Local Plans have ensured that landscapes have been protected by ensuring that any development that takes place only occurs when it is suitable.

The Council will continue to protect these valuable areas through the policies in the new Local Plans for the District. These policies also look to enhance these areas and the Council will take other measures for this to occur, including adopting the Recreational Disturbance Avoidance and Mitigation Strategy.

The Environment Bill is being debated in Parliament, therefore it is not known when the national requirement for Biodiversity Net Gain on development sites will be introduced. Both Local Plans contain policies that ensure the protection of the natural environment and encourage net gains where possible. Once Biodiversity Net Gain becomes a requirement, the Council will take necessary measures to implement this requirement.

Next steps

- Adoption of Recreational Disturbance Avoidance and Mitigation Strategy Supplementary Planning Document
- Develop indicators to monitor the implementation of RAMS
- Implementation of Biodiversity Net Gain where practicable

Historic Environment

- 7.156 A heritage asset is defined in the Government’s National Planning Policy Framework as a building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions because of its heritage interest. Heritage assets include those that are designated such as listed buildings, conservation areas and scheduled monuments, and those that are non-designated; that is those identified by the local planning authority as having local interest.
- 7.157 The Planning Practice Guidance states that in the case of buildings, the significance of non-designated heritage assets should, ideally, be judged against the local planning authority’s published criteria. Significance is the value of a heritage asset to this and future generations because of its heritage interest that can be archaeological, architectural, artistic or historic. The Council, as local planning authority, can identify any other kind of non-designated heritage asset.
- 7.158 Following public consultation, a number of changes to Woodbridge and Yoxford conservation areas have been approved this monitoring year. In addition, a supplement to the existing Woodbridge Conservation Area appraisal and new replacement Conservation Area appraisals for Felixstowe, Holton, Homersfield, Wissett and Yoxford have been approved. Further information on Conservation Areas, listed buildings and non-designated heritage assets can be found at <https://www.eastsuffolk.gov.uk/planning/design-and-conservation/>.
- 7.159 During 2019/20 the initial consultation for the East Suffolk Historic Environment Supplementary Planning Document (SPD) was held and the SPD was drafted.

7.160 Of the 114 appeal decisions in East Suffolk over 2019/20 monitoring period, 27 cited the effects of heritage assets as a main issue for consideration. In 18 of the 27 decisions, the Inspector dismissed the appeal either wholly or in part due to the identified harm to heritage asset(s).

Indicator	Suffolk Coastal	Waveney	East Suffolk	Link to further information
Number of Conservation Areas at risk (2020)	0	1 (Lowestoft North)	1	Historic England Heritage at Risk Register 2020
Number of Listed Buildings and other Heritage Assets on the 'at risk' register	16	8	24	Historic England Heritage at Risk Register 2020
Loss of non-designated heritage assets	Work will be undertaken to further develop a standardised monitoring process across the district			
Number of identified non-designated heritage assets	Work will be undertaken to further develop a standardised monitoring process across the district			

Suffolk Coastal Local Plan

- 7.161 In March 2008 English Heritage identified Felixstowe South as an area with a distinctive character that warranted consideration for a new separate conservation area designation. Following consultation in 2009, the Felixstowe South Conservation Area was designated on 12th June 2009. The Felixstowe South Conservation Area was on the Heritage at Risk Register since 2010 due to lack of maintenance and the poor condition of many of the buildings there. However, the Heritage at Risk Register 2020 no longer lists the Felixstowe South Conservation Area.
- 7.162 St Margaret's Chapel, Wenhaston with Mells, has been removed from Historic England's Heritage at Risk Register 2020 following repair.
- 7.163 The recently adopted Suffolk Coastal Local Plan policies SCLP11.3 to SCLP11.8 seek to ensure the historic environment is preserved and enhanced, and that development makes a positive contribution to the historic environment where at all possible.

Waveney Local Plan

- 7.164 North Lowestoft Conservation Area was added to Historic England’s Heritage at Risk Register because poor quality alterations to individual buildings have harmed the character of the historic high street. In December 2017 the area was designated as a Heritage Action Zone (HAZ) and a five-year programme began in May 2018 to regenerate the area. The aim is to bring vacant and ‘at risk’ buildings back into use, encourage footfall, support cultural events and research and engage the community about the historic significance of the area. As part of this programme of works the North Lowestoft Heritage Action Zone Design Guide was prepared and has now been adopted in July 2020. It can be viewed via the following link: <https://www.eastsuffolk.gov.uk/assets/Planning/Planning-Policy-and-Local-Plans/Supplementary-documents/Lowestoft-HAZ/North-Lowestoft-Heritage-Action-Zone-Design-Guide-SPD.pdf>
- 7.165 In September 2019 Historic England also designated south Lowestoft as a High Street Heritage Action Zone. Comprising the majority of the South Lowestoft Conservation Area the South Lowestoft HAZ will benefit from a detailed five-year delivery plan to restore and bring back into use historic buildings and routes, through considerable financial and technical support from Historic England.
- 7.166 Two places of worship have been removed from Historic England’s Heritage at Risk Register 2020 following repair work – Church of Our Lady Star of the Sea (Lowestoft) and Church of St Margaret (Herringfleet). However, Church of St Andrew (Mutford) has been added to the Register.
- 7.167 Waveney Local Plan policies WLP8.37 to WLP8.40 seek to ensure the historic environment is preserved and enhanced, and that development makes a positive contribution to the historic environment where at all possible.

Historic Environment Summary

East Suffolk District has a rich historic environment, a wide variety of historic buildings and other heritage assets, such as parks and monuments. Felixstowe South Conservation area has been removed from Historic England’s Heritage at Risk Register, and North Lowestoft Conservation Area remains listed as at risk. However, the North Lowestoft Heritage Action Zone seeks to increase understanding of the conservation area, rejuvenate historic buildings and spaces and act as a catalyst for wider economic regeneration. Work is also ongoing to identify heritage assets that are at risk and ensure their restoration and protection.

Next steps

- Adoption of East Suffolk Historic Environment Supplementary Planning Document
- Work will be undertaken to further develop a standardised monitoring process in relation to non-designated heritage assets across the district

- Early work on the recently designated South Lowestoft Heritage Action Zone

Health

- 7.168 Health and wellbeing is a key theme running throughout the Suffolk Coastal and Waveney Local Plans. Both the former Suffolk Coastal and Waveney district areas face challenges relating to an ageing population (28% of the District's population are over 65, compared with an average of 20% at East of England level, and 18% at national level), adult and child obesity, a high proportion of the population with a limiting long-term illness or disability, and inactivity. The District also faces challenges relating to pockets of deprivation undermining health outcomes, which are particularly significant in respect of life expectancy differences between some wards in the former Waveney district area.
- 7.169 The Sustainability Appraisals for the Suffolk Coastal and Waveney Local Plans identified high-level objectives for addressing identified health and wellbeing issues through Local Plan policy, and a suite of recommended indicators to monitor progress against these objectives. The full list of objectives and indicators can be found in Appendix 3.
- 7.170 Indicators that are related to health but are listed within other sections of this Report include accessibility to open space, travel to work modes, improvements to pedestrian and cycle routes, and public rights of way and design policies (which promote inclusive spaces for people of all ages and abilities which will support physical and mental health and wellbeing). The Suffolk Coastal Local Plan Sustainability Appraisal also includes two air quality indicators.
- 7.171 The following annual monitoring indicators reported in the table below are those that are common to and key to the achievement of health and wellbeing objectives identified in both Local Plans, and where possible the data relates to the new East Suffolk district area, rather than the two former district areas. Three new wellbeing indicators (anxiety, happiness and life satisfaction) have been added this year to ensure a more complete picture of the different aspects of personal and population health and wellbeing are being monitored.

Indicator	Suffolk Coastal	Waveney	East Suffolk	Link to further information
Life expectancy at birth (age <1) (2017-2019)	N/A	N/A	80.7 Males 83.8 Females	ONS, Life expectancy estimates, all ages, UK

Indicator	Suffolk Coastal	Waveney	East Suffolk	Link to further information
Participation in physical activity (active an average of 150+ minutes a week)	N/A	N/A	60.7% (Nov 2018 – Nov 2019)	Sport England Active Lives Survey
Percentage of adults (18+) classified as overweight or obese (2018-19)	N/A	N/A	63.3%	Public Health England, Public Health Profiles
Prevalence of overweight including obesity among children in Year 6 (age 10-11 years)	N/A	N/A	28.8% (2018/19)	National Child Measurement Programme
Anxiety (“On a scale where 0 is “not at all anxious” and 10 is “completely anxious”, overall, how anxious did you feel yesterday?”) (Mean) (April 2019-March 2020)	2.93	3.54	N/A	ONS, Personal well-being estimates by local authority (Annual Population Survey)
Happiness (“Overall, how happy did you feel yesterday?”) (Mean) (April 2019-March 2020)	7.52	7.55	N/A	

Indicator	Suffolk Coastal	Waveney	East Suffolk	Link to further information
Life Satisfaction (“Overall, how satisfied are you with your life nowadays?”) (Mean) (April 2019-March 2020)	7.57	7.74	N/A	
Number of designated Air Quality Management Areas (AQMAs)	2	0	2	East Suffolk Air Quality Reports
Number of locations at or above any of the national Air Quality Objectives for England (2019 Air Quality Annual Status Report)	0	0	0	East Suffolk Air Quality Reports
Number of nitrogen dioxide (NO ₂) monitoring sites within 10% of the annual mean Air Quality Objective (sites above 40µg/m ³) (2019 Air Quality Annual Status Report)	0	0	0	East Suffolk Air Quality Reports

7.171 The Office for National Statistics (ONS) dataset on life expectancy estimates for people of all ages in the UK show that, in East Suffolk, people under the age of one year between 2017-2019 can expect to live to 83.3 years of age if they are female, or 80.7 years of age if they are male. These figures are

similar to the averages for England at 83.4 years of age if they are female, and 79.7 years of age if they are male.

- 7.172 The Sport England Active Lives Survey findings from the period of November 2018 to November 2019 show that 60.7% of adults in East Suffolk were physically active (undertaking at least 150 minutes of at least moderate intensity exercise per week), which is below the national average of 63.3% for the same period. The proportion of adults in East Suffolk that were considered inactive (less than 30 minutes of at least moderate intensity exercise a week) was 26.8%, which is higher than the national average of 24.6% over this period.
- 7.173 The Public Health England Public Health Profile dataset shows that the percentage of East Suffolk adults (aged 18+) classified as overweight or obese between 2018-19 was 63.3%, which is the same as the East of England average, but is slightly higher than the national average of 62.3% over this period.
- 7.174 The findings of the Government's National Child Measurement Programme, which annually measures children in Reception (aged 4-5 years) and Year 6 (aged 10-11 years) in state-maintained schools in England, showed a general slight increase nationally of obesity in children of both Reception (4-5 years) and Year 6 (10-11 years) age over the 2019-20 school year. Figures were not available at District level for the 2019-2020 school year (the proportion of East Suffolk Year 6 children that were overweight or obese in the 2018-19 school year was 28.8%, as shown above), though this information was available at county level – with the combined prevalence rate for overweight and obesity in children at Reception and Year 6 age being at 21.5% (England average 23%) and 31.8% (England average 35.2%) respectively. The programme found nationwide that children living in the most deprived areas were more than twice as likely to be obese than those living in the least deprived areas.
- 7.175 Results from the ONS Annual Population Survey for the three wellbeing indicators that have been added into the AMR this year (mean scores for anxiety, happiness and life satisfaction for the April 2019 to March 2020 period) show decreases in happiness and life satisfaction within the two former district areas compared with the previous year. However, the reported mean scores for happiness and life satisfaction for both former district areas were both similar to the averages for England. Reported anxiety levels in both former district areas have increased from the previous year, though these scores are still considered by the study's methodology to be 'low' (under an average mean score of 4). The former Suffolk Coastal area's average mean score for anxiety (2.93) was slightly lower than the average mean score for the East of England (3.04) and England (3.05), though the former Waveney area's was higher (3.54).
- 7.176 Air quality in the District is generally good. The results from diffusion tube monitoring show that there are no sites across the District with annual mean concentrations at or above the objective level of 40µg/m³ in 2018 or 2019.

- 7.177 The main source of emissions within the District is road traffic, which means that the pollutants of concern are nitrogen dioxide (NO₂) and particulate matter; within the town of Felixstowe, emissions from and associated with the Port are also a source of these two pollutants.
- 7.178 There are two small localised areas within the former Suffolk Coastal area where the objective set for annual mean nitrogen dioxide (NO₂) has been exceeded in the past and Air Quality Management Areas (AQMAs) are currently declared:
- Several houses on the road junction of Lime Kiln Quay Road, Thoroughfare and St. John's Street in Woodbridge (Woodbridge Junction)
 - Four residential properties within Long Row, Main Road (A12) in Stratford St Andrew.
- 7.179 However, NO₂ levels for the Woodbridge AQMA have reduced since 2014 and have now been below the objective level for 5 years, with the average for 2019 34µg/m³. Stratford St Andrew AQMA NO₂ concentrations fell below the objective for the first time in 2017 (39µg/m³) and again in 2018 (37.7µg/m³) and 2019 (36µg/m³).

Health Summary

Life expectancy in the district is similar to the national average. Activity levels are lower than the national average, though this should be considered in the context of a relatively ageing population, and a population with a relatively high proportion of people managing limiting long-term illness or disability.

Nationally, activity levels had been increasing until coronavirus restrictions were introduced in March 2020, which led to unprecedented drops in activity during the first few weeks of full lockdown between mid-March and mid-May ([Sport England, Coronavirus \(Covid-19\) Report, 2020](#)). Any subsequent lockdowns that may occur would be likely to have a similar impact; the Council will be able to report on any longer term trends that may arise as a result of lockdown periods in the District in future AMRs.

Adult overweight and obesity levels are slightly higher than the national average, though child overweight and obesity levels were lower. Reported levels of happiness and life satisfaction decreased over the monitoring period, and anxiety increased. However, these levels are not significantly different to the averages for England.

There is a continued positive trend in air quality remaining below the annual mean concentration objective level for nitrogen dioxide of 40µg/m³.

Next steps

- Implement Local Plan policies to continue to improve health outcomes for the district
- Review and improve the range of indicators being monitored

Nationally Significant Infrastructure Projects

7.180 This section provides a summary of the nationally significant infrastructure projects within East Suffolk.

Offshore wind

7.181 East Anglia One: The Council worked closely with the promotor and their contractors throughout the East Anglia One construction and continues to do so in the final stages of reinstatement in relation to the cable route. This enabled the Council to ensure that hedge lines were re-instated and there was no adverse impact, particularly in relation to the route near watercourses. There were a couple of locations where unacceptable noise was reported; working with the promoter and the Council's Environmental Health team, the Council sought to minimise adverse impacts, where identified. Monitoring primarily takes place through regular meetings between planning and technical staff of East Suffolk Council, Mid Suffolk Council, Suffolk County Council, and the ScottishPower Renewables project team. Once fully operational there are no terrestrial elements of the project within East Suffolk to result in any necessary ongoing monitoring by the Council. The cable corridor through East Suffolk has predominantly been returned to the landowners and reinstated to the Council's satisfaction.

7.182 The East Anglia Hub Strategy has been announced to deliver the consented but not-yet-constructed East Anglia Three offshore windfarm and East Anglia One North and East Anglia Two, which are also not yet consented but have been submitted to the Planning Inspectorate to go through the Development Consent Order process. The Hub concept will enable the accelerated development of these projects and increase efficiencies. Together, if consented, the East Anglia Hub would generate 3.14 gigawatts of green electricity to the National Grid. East Anglia One North and East Anglia Two will be going through the consenting process during 2020 – 2021.

Nuclear energy

7.183 During 2019/20, the Sizewell C new nuclear power station (EDF Energy) proposal progressed through a fourth and final round of public consultation prior to submission to the Planning Inspectorate to go through the Development Consent Order process. The formal application was accepted in June 2020

and consideration under this regime will be ongoing throughout 2020 – 2021 (a consultation on some changes to the DCO ran from November-December 2020). There are obviously a number of important issues that the Council has been discussing with EDF, and will continue to consider and comment on during the DCO consideration process, including (but not limited to): potential coastal impacts arising from the proposed beach landing facility and the new hard coastal defence feature; the potential effects on the Suffolk Coast and Heaths Area of Outstanding Natural Beauty and wider landscape; potential effects with regards to protected species in the area including the nearby Special Protection Areas and Special Areas of Conservation; and the potential transport implications (during construction).

- 7.184 The Council is also working closely with the promotor to ensure the social impacts of the proposal, particularly during construction, on local communities are minimised and, where appropriate, mitigated. In addition, the potential economic development benefits of the project are being closely worked upon with the promotor, particularly on improvements to the skills and education offering in East Suffolk and boosting employment opportunities for the District resulting from the construction programme. The Council is working with other partners, including the Suffolk Chamber of Commerce and New Anglia LEP, to ensure that the district secures benefits from the supply chain through the construction and operational aspects of the project.
- 7.185 A major planning application for relocating facilities at the Sizewell B nuclear power station (related to the Sizewell C proposal) was approved by the Council in November 2019. The application was then subject to a legal challenge (judicial review), but the High Court dismissed the challenge (on 1st October 2020).

Interconnectors

- 7.186 There has been ongoing preliminary discussions with National Grid Ventures on their proposed interconnector projects – Nautilus and Eurolink. Nautilus is proposed to provide energy exchange between Belgium and the UK and Eurolink is proposed to provide energy exchange between the Netherlands and the UK. The Nautilus proposal is expected to progress to a formal round of public pre-application consultation in 2020 – 2021. The Council anticipates that there may be some benefits for East Suffolk during the construction phase of the proposal through access to employment – provided there are the necessary skilled workers available. However, there are also likely to be dis-benefits with additional construction vehicles on the rural roads network. Once operational, benefits will be limited as the end building will be a predominantly unmanned electricity converter and substation complex.

Lake Lothing Third Crossing (Lowestoft)

- 7.187 The third crossing over Lake Lothing will help alleviate traffic congestion in the town, improve connectivity and help deliver regeneration sites. It will be higher than the existing bascule bridge so reducing the number of times it will be required to lift to allow vessels to pass through. The Examination period commenced in December 2018 and ended June 2019. The Secretary of State issued the granting of the Development Consent Order on 30th April 2020. Following a competition with local schools, the name of the bridge, “Gull Wing”, was announced. The contractor was announced in September 2020 and work is planned to begin in spring 2021 and expected to be complete by summer 2023.
- 7.188 Further details can be found on the individual project websites and the Council’s website <https://www.eastsuffolk.gov.uk/planning/> - Sizewell Nuclear Power Station or Offshore Windfarms pages.

Delivery of infrastructure projects

- 7.189 This section provides information on the delivery of infrastructure projects highlighted in the adopted Local Plans and which are more local in scale than the Nationally Significant Infrastructure Projects referred to above. Not all infrastructure projects are necessary to support the growth identified in the adopted Local Plans but are identified as projects which could come forward during the lifetime of the plans.
- 7.190 The Council continuously engages with other authorities and infrastructure providers in relation to infrastructure projects, including strategic cross boundary infrastructure projects. Funding for infrastructure usually comes through s106 and/or CIL payments, but other sources of funding can be used to assist in infrastructure delivery and the Council regularly explores these in conjunction with partners. Projects funded through the Community Infrastructure Levy are identified in the Infrastructure Funding Statement (insert weblink when known). Key infrastructure projects are identified in the table below.
- 7.191 The Suffolk Public Sector Cloud project is being coordinated by Suffolk County Council. This project is installing ultrafast (fibre to the premises) broadband to all public sector premises across 10 Suffolk towns including Lowestoft, Woodbridge and Felixstowe. Framlingham is a Digital Towns pilot; this is a free WiFi scheme provided by the Town Council supported by Framlingham Business Association and East Suffolk Council. It will provide connectivity across the zone which should encourage footfall to the benefit of local businesses.

Infrastructure project	Delivery progress	Link to further information
Suffolk Coastal Local Plan		

Infrastructure project	Delivery progress	Link to further information
Double tracking of the Felixstowe branch line and upgrade of level crossings (Network Rail)	Complete.	Network Rail
A12 improvements east of Ipswich	<p>i) Improvements to various junctions as part of Brightwell Lakes development. £19.75m secured by Suffolk County Council through the Housing Infrastructure Fund from Homes England</p> <p>ii) Funding from DfT awarded to Suffolk County Council to work on an outline business case for improvements to the A12 east of Ipswich at Martlesham along with approval to develop a strategic outline business case for the A12 at Woodbridge was announced in March 2020.</p>	Suffolk County Council
A14 junction improvements	Improvements at Copdock identified in the Suffolk Coastal Core Strategy and in the new Suffolk Coastal Local Plan). DfT have identified improvements to the Copdock junction in the Roads Investment Strategy 3 pipeline.	DfT RIS2
Waveney Local Plan – Policy WLP1.3 Infrastructure		
Lowestoft Flood Risk Management Project	<p><u>Tidal</u>: Planning permission granted January 2020 for construction of flood walls around the Outer Harbour (DC/19/2753/RG3). £43m Government funding awarded July 2020.</p> <p><u>Fluvial</u>: Planning permission granted May 2020 for fluvial flood wall along Kirkley Stream and construction of pumping station (DC/19/0210/FUL). Works commenced June 2020.</p>	Lowestoft Flood Risk Management Project
Brooke Peninsula Pedestrian and Cycle Bridge	Phase 1 requires implementation of Normanston Park Pedestrian and Cycle Bridge (see below). Phase 2 will see pedestrian and cycle linkages continued over Lake Lothing once phase 1 is complete	
Normanston Park Pedestrian and Cycle Bridge	Planning permission granted November 2019 (DC/19/2796/RG3)	

Infrastructure project	Delivery progress	Link to further information
Beccles Southern Relief Road	Complete (opened September 2018)	
A47 improvements between Lowestoft and Peterborough	The Council is one of the partners of the A47 Alliance which works towards improving the A47 across East Anglia. The Just Dual It! campaign was launched in March 2019 with the aim to gain government funding to dual the entire A47 by 2030. The dualling or improvement of a number of sections of the A47 in Norfolk have been committed to in DfT Road Investment Strategy 2 (2020-2025), published March 2020.	Norfolk County Council DfT RIS2
Improvements to the A146 between Lowestoft and Norwich	Suffolk County Council continues to explore options to improve the Barnby Bends section of the A146 between Lowestoft and Beccles. This project was put forward as a shortlisted scheme by Transport East as part of its Major Road Network Programme in 2019. The scheme has been accepted into the pipeline for the 2020-2025 period. Initial key stakeholder engagement is proposed and this will inform options to be considered as part of the Strategic Outline Business Case. Future scheme development and consultation is anticipated in 2021/22.	

Suffolk Coastal Local Plan

- 7.192 The double tracking of the Felixstowe branch line has been completed, increasing the efficiency of Felixstowe Port, the largest container port in the country. Such improvements will help to support the economic policies in the Local Plan considering that the Port of Felixstowe is a major employer in the District.
- 7.193 A14 junction improvements at Copdock are identified in the Suffolk Coastal Core Strategy and has been identified in the pipeline for Roads Investment Strategy 3 by the Department for Transport. RIS 3 will cover the period 2025 to 2030.
- 7.194 In October 2019 £19.75m of funding was awarded through the Housing Infrastructure Fund to forward fund highways works related to the development of Brightwell Lakes. This relates to the upgrading of junctions to support the delivery of Brightwell Lakes as identified in the approved

outline planning application. The funding is awarded to Suffolk County Council with costs to be recovered as the development is built out.

- 7.195 Consultation on options for the Ipswich Northern Routes was undertaken in summer 2019, but a subsequent decision not to progress with the scheme was taken formally by Suffolk County Council's Cabinet in February 2020

Waveney Local Plan

- 7.196 Construction has begun on some of the infrastructure (along Kirkley Stream) that will make up the Lowestoft Flood Risk Management Project. This project will provide greater protection from flooding from the sea, rivers and extreme rainfall. Completion of the project is currently anticipated for 2023.
- 7.197 The Brooke Peninsula Pedestrian and Cycle Bridge and Normanston Park Pedestrian and Cycle Bridge are key pieces of infrastructure to support the development of Lowestoft, namely through interactions with policy WLP2.4 Kirkley Waterfront and Sustainable Urban Neighbourhood. The Council continues to progress with delivery of the Normanston Park Bridge by securing the appropriate funding. Once this phase is completed, work will begin to develop the Brooke Peninsula Bridge over Lake Lothing.
- 7.198 Improvements to the A12, including the Four Villages Bypass, were identified as part of the development of the Waveney Local Plan. A funding bid to the Department for Transport was rejected in June 2019.

Delivery of infrastructure projects Summary

Progress has been made on numerous infrastructure projects across the District that are needed to support future development, with significant milestones being reached such as the granting of the Development Consent Order for the Lake Lothing Third Crossing (Gull Wing bridge). The new Local Plans for the District identify these projects and others that will support the growth outlined in the plans, as well as the mechanisms that will be used to deliver them.

Next steps

- Continue to work with infrastructure providers to ensure projects are delivered to support development.

Progress on delivery of Site Allocations (Local Plans and Neighbourhood Plans)

7.199 This section provides information and an assessment on the progress made towards delivering the sites allocated for development in the adopted Local Plans and made Neighbourhood Plans in East Suffolk.

7.200 A full list of all sites allocated in the Suffolk Coastal and Waveney Local Plans and Neighbourhood Plans is available at the Council's Open Data Portal: <http://data-eastsuffolk.opendata.arcgis.com>. This provides information on planning application status, delivery to date and relevant comments as at 31st March 2020. The [Statement of Housing Land Supply](#) (October 2020) provides details of anticipated rates of delivery.

Neighbourhood Plans

7.201 A number of Neighbourhood Plans within East Suffolk allocate sites for specific uses: Framlingham (2017), Leiston (2017), Kessingland (2017) and Melton (2018). The table below provides a summary of Neighbourhood Plan allocations subject to planning application as at 31st March 2020.

Ref	Site	Proposal	Progress Summary
Framlingham Neighbourhood Plan			
FRAM19	Land off Saxtead Road, Framlingham	Allocated for up to 30 dwellings	Planning permission for 24 dwellings granted 26/02/2019 (DC/18/2445/FUL) 9 dwellings completed
FRAM20	Land west of New Street, Framlingham	Allocated for B1 employment uses	Outline planning permission for employment uses granted 05/09/2017 (DC/16/4370/OUT)
FRAM22	Land off Vyses Road/Brook Lane	Allocated for community use and up to 15 dwellings	14 dwellings completed (DC/15/0960/FUL)
FRAM23	The Green Shed, Fore Street, Framlingham	Demolition of existing buildings and replacement with eight new dwellings & a single B1(a) office	Planning permission for 8 dwellings & one B1(a) office granted 02/05/2017 (DC/16/5386/FUL). 8 dwellings under construction
FRAM26	Station Terrace, Framlingham	Allocated for residential development for up to 15 dwellings	Outline planning permission for 4 dwellings granted 27/11/2017 (DC/17/1853/OUT)

Ref	Site	Proposal	Progress Summary
Leiston Neighbourhood Plan			
SA1	Land at Highbury Cottages, Saxmundham Road, Leiston	Allocated for residential development of up to 150 dwellings and land for cemetery extension	Approval of Reserved Matters (DC/19/1883/ARM) granted January 2020 for up to 187 dwellings
SA2	Land at Red House Lane, Leiston	Allocated for residential development of approximately 70 dwellings	Planning permission for 65 dwellings approved 27/03/2018 (DC/17/1605/FUL) 60 dwellings completed
SA3	Land the rear of St Margaret's Crescent, Leiston	Allocated for residential development of up to 70 dwellings	Outline planning permission for up to 77 dwellings granted 29/06/2017 (DC/16/2104/OUT)
SA4	Land at Abbey Road, Leiston	Allocated for residential development of approximately 100 dwellings and minimum 1,000m ² class B1 floorspace	Outline planning permission for a mixed-use scheme including 100 dwellings, 1,000m ² employment floorspace and public house/restaurant granted 07/06/2017 (DC/16/1322/OUT)
Kessingland Neighbourhood Plan			
CI3	Land off Francis Road, Kessingland	Provision of an Early Years Centre	Planning permission for a children's nursery granted 24/10/2016 (DC/16/2683/FUL)
CI4	Land off Church Road, Kessingland	Provision of additional care facilities	Planning permission for a 60-bed care home granted 13/04/2017 (DC/16/2868/FUL). NB DC/20/3124/AEA extends planning consent until 21 May 2021
SA1	Former Ashley Nurseries Site, Kessingland	Provision of approximately 25 dwellings and 500m ² of B1 employment floorspace	Planning application for 35 dwellings pending consideration (DC/18/1364/FUL)

7.202 Across East Suffolk, Neighbourhood Plans allocate sites for a variety of uses including housing, employment, education and care facilities. As at 31st March 2020, planning permissions on Neighbourhood Plan allocations total 465 new homes and a 60-bed care home. Of the 479 homes

with planning permission, 25 dwellings are under construction and 83 have been completed (as at 31st March 2020).

Suffolk Coastal Local Plan

7.203 The Suffolk Coastal Local Plan site allocations are contained in the Site Allocations and Area Specific Policies document and the Felixstowe Peninsula Area Action Plan (both Jan 2017). The table below provides a summary of Local Plan allocations subject to planning application as at 31st March 2020.

Ref	Site	Proposal	Progress Summary
FPP3	Land at Sea Road, Felixstowe	Mixed use development of commercial / tourism uses and approximately 40 residential dwellings	Planning permission for commercial units, 59 flats and houses granted 06/07/018 (DC/17/3967/FUL)
FPP4	Land north of Walton High Street, Felixstowe	Gateway to Felixstowe for approximately 400 residential units; including on site open space, comprehensive landscaping and new business units	Outline planning permission for 385 dwellings permitted 09/08/2018 (DC/16/2778/OUT)
FPP6	Land opposite Hand in Hand Public House, Trimley St Martin	Approximately 70 residential units with on site open space to provide a village green	Outline planning permission for up to 70 dwellings permitted 29/03/2018 (DC/16/2119/OUT)
FPP8	Land south of Thurmans Lane, Trimley St Mary	Approximately 150 residential units	98 homes and open space completed on western part of the site (DC/16/1107/FUL). The eastern part of the site has outline permission for 50 dwellings (DC/16/2122/OUT)
SSP4	Land to the East of Aldeburgh Road, Aldringham	Residential use for approximately 40 units	Planning permission for 40 dwellings granted 07/08/2019 and 18 units are under construction (DC/18/2325/FUL)
SSP5	Land at Mill Road, Badingham	Residential use for approximately 10 units	10 dwellings completed (DC/16/2997/FUL)

Ref	Site	Proposal	Progress Summary
SSP6	Land Adjacent to Corner Cottages, Main Road, Benhall	Residential use for approximately 15 units	Planning permission for 9 dwellings (DC/17/3872/ARM). 7 units completed and 2 under construction
SSP7	Land to the rear of 1 and 2 Chapel Cottages, The Street, Darsham	Mixed use development comprising a village hall, village green, and 20 new homes in accordance with outline planning permission	Planning permission for new village hall, creation of village green, erection of 20 houses including 6 affordable homes (DC/17/4682/ARM). Village hall completed July 2019 and 12 dwellings completed
SSP9	Land south of Solomon's Rest, The Street, Hacheston	Small scale residential use for approximately 10 units	Planning permission for 10 dwellings was granted 18/12/2019 (DC/19/3728/ARM)
SSP10	Land south of Ambleside, Main Road, Kelsale cum Carlton	Residential use for approximately 30 units although a higher quantum of development may be appropriate subject to design and layout	Planning permission for 42 dwellings granted 30/08/2019 (DC/18/2621/FUL)
SSP14	Land north-east of Street Farm, Saxmundham	Residential use for approximately 40 units	Planning permission for 59 dwellings granted 11/03/2019 (DC/18/0702/FUL). 12 dwellings completed
SSP18	Land at Old Station Works, Main Road Westerfield	Mixed employment / residential use for approximately 20 units	Outline planning permission for up to 75 dwellings & approx. 1,285sqm of commercial floorspace (16 units of B1, of which one will be flexible B1/D1 use, and 1 unit of A1) granted 27/06/2019 (DC/18/3850/OUT)
SSP19	Land at Street Farm, Witnesham (Bridge)	Residential use for approximately 20 units	Planning permission for 20 dwellings considered by Planning Committee June 2019

Ref	Site	Proposal	Progress Summary
			and resolved to approve subject to S106 (DC/18/3385/FUL)
SSP20	Ransomes, Nacton Heath	Class B8 Storage and Distribution and Ancillary Class B1 Office Uses including associated infrastructure, car and lorry parking	Planning permission for employment uses (26.8 hectares) granted 28/06/2018 (DC/17/4257/OUT)

7.204 Across the area covered by the Felixstowe Area Action Plan full and outline permissions, as well as the part completion of FPP8 in Trimley St Mary (98 dwellings completed), will bring forward 660 dwellings across four sites.

7.205 Nine sites within the area covered by the Site Allocations and Area Specific Policies document have received planning permission for 274 dwellings. A further site (SSP19) has resolution to grant planning permission for 20 dwellings. Two sites are completed (SSP5 and SSP16) delivering 20 dwellings and a further three sites have completions totalling a further 29 dwellings.

Waveney Local Plan

7.206 The Waveney Local Plan was adopted on 20th March 2019 therefore limited progress has been made on delivery of sites. However, some sites are carried over from the previous Local Plan (Site Specific Allocations document, 2011 and Lowestoft Area Action Plan, 2012) and are subject to extant planning permission. The table below provides a summary of Local Plan allocations subject to planning application as at 31st March 2020.

Ref	Site	Proposal	Progress Summary
WLP2.4	Kirkley Waterfront and Sustainable Urban Neighbourhood	Mixed use including residential development, employment development, primary school, playing field and local retail centre	<u>Brooke Peninsula and Jeld Wen Site, Waveney Drive</u> - Outline consent granted for a residential-led mixed use redevelopment of up to 850 dwellings including commercial uses (A1-A5), marina building, primary school and open space (DC/13/3482/OUT). Approval of reserved matters for Phase 1 (69 dwellings) approved July 2018 (DC/18/1728/ARM) <u>Former Sanyo Site</u> - Hybrid planning application granted for 300 dwellings (DC/15/2004/RG3)

Ref	Site	Proposal	Progress Summary
			<u>Waveney Works</u> - Consent for 31 dwellings (DC/17/3145/VOC) with 6 dwellings completed
WLP2.6	Western End of Lake Lothing	Residential development, marine-focused employment development and tourism	12 dwellings have full permission and are under construction (DC/19/2073/FUL and DC/18/4874/FUL). Outline consent lapsed for 44 dwellings (DC/14/2986/OUT)
WLP2.18	Land at Mobbs Way, Oulton	Employment development (2.8 hectares)	Various planning permissions granted and implemented on 0.51ha (1,497m ²) for B1-B8 units
WLP3.2	Land west of London Road, Beccles	Residential development	Hybrid planning application granted November 2019 for 217 dwellings (full permission) and 11 serviced self build plots (outline) (DC/18/4312/FUL). Part of the allocation (approx. 39 dwellings) not yet subject to a planning application
WLP3.3	Land south of Benacre Road, Ellough	Employment development	Planning applications approved for employment units and 2,050m ² floorspace / 0.60 hectares completed (DC/17/2107/FUL and DC/17/3526/FUL)
WLP4.1	Halesworth/Holton Healthy Neighbourhood	Mixed use including residential development, health care facility and retirement community, sports facilities and education / training facility	Majority of the site covered by outline planning permission granted October 2019 for up to 190 dwellings (DC/18/4947/OUT)
WLP4.2	Land adjacent to Chediston Street, Halesworth	Residential development	Outline planning permission granted May 2019 for the construction of up to 200 dwellings (DC/17/3981/OUT)

Ref	Site	Proposal	Progress Summary
WLP5.2	Land west of St Johns Road, Bungay	Residential and employment development	Part of the site has outline planning permission for 150 dwellings and 3 hectares of employment land (granted March 2016, DC/14/4193/OUT). An application for approval of reserved matters is pending consideration (DC/18/4429/ARM, issued May 2020). The rest of the site (approx. 250 dwellings) not yet subject to a planning application
WLP6.1	Land west of Copperwheat Avenue, Reydon	Residential development	An outline planning application for 220 dwellings was considered by Planning Committee in March 2020 and resolved to approve subject to Section 106 (DC/19/1141/OUT)

7.207 The Waveney Local Plan allocates land for 7,201 new homes of which 6,202 are expected to be delivered within the plan period. Outline and full planning permissions have been granted for 1,961 new homes on these allocated sites. 6 new homes have been completed with 12 under construction. A further site for 220 dwellings (WLP6.1) has a resolution to grant planning permission.

Site Allocations Summary

Housing coming forward on allocated sites represents a significant proportion of committed supply as at 31st March 2020, albeit in the former Suffolk Coastal area in particular there are a number of developments being implemented related to sites granted permission at a point when site allocations were not in place.

The information presented in the table above demonstrates that the delivery of site allocations is progressing, albeit that there are a number of site allocations which do not yet benefit from planning permission. It is anticipated when allocating sites that delivery would take place over a number of years, with some sites not anticipated to come forward immediately.

Next steps

- Continuous engagement with landowners and developers to ensure site specific policies are delivered
- Implementation and monitoring of actions identified through the Housing Action Plan.

- Monitoring of housing delivery through the preparation of the annual 5 Year Housing Land Supply Statement
- Preparation of Design Brief Supplementary Planning Documents to help deliver site specific policies
- Continue to support Neighbourhood Plan groups in identifying appropriate site allocations

8 Sustainability Appraisal

- 8.1 This chapter reports on the Sustainability Appraisal (SA) indicators for the monitoring period 2019/20. The table in Appendix 3 sets out the indicators from the Waveney and Suffolk Coastal Local Plan Sustainability Appraisals in full. For the Waveney Local Plan area these are taken from the Sustainability Appraisal Report of the Waveney Local Plan, adopted March 2019 and for the Suffolk Coastal Local Plan area they have been taken from the Sustainability Appraisal of Core Strategy and Development Management Policies, November 2011.
- 8.2 In total there are 14 Waveney SA indicators and 51 Suffolk Coastal SA indicators. In order to rationalise the number of indicators in the AMR, and to allow easier comparison between the two Sustainability Appraisals, the table in Appendix 3 aligns the Waveney and Suffolk Coastal indicators and, where possible matches them to the relevant Local Plan indicator.
- 8.3 Monitoring of Sustainability Appraisal indicators is a key requirement of the SA process. Monitoring enables the significant effects of implementing the Local Plan sites and policies to be assessed and compared to those predicted in the Sustainability Appraisal report. It helps to ensure that any unforeseen adverse effects can be identified, and remedial action taken if required.
- 8.4 Whilst some indicators are monitored annually by the Council or external bodies, others are monitored less frequently for example through the national Census. Results for some indicators will change rapidly to signal recent changes such as housing completions or employment figures. Others such as health will show changes and trends over a longer timescale. This means that it is not always possible, practical or useful to report on every indicator every year. Where data is not available, this has been noted in the table in Appendix 3.

Significant Effects

- 8.5 The identification of significant effects is a key component of the Sustainability Appraisal process. Significant effect indicators are those indicators based on the objectives set out in the Council's Sustainability Appraisal, and they look at the wider effects of the Local Plan on the district.

Suffolk Coastal Local Plan (Core Strategy)

- 8.6 The Sustainability Appraisal for the Core Strategy covering the former Suffolk Coastal area identified a number of potential major negative effects of the plan, namely the impact of traffic on air quality, levels of waste and emissions of greenhouse gases from energy consumption. The Core Strategy document was also predicted to have a number of significant positive impacts including: conserving and enhancing the quality and local distinctiveness of landscape and townscape, achieving sustainable levels of prosperity and economic growth throughout the plan area, offering rewarding

employment, improving access to key services, reducing poverty and social exclusion and meeting the housing needs of the whole community.

Summary of Significant Effects: Suffolk Coastal Local Plan

Sustainability Objective	Type of effect	Original SA Indicator
To maintain and where possible improve air quality	Negative	Air quality; Number of Air Quality Management Areas.
To reduce waste	Negative	Household (and municipal) waste produced; Tonnage recycled, composted & landfilled.
To reduce the effects of traffic on environment	Negative	Traffic volumes at key locations; % new residential development taking place in major towns, other towns & elsewhere; Distance to key services; Journeys to work & school by sustainable transport.
To reduce emissions of greenhouse gases from energy consumption	Negative	Domestic electricity & gas consumption; Installed electricity capacity using renewable energy; Proportion of CO ₂ emissions from domestic, industrial and transport sources now available.
To conserve and enhance the quality and local distinctiveness of landscapes and townscapes	Positive	Number & % of new dwellings completed on PDL; Number & % housing commitments on PDL; Number of vacant dwellings; Number & % of second homes; Changes in landscape; Change in number & area of village greens and commons; Area of designated landscapes (AONB); Light pollution.
To achieve sustainable levels of prosperity and economic growth throughout the plan area	Positive	Take up of employment floorspace; Employment permissions and allocations; % change in VAT registered businesses; Number & % of employees by employment division, main industry type and in key sectors

Sustainability Objective	Type of effect	Original SA Indicator
To offer everybody the opportunity for rewarding and satisfying employment	Positive	Unemployment rate; Average earnings.
To improve access to key services for all sectors of the population	Positive	% population with access to key local services (food shop, PO, school)
To reduce poverty and social exclusion	Positive	% population in 10% most deprived SOAs; Housing benefit recipients.
To meet the housing requirements of the whole community	Positive	Homelessness; Affordable housing; Special needs housing including very sheltered accommodation; Number of unfit homes; Average property price to income ratio.

Air quality

- 8.7 There are two small localised areas within the former Suffolk Coastal area where the objective set for annual mean nitrogen dioxide (NO₂) has been exceeded in the past and Air Quality Management Areas (AQMA) are currently declared:
- Several houses on the road junction of Lime Kiln Quay Road, Thoroughfare and St. John's Street in Woodbridge (Woodbridge Junction)
 - Four residential properties within Long Row, Main Road (A12) in Stratford St Andrew.
- 8.8 Councils are required to produce an Action Plan following declaration of an AQMA. The overall aim of the Action Plan is to provide a framework for identifying and implementing measures to reduce emissions and mitigate the effects of air pollution. The sixth annual Action Plan Progress Report on air quality was published in July 2018. Progress on Action plans are reported in the Council's Air Quality Annual Status Reports (ASRs) required by The Department for Environment, Food and Rural Affairs (Defra). These are available on our website at:
<https://www.eastsuffolk.gov.uk/environment/environmental-protection/air-quality/air-quality-reports/>.
- 8.9 For Woodbridge, the current Action plan includes 20 measures to reduce NO₂ concentrations from both queueing and moving traffic at this junction. However, as detailed in the 2018 ASR, additional investigations have suggested that many of the options in the original Action Plan are unlikely to have any significant impact on NO₂ levels. The Action Plan is therefore currently being updated. NO₂ concentrations within the AQMA have reduced since 2014 to below the objective level and in 2019

were 34 $\mu\text{g}/\text{m}^3$. Defra has advised that the Council should now consider revocation of this AQMA, and this is currently being investigated. Future ASRs will report on progress.

- 8.10 The Action Plan for the Stratford St Andrew AQMA received Defra approval in March 2018. The main priority measure within the action plan involved the extension of the 30mph zone which was undertaken in December 2017. NO_2 concentrations fell below the objective for the first time in 2017 (39 $\mu\text{g}/\text{m}^3$) and this trend continued in 2018 (38 $\mu\text{g}/\text{m}^3$) and 2019 (36 $\mu\text{g}/\text{m}^3$). Vehicle speed surveys have been undertaken which indicate that average speed has decreased at all sites monitored with the exception of the Southbound carriageway within the AQMA. Monitoring for NO_2 is continuing. The Steering Group are looking at the data to determine whether any additional action is warranted at this time. The results of future monitoring and any actions taken will be reported in the Council's ASRs.

Waste

- 8.11 In the monitoring year an average of just over 459kg of waste produced per household. Of this, 44.97% was sent for reuse, recycling or composting. This data was not previously reported in the AMR and therefore comparison with earlier years is not possible. Future AMRs will, however, monitor change in these figures.

Traffic

- 8.12 The average travel to work distance is 17.2km, with 30.8% of the population travelling less than 5km. The average distance travelled to work in the former Suffolk Coastal area is higher than the national (England) average of 14.9km. This is unsurprising given the rural nature of the former Suffolk Coastal area and the dispersed nature of the settlements. Non-sustainable modes of travel to work are also higher than the national average at 19%.

Greenhouse gas emissions

- 8.13 Not all renewable energy installations require planning permission so it is not always possible to accurately monitor renewable energy capacity. However, there has been one renewable energy scheme permitted in the monitoring year, for the change of use of an agricultural building to house a biomass boiler to provide heating for a Bed and Breakfast and holiday let business (150Kw).
- 8.14 Due to the revoking of the Code for Sustainable Homes standards by the Government in 2015, the Council relies on the Building Regulations to set energy efficiency performance standards¹⁰. Policy SCLP9.2: Sustainable Construction of the new Suffolk Coastal Local Plan requires new developments

¹⁰ The government has proposed to reduce greenhouse gas emissions to net zero by 2050. As part of achieving this target, the government is currently consulting on a Future Homes Standard to request views on changes to the building regulations and to consider whether or not to commence the amendment to the Planning & Energy Act, which will prevent local authorities from setting higher energy efficiency standards for new homes.

of more than 10 dwellings to achieve energy efficiency standards that result in a 20% reduction in CO2 emissions below the Target CO2 Emission Rate (TER) set out in current Building Regulations. All new non-residential developments of 1000m² or more floorspace are required to achieved BREEAM 'Very Good' standard or equivalent. This is supported by new indicators which future AMRs will report against.

Landscape and Townscape

- 8.15 This monitoring year, three applications have been permitted within areas identified on the Policies Map as areas to be protected from inappropriate development. Two approved schemes are minor development within residential curtilages or school grounds and considered to be policy compliant. The final application is for the redevelopment of land and buildings formerly used as part of a garden centre in Woodbridge to 24 flats. Although the decision was finally issued in January 2020 the planning application had been approved by Planning Committee in 2017, subject to finalising the S106 legal agreement.

Employment, Prosperity and Economic Growth

- 8.16 Within the employment areas/allocations defined in the now-adopted Local Plan for the former Suffolk Coastal area, almost a quarter of all units are use class B1a (Offices, excluding those within A2 Financial and Professional Services). The Port of Felixstowe, Bentwaters, Rendlesham and Martlesham Heath all had a high proportion of B8 uses (storage and distribution), given their good connectivity to rail and/or roads.
- 8.17 The proportion of jobs by industry jobs are generally similar in both the former Suffolk Coastal and Waveney areas. The most noticeable differences are in manufacturing reflecting the large number of manufacturing businesses in the former Waveney area and transportation and storage related to the Port of Felixstowe in the former Suffolk Coastal area.
- 8.18 Unemployment in East Suffolk is the same as the East of England at 3.2%, and lower than the national figure of 3.9%.

Access to Services

- 8.19 Monitoring access to the key services has been identified as an area where further work is need to the establish a standardised monitoring process across the district. Progress on this will be reported in future AMRs.

Poverty and Social Exclusion

- 8.20 The proportion of the population in the 10% most deprived Super Output Areas (SOAs) is very limited and only registers as 0% in the indices of Multiple Deprivation.

Housing need

- 8.21** 660 new homes were completed in the former Suffolk Coastal area for 2019/20, an increase of 72 home on the previous year. 30% of all new homes completed were affordable homes (197 no.) exceeding the Core Strategy requirement of 24%. The Strategic Housing Market Assessment (2017) identifies a need for 1,118 additional spaces in care homes and nursing homes to 2036; this additional accommodation is required to meet the future institutional population and therefore falls outside of the housing need figures. Policy to further support the delivery of accommodation for older people is being taken forward through the review of the Suffolk Coastal Local Plan.

Waveney Local Plan Significant Effects

- 8.22** The Sustainability Appraisal of the Waveney Local Plan identified one significant negative effect against the objective of conserving natural resources. As identified in the SA report, this relates primarily to the strategy of distributing growth around the district which involves a level of development on greenfield sites which cannot be entirely mitigated for. The Plan was also predicted to have significant positive impacts, across a range of social, environmental and economic sustainability objectives, specifically: conserving natural resources, improving health and well-being, access to key services, meeting housing need, achieving economic growth, and, enhancing the rural economy.

Summary of Significant Effects: Waveney Local Plan

Sustainability Objective	Type of effect	Original SA Indicator
To conserve natural resources	Negative	Number and percentage of dwellings completed on previously developed land; Area of high grade agricultural land lost to housing and economic development.
To improve the health and well-being of the population	Positive	Proportion of journeys to work on foot or by cycle; Percentage of population completing 3x30 minutes physical activity per week; Obesity in the population; Life expectancy
To improve access to key services and facilities	Positive	Accessibility to key services and facilities.
To meet the housing requirements of the whole community	Positive	Amount and type of new housing, including extra care/sheltered housing and number of care/nursing home beds.
To achieve sustained and resilient economic growth	Positive	Amount and type of employment (B1, B2 and B8), retail and leisure development (A1-A5 and D2); Jobs density;

		Employment by occupation; Employee jobs by industry.
To enhance the rural economy	Positive	Employment uses (B1, B2 and B8) completed in the rural areas; Amount and type of new housing, including extra care/sheltered housing and number of care/nursing home beds within the rural areas.

Natural Resources

- 8.23 In the monitoring year, 50% of new housing was completed on previously developed land. This is a slight reduction on the previous year of 55% and it is expected the number of homes on previously developed land will decrease in future years as the majority of housing allocations in the Local Plan are on greenfield sites. Only 20% of new homes allocated are on previously developed land including 1,380 at Kirkley Waterfront and Sustainable Urban Neighbourhood (Policy WLP2.4).
- 8.24 The efficient use of land also contributes to the conservation of natural resource and Policy WLP8.32 Housing Density and Design of the Local Plan expects residential development to make the best use of the site. Development in and around the built up area of Lowestoft and the market towns should aim for urban scale development of at least 30 dwellings per hectare. This monitoring year, 1 scheme of 10 or more dwellings has completed and achieves a density of 39 dwellings per hectare.
- 8.25 The loss of high-grade agricultural land is also identified in the Sustainability Appraisal report as an indicator of natural resource conservation. Defra's Agricultural Land Classification (ALC) system¹¹ assesses the quality of farmland and divides it into five categories, Grade one is best quality and Grade five is poorest quality. The 'best and most versatile land' is defined by the NPPF as that which falls into Grades 1, 2 and sub-grade 3a. This data is not routinely monitored for all the completions, but it is possible to extract the data from the Council's GIS systems for completions on major sites. For the monitoring year 3 schemes of 10 or more dwellings have been completed of which only 1 of which is a greenfield site. The site is a rural exception site for 23 affordable dwellings (0.92 hectares) adjacent to the settlement boundary of Reydon. The site is not classified by Defra as agricultural land.
- 8.26 Loss of agricultural land has not generally been monitored and therefore comparison with earlier years is not possible, this will however form part of the monitoring for future years. As noted above, a number of housing allocations in the Local Plan are on greenfield sites many of which (particularly

¹¹ <https://naturalengland-defra.opendata.arcgis.com/datasets/agricultural-land-classification-alc-grades-post-1988-england?geometry=1.664%2C52.441%2C1.745%2C52.450>

in the rural areas) are on agricultural land therefore loss of agricultural land may increase in future years once these sites are developed.

Health and Well-being

- 8.27 The Office for National Statistics (ONS) dataset on life expectancy estimates for people of all ages in the UK show that, in East Suffolk, people under the age of one year between 2017-2019 can expect to live to 83.3 years of age if they are female, or 80.7 years of age if they are male. These figures are similar to the averages for England at 83.4 years of age if they are female, and 79.7 years of age if they are male.
- 8.28 The Public Health England Public Health Profile dataset shows that the percentage of East Suffolk adults classified as overweight or obese between 2018-19 was 63.3% which is the same as the East of England average but slightly higher than the national average of 62.3%.

When comparing the census figures for 2001 and 2011, there was a decrease in the percentage of sustainable transport modes used to get to work in the former Waveney area. As well as this, there has been an increase in the use of non-sustainable modes. The Waveney Local Plan contains a number of policies that seek to increase the use of sustainable modes and WLP1.3 'Infrastructure' outlines that the Council will work with the telecommunications industry to maximise the use of super-fast broadband which could assist with home working.

Access to Key Services

- 8.29 Monitoring access to the key services has been identified as an area where further work is need to the establish a standardised monitoring process across the district. Progress on this will be reported in future AMRs.

Housing Requirements

- 8.30 Housing completions in the former Waveney area for 2019/20 were 159 homes, a decrease on the 297 homes completed in the previous year. 25 of these homes were affordable. Overall, 28% of all housing completed between 2014-20 is affordable housing (359 of 1,275 new homes). This monitoring year, 23 new care home bedrooms have been delivered comprising a 23-bed extension to an existing care home in Carlton Colville. Over the plan period (2014-20) a net gain of 73 bedrooms has been recorded.

Economic Growth

- 8.31 Although there has been an overall net loss of employment (B1-B8) floorspace in the former Waveney area, within existing employment areas and allocated employment sites a net gain of employment floorspace has been completed. Just over a quarter of units within existing employment areas are occupied by B8 storage or distribution uses.

- 8.32 Within the former Waveney area 17.3% of the workforce is employed in manufacturing, compared with 6.1% in the former Suffolk Coastal area and 7.4% in the East of England. Unemployment in East Suffolk is the same as the East of England at 3.2%, and lower than the national figure of 3.9%.

Rural Economy

- 8.33 A small amount of employment floorspace (B1-B8 uses) has completed in the rural areas (outside of protected employment areas, employment allocations and settlement boundaries). This comprises a new live-work unit in Bungay and a minor net loss of 6m² floorspace following demolition and re-building of a business office (All Saints South Elmham).
- 8.34 A number of tourism uses have been permitted in the rural areas in the form of self-catering holiday accommodation or camping/caravan sites.
- 8.35 Policies WLP1.1 and WLP7.1 set out the scale and location of growth in the former Waveney area with half (56%) of future development allocated to Lowestoft as the largest town with its potential for economic growth. The rural areas are expected to accommodate 10% of housing development. This monitoring year, completions in the rural areas accounts for a third of all completions, the majority being delivered in the larger villages of Blundeston (former Prison site) and Wrentham (re-development of former care home). However, over the plan period as a whole, it is anticipated that housing delivery will be consistent with the distribution strategy.

Appendix 1- List of Indicators and data sources

Indicator	Data source
Employment, Retail and Leisure and Tourism	
Amount and type of employment land completed (hectares)	Monitoring of planning applications
Employment and type of employment floorspace completed (m ²)	Monitoring of planning applications
Percentage of uses within existing employment areas	Employment surveys
Percentage of vacant units within existing employment areas	Employment surveys
Amount and type of new retail and leisure development completed	Monitoring of planning applications
Percentage of uses within town centres	Retail surveys
Percentage of vacant units within town centres (as % of all units in commercial uses)	Retail surveys
Number of cultural facilities in the District – Applications permitting new / loss of cultural facilities	Monitoring of planning applications
Applications permitting new / loss of tourist accommodation & development.	Monitoring of planning applications
Total day trips, total staying trips total visitor spend	Suffolk Means Business Economic Impact of Tourism 2018, Destination Research
Jobs density	ONS jobs density
Employee jobs by industry	ONS Business Register and Employment Survey
Employment by occupation	ONS Annual Population Survey
Earnings by residence and workplace	ONS Annual Population Survey
Employment and unemployment	ONS Annual Population Survey
Qualifications of working age population (aged 16-64)	ONS Annual Population Survey
GCSE Results - % of pupils achieving strong 9-5 passes in both English and mathematics GCSEs	GOV.UK
Housing	
Net additional homes completed	Housing completions
Affordable homes completed	Housing completions

Indicator	Data source
Gypsy and Traveller pitches permitted/completed.	Planning application monitoring / Housing completions
Total housing delivered within plan period	Housing completions
Type and size of completed dwellings (gross completions)	Housing completions
Number and percentage of affordable housing completed by tenure	Housing completions
Number of refusals for self-contained flats/HMOs within Flat Saturation Zones as identified on the Policies Map	Monitoring of planning applications
Net additional bedrooms in C2 care homes	Housing completions
% of housing development by settlement hierarchy 2018/19	Housing completions
% of housing development in the countryside – outside of settlement boundaries (Local Plans and Neighbourhood Plans)	Housing completions
% of residential development in Lowestoft and the market towns achieving at least 30 dwellings per hectare	Housing completions
% of new housing completed on previously developed land	Housing completions
Number of entries on self build / custom build register	Self Build / Custom Build Register
Number of plots approved for self or custom build	Monitoring of planning applications
Developments of 100 or more dwellings to provide 5% self or custom build properties	Monitoring of planning applications
Population estimates	ONS population estimates
Homelessness	MHCLG Homelessness statistics
Housing affordability	ONS ratio of median house price to median earnings (workplace-based earnings)
Transport	
Number of applications permitted which are contrary to Suffolk County Council Parking Standards	Monitoring of planning applications
Submission of Transport Statements for residential developments between 50-80 dwellings and submission of Transport Assessments and Travel Plans for residential developments over 80 dwellings	Monitoring of planning applications
Provision of pedestrian and cycle access / public rights of way. Implementation of measures set out in the Waveney Cycle Strategy (2016 and updates)	Monitoring of planning applications / Suffolk County Council / Community Infrastructure Levy spend
Traffic counts (motor vehicles and cyclists)	Department for Transport traffic counts
Travel to work distances	Census 2011, Table QS701EW Method of travel to work

Indicator	Data source
Travel to work modes	Census 2011, Table QS702EW Distance travelled to work
Community Facilities and Assets	
Applications permitting new / loss of community services and facilities	Monitoring of planning applications
Applications permitting new / loss of open space including allotments	Monitoring of planning applications
Proportion of population with access to different types of open space	Geographical Information System Analysis
Proportion of population with access to key services and facilities	Geographical Information System Analysis
Climate Change	
New non-residential development of 1,000m ² or more gross floorspace achieving BREEAM 'Very Good' standard or equivalent	Monitoring of planning applications
Sustainability Statement to be submitted with applications for 10 or more houses.	Monitoring of planning applications
Number of renewable energy schemes permitted	Monitoring of planning applications
Number of properties at risk - from erosion / from flooding	Environment Agency and East Suffolk Council
Applications permitted in flood zones - planning applications approved against Environment Agency advice on the basis of flood risk.	Environment Agency / Planning application monitoring
Number and type of permissions granted within the Coastal Change Management Area	Monitoring of planning applications
Number of replacement homes permitted under coastal relocation / replacement policy	Monitoring of planning applications
Carbon Dioxide Emissions	Department of Energy and Climate Change
Design	
Major residential developments performing positively (obtaining 'green' scores) against Building for Life 12. [for 'major residential developments' i.e. 10 or more dwellings]	Monitoring of planning applications
Sites with a capacity of 10 or more dwellings to make provision for 50% of all dwellings to meet Building Regulations Requirement M4(2) of Part M	Monitoring of planning applications
Natural Environment	
Habitat mitigation	CIL and S106 Officer (financial) / Ecologist (projects)
Condition of Sites of Special Scientific Interest	Natural England

Indicator	Data source
Hectares of designations e.g. Area of Outstanding Natural Beauty, Special Protection Areas, Special Areas of Conservation, Ramsar Sites	Natural England / Suffolk Biodiversity Information Service
Number of applications permitted within gaps – Coalescence of Settlements [excluding householder applications]	Monitoring of planning applications
Number of applications permitted within areas to be protected from development as identified on the Policies Map. [excluding householder applications]	Monitoring of planning applications
Built and Historic Environment	
Number of Conservation Areas at risk	Historic England
Number of identified / loss of non-designated heritage assets	East Suffolk Council
Number of Listed Buildings and other Heritage Assets on the 'at risk' register	Historic England
Health	
Life expectancy at birth	Office for National Statistics
Participation in physical activity (Active 150+ minutes a week)	Sport England, Active Lives Survey
Percentage of adults (18+) classified as overweight or obese	Public Health England, Public Health Profiles
Prevalence of excess weight among children in Year 6 (age 10-11 years)	National Child Measurement Programme
Number of locations at or above any of the national Air Quality Objectives for England	Local Air Quality Management Assessments (Environmental Protection)
Number of nitrogen dioxide (NO ₂) monitoring sites within 10% of the annual mean Air Quality Objective (sites above 36µg/m ³)	Local Air Quality Management Assessments (Environmental Protection)

Appendix 2 - Indicators not currently monitored

Indicator	Reason not monitored
Community Facilities and Assets	
Proportion of population with access to different types of open space	Further develop a standardised monitoring process across the whole of East Suffolk district.
Proportion of population with access to key services and facilities	Further develop a standardised monitoring process across the whole of East Suffolk district.
Climate Change	
Number of properties at risk from flooding Number of properties at risk from erosion	For these two indicators, we are not monitoring them currently, but will work with the Environment Agency to try to develop a standard approach to how best to monitor them (given the ever-changing baseline and different sources of flood risk).
Natural Environment	
Habitat mitigation (Recreational Disturbance Avoidance and Mitigation Strategy RAMS))	The RAMS project includes separate arrangements for monitoring of habitat mitigation measures. Future Authority Monitoring Reports will summarise the overall collection and spend. Further information can be found at www.eastsuffolk.gov.uk/planning/s106/habitat-mitigation/
Condition of Sites of Special Scientific Interest	Sites are visited every 6-10 years. Sites in East Suffolk were last surveyed between 2009-13. Data last reported in 2019 Authority Monitoring Report. As new surveys are undertaken data will be reported in future AMRs.
Built and Historic Environment	
Loss of non-designated heritage assets	Further develop a standardised monitoring process across the whole of East Suffolk district.
Number of identified non-designated heritage assets	Further develop a standardised monitoring process across the whole of East Suffolk district.

Appendix 3 – Suffolk Coastal and Waveney Local Plan Sustainability Appraisals indicators

Waveney SA Objective/ Indicator	Suffolk Coastal SA Objective/ Indicator	Equivalent Local Plan Indicator	Outcome		Notes
			Waveney	Suffolk Coastal	
To improve the health and well-being of the population	To improve the health of the population overall	-	-		-
Proportion of journeys to work on foot or by cycle	Journeys to work & school by sustainable transport	No	Sustainable modes: 21.6% Non-sustainable modes: 73.3% Working mainly at home: 5.1%	Sustainable modes: 19% Non-sustainable modes: 73% Working mainly at home: 8%	Census 2011 No data available for school journeys.
Percentage of population completing 3x30 minutes physical activity per week	-	No	Participation in Physical Activity (Active 150+ minutes a week) (May 2018 – May 2019) Figure is for East Suffolk: 62.3%		The wording of the indicator varies slightly from the data set.
Obesity in the population	Obesity levels	No	Percentage of adults (18+) classified as overweight or obese. (2018/19): 63.3 – Figure is for East Suffolk. Prevalence of overweight (including obesity) in children 10-11 years (2018/19) 30.4%		n/a
Life expectancy	Death rate plus those for cancer, heart disease, respiratory,	No	Life expectancy at age <1 (births 2017-2019) Males: 80.7 Females: 83.8		The wording of the indicator varies from the data set for Suffolk Coastal, however life expectancy rates provide a good indication of the general health of the population

Waveney SA Objective/ Indicator	Suffolk Coastal SA Objective/ Indicator	Equivalent Local Plan Indicator	Outcome		Notes
			Waveney	Suffolk Coastal	
	self-harm, road accidents				which is the overall aim of this indicator.
-	% with access to hospital, doctors or dentist	Percentage of population with access to key services and facilities	Comparable data not yet available	Comparable data not yet available	To develop a standard monitoring process across the district.
-	Radio nuclides in food near Sizewell	-	No data	No data	n/a
-	Total radiation dose from all sources	-	No data	No data	n/a
-	Change in play, open & natural green space	Applications permitting new/ loss of open space including allotments	5 schemes permitted- 3 enhancements, 2 gains.	5 schemes permitted - 4 gains, 1 loss	Detail of the schemes set out in Section 7
To improve access to key services and facilities	To improve access to key services for all sectors of the population	-	-		-
Accessibility to key services and facilities e.g. primary school, supermarket /food shop, post office, public house, meeting place and GP surgery	% population with access to key local services (food shop, PO, school)	Percentage of population with access to key services and facilities	Comparable data not yet available	Comparable data not yet available	To develop a standard monitoring process across the district.
To meet the housing requirements of the whole community	To meet the housing requirements of the whole community	-	-		-
Amount and type of new housing, including extra care/sheltered housing and number of care/nursing home beds	Affordable housing Special needs housing including very sheltered accommodation	Amount and type of new housing (including tenure, rural workers, caravans, houseboats, extra care / sheltered	Net additional homes completed: 159 Affordable homes completed: 25 Gypsy and Traveller	Net additional homes completed: 660 Affordable homes completed: 197 Gypsy and Traveller	Further information on the breakdown of new housing delivered in the monitoring year can be found in section 7.

Waveney SA Objective/ Indicator	Suffolk Coastal SA Objective/ Indicator	Equivalent Local Plan Indicator	Outcome		Notes
			Waveney	Suffolk Coastal	
		housing and number of care/nursing home beds), provided	pitches completed: 0 Net additional bedrooms in C2 care homes: 23	pitches completed: 0 Net additional bedrooms in C2 care homes: 0	
-	Homelessness	Homelessness (Number of households assessed / owed a duty by local authority).	2019/20, figure is for East Suffolk: 1,541 households assessed / 1,511 households assessed as owed a duty		n/a
-	Number of unfit homes	No	No data	No data	n/a
-	Average property price to income ratio	Housing Affordability	Housing affordability. (2019) (Ratio of median house price to median gross annual (where available) workplace-based earnings) Figure is for East Suffolk: 7.85		n/a
To conserve natural resources	To conserve soil resources and quality	-	-	-	Significant negative effective identified in Waveney Local Plan SA report.
	To maintain and where possible improve water quality	-	-	-	
	To use water and mineral resources efficiently, and re-use and recycle where possible Recycled	-	-	-	
Number and percentage of dwellings completed on previously developed land	Area of Greenfield land developed	Amount and type of new housing (including tenure, rural workers, caravans, houseboats, extra care / sheltered housing and number of care/nursing home beds), provided	% of new housing completed on previously developed land: 52% (83 of 159)	% of new housing completed on previously developed land: 14% (92 of 660)	n/a
	% of new dwellings on Brownfield land				
	Number and % of housing commitments on Greenfield land				

Waveney SA Objective/ Indicator	Suffolk Coastal SA Objective/ Indicator	Equivalent Local Plan Indicator	Outcome		Notes
			Waveney	Suffolk Coastal	
Area of high-grade agricultural land lost to housing and economic development	Allocations on best and most versatile agricultural land	No	Major housing development completed: none on agricultural land	Major housing development completed: none on agricultural land	n/a
-	Radioactivity in local water	No	No data	No data	n/a
-	Water quality in rivers, bathing water and catchment areas using the Water Framework Directive classification	No	Coastal bathing water quality 2019: - Lowestoft, North of Claremont Pier: Good - Lowestoft, South of Claremont Pier: Good - Southwold, the Denes: Sufficient - Southwold, the Pier: Good	Coastal bathing water quality 2019: - Felixstowe North: Excellent - Felixstowe South: Excellent	n/a
-	Area of contaminated land returned to beneficial use	No	No data	No data	n/a
-	Recycled aggregate production	No	No data	No data	n/a
-	Water consumption	No	No data	No data	n/a
-	Water availability for water dependent habitats	No	No data	No data	n/a
To achieve sustained and resilient economic growth	To offer everybody the opportunity for rewarding and satisfying employment	-	-	-	-
	To achieve sustainable levels of prosperity and economic growth throughout the plan area	-	-	-	-

Waveney SA Objective/ Indicator	Suffolk Coastal SA Objective/ Indicator	Equivalent Local Plan Indicator	Outcome		Notes
			Waveney	Suffolk Coastal	
	To encourage efficient patterns of movement in support of economic growth	-	-	-	-
	To encourage and accommodate both indigenous and inward investment	-	-	-	-
Amount and type of employment (B1, B2 and B8), retail and leisure development (A1-A5 and D2)	Employment land availability	Number, amount and type of uses within existing employment areas; number of vacant units	Percentage of uses within existing employment areas: B1a: 7.4% B1b: 0% B1c: 6.6% B1 (General): 4.0% B2: 23.3% B8: 29.8% Non-B uses: 28.8% Uncategorised: 0% Percentage of vacant units within existing employment areas: B uses: 11.7% All uses: 15.4%	Percentage of uses within existing employment areas: B1a: 23.7% B1b: 0.5% B1c: 4.5% B1 (General): 8.6% B2: 10.4% B8: 17.8% Non B-uses: 28.4% Uncategorised: 6.1% Percentage of vacant units within existing employment areas: B uses: 2.7% All uses: 9.7%	Data relates to uses within existing employment areas/allocations.
	Employment permissions and allocations Employment permissions in urban areas	Amount and type of new employment provided: i) in Waveney/ Suffolk Coastal; ii) by settlement hierarchy. iii) on previously developed land.	Employment and type of net additional employment floorspace completed (m ²) in former Waveney area. B1a: 1,531 B1b: -3,092 B1c: -525 B2: -4,331 B8: 1,075	Employment and type of net additional employment floorspace completed (m ²) in former Suffolk Coastal area. B1a: 11,399 B1b: 1,868 B1c: 150 B2: -2,262 B8: 3,232	

Waveney SA Objective/ Indicator	Suffolk Coastal SA Objective/ Indicator	Equivalent Local Plan Indicator	Outcome		Notes
			Waveney	Suffolk Coastal	
Jobs density	-	Jobs density	East Suffolk figure: Jobs density (2018): 0.90		n/a
Employment by occupation	-	Employment by occupation	managers, directors and senior officials: 14.0% professional occupations: 20.8% associate prof & tech occupations: 10.2% administrative and secretarial occupations: 9.4% skilled trades occupations: 12.3% caring, leisure and other service occupations: 9.8% sales and customer service occupations: 3.9% process, plant and machine operatives: 5.0% elementary occupations: 14.1%		Figures are for East Suffolk (2020)
Employee jobs by industry	Number &% of employees by employment division, main industry type and in key sectors (agriculture, IT etc)	Employee jobs by industry	Agriculture and mining (A-B): 1.2% Manufacturing (C): 17.3% Energy and Water (D-E): 1.5% Construction (F): 5.0% Wholesale and retail including motor trades (G): 19.8% Transportation and storage (H): 3.7% Accommodation and food services (I): 9.9% Information and communication (J): 0.9% Financial and other business services (K-N): 13.9% Public admin, education and health (O-Q): 22.3% Other services (R-U): 4.6%	Agriculture and mining (A-B): 2.6% Manufacturing (C): 6.1% Energy and Water (D-E): 2.2% Construction (F): 4.0% Wholesale and retail including motor trades (G): 14.2% Transportation and storage (H): 16.2% Accommodation and food services (I): 9.1% Information and communication (J): 7.1% Financial and other business services (K-N): 11.4% Public admin, education and health (O-Q): 22.8% Other services (R-U): 4.4%	2018 data

Waveney SA Objective/ Indicator	Suffolk Coastal SA Objective/ Indicator	Equivalent Local Plan Indicator	Outcome		Notes
			Waveney	Suffolk Coastal	
-	Unemployment rate	Employment and unemployment	Employment and unemployment. (Apr 2019-Mar 2020) Aged 16+ Employment: 111,000 (77.7%) Unemployment: 3,700 (3.2%)		Figures are for East Suffolk
-	Average earnings.	Earnings by residence and workplace	Earnings by residence and workplace – full time workers (2019): Residence: £29,666 Workplace: £29,950		Figures are for East Suffolk
-	Take up of employment floorspace	No	No data	No data	n/a
-	% change in VAT registered businesses	No	No data	No data	n/a
-	Distance to work	No	Average distance (Km): 16.6km % travelling less than 5km: 40.5%	Average distance (Km): 17.2km % travelling less than 5km: 30.8%	(Census 2011)
-	Net commuting to district and major towns	No	No data	No data	n/a
-	Number & % working at home	No	Working mainly at home: 5.1%	Working mainly at home: 8%	(Census 2011)
-	Number of developments with travel plan submitted as condition of development	No	No data	No data	n/a
-	% port freight carried by rail	No	No data	No data	n/a
-	Number of farmers markets and farm shops	No	No data	No data	n/a
-	Number of enquiries to business advice services from within/outside area	No	No data	No data	n/a
-	Business start-ups and closures	No	No data	No data	n/a
To enhance the rural economy	-	-	-	-	-

Waveney SA Objective/ Indicator	Suffolk Coastal SA Objective/ Indicator	Equivalent Local Plan Indicator	Outcome		Notes
			Waveney	Suffolk Coastal	
Employment uses (B1, B2 and B8) completed in the rural areas	-	Amount and type of new employment provided: i) in Waveney/Suffolk Coastal; ii) by settlement hierarchy. iii) on previously developed land. NB also outside of Settlement Boundaries	Employment and type of net additional employment floorspace completed (m ²). B1a: -6 B1b: 0 B1c: 0 B2: 217 B8: 0 (2 applications in 2 parishes)	Employment and type of net additional employment floorspace completed (m ²). B1a: 193 B1b: 0 B1c: 600 B2:3,608 B8: 1,502 (22 applications in 15 parishes)	Rural areas are defined as outside of settlement boundaries, existing employment areas and employment land allocations. Full details of employment completions are set out in Section 7.
Amount and type of new housing, including extra care/sheltered housing and number of care/nursing home beds within the rural areas	-	Amount and type of new housing (including tenure, rural workers, caravans, houseboats, extra care / sheltered housing and number of care/nursing home beds), provided	Housing by settlement hierarchy: Lowestoft area 48% Beccles & Worlingham 6% Bungay 5% Halesworth & Holton 5% Southwold & Reydon 4% Larger village 24% Smaller village 0% Countryside 7% Housing outside settlement boundaries: 14% (22 of 159)	Housing by settlement hierarchy: Major centre 24% Town 52% Key service centre 9% Local service centre 11% Other village 0% Countryside 4% Housing outside settlement boundaries: 18% (120 of 660)	Full details of type of housing is set out in Section 7.
-	To maintain and improve levels of education and skills in the population overall	-	-	-	
-	A*-C grades at GCSE	No	Qualifications of working age population in East Suffolk (aged 16-64) (2019)		Further details of educational attainment is set out in Section 7.
-	A & AS level results	Qualifications of working age population	NVQ4+: 33.7%		
-	% no qualifications		NVQ3+: 53.9%		

Waveney SA Objective/ Indicator	Suffolk Coastal SA Objective/ Indicator	Equivalent Local Plan Indicator	Outcome		Notes
			Waveney	Suffolk Coastal	
-	% NVQ level 4 or higher	(aged 16-64)	NVQ2+: 75.0% NVQ1+: 88.1% Other: 5.9% No qualifications: 6.0%		
-	To reduce crime and anti-social activity	No	No data	No data	n/a
	Crime per 1000 population	No	Total number of crimes, East Suffolk (Apr-19 - Mar-20): 13,578 (54.44 per 1,000 persons)		n/a
-	Violent crime	No	Violence and sexual offences, East Suffolk (Apr-19 – Mar-20): 6,262 (25 per 1,000 persons)		n/a
-	Fear of crime	No	No data	No data	n/a
-	Noise & odour complaints	No	No data	No data	n/a
-	To reduce poverty and social exclusion	-	-		-
-	% population in 10% most deprived SOAs	No	Figure is for East Suffolk, 2019 Index of Multiple Deprivation: 6.4% of East Suffolk population live in most deprived 10% Lower Super Output Areas in England (2019 population estimates 16,028/249,561)		n/a
-	Housing benefit recipients	No	Number of children in Out of Work Benefit Claimant households for Waveney for 2017: 4650	Number of children in Out of Work Benefit Claimant households for Suffolk Coastal for 2017: 1830	Data not available for total number housing benefit claimants
-	To improve the quality of where people live and to encourage community participation	-	-		-
-	Satisfaction with neighbourhood	No	No data	No data	n/a
-	Land managed for ecological interest with public access	No	Area of Outstanding Natural Beauty: 37,214 Special Protection Areas: 10,709		Data for East Suffolk

Waveney SA Objective/ Indicator	Suffolk Coastal SA Objective/ Indicator	Equivalent Local Plan Indicator	Outcome		Notes
			Waveney	Suffolk Coastal	
			Special Areas of Conservation: 4,422 Sites of Special Scientific Interest: 11,672 Ramsar Sites: 6,440 County Wildlife Sites: 7,450		
-	Accessible green space.	Proportion of the population with access to different types of open space	No data	No data	n/a
-	Electoral turnout	No	62.0%	71.4%	Data from 2019 general election (total valid turnout)
-	Parish Plans adopted	Number of 'made' neighbourhood plans	Total number of 'made' neighbourhood plans: 2 (of which 1 made during the monitoring year)	Total number of 'made' neighbourhood plans: 7	n/a
-	People involved in volunteer activities	No	No data	No data	n/a
-	Rate of racist incidents	No	No data	No data	n/a
-	Visits to museums	No	No data	No data	n/a
-	To conserve and where appropriate enhance areas of historical and archaeological importance	-	-		-
-	Change in number of Listed buildings and buildings at risk	Number of listed buildings and other heritage assets on the 'at risk' register	Number of Listed Buildings and other Heritage Assets on the 'at risk' register: 8	Number of Listed Buildings and other Heritage Assets on the 'at risk' register: 16	n/a
-	Area of historic parks and gardens	No	National register of historic parks and gardens: 2 parks and gardens	National register of historic parks and gardens: 6 parks and gardens Locally designated: 16	Area not available.

Waveney SA Objective/ Indicator	Suffolk Coastal SA Objective/ Indicator	Equivalent Local Plan Indicator	Outcome		Notes
			Waveney	Suffolk Coastal	
-	Number, area and appraisals completed of Conservation Areas	No	Conservation areas: 14	Conservation areas: 36	n/a
-	Number of SAMs damaged by development	No	No data	No data	n/a
-	Planning permissions affecting known or potential archaeological sites	No	No data	No data	n/a
-	To conserve and enhance the quality and local distinctiveness of landscapes and townscapes	-	-	-	-
-	Number & % of new dwellings completed on PDL	No	52% (83 of 159)	14% (92 of 660)	n/a
-	Number & % housing commitments on PDL	No	Outstanding commitments with planning permission (units under construction or not started) 46% (1,703 of 3,726)	Outstanding commitments (units under construction or not started) 22% (1,197 of 5,362)	n/a
-	Number of vacant dwellings	No	Figure is for East Suffolk (October 2019) Long term vacant dwellings: 1,126		n/a
-	Number & % of second homes	No	No data	No data	n/a
-	Changes in landscape	Hectares of designations e.g. Area of Outstanding Natural Beauty, Special Protection	Area of Outstanding Natural Beauty: 37,214 Special Protection Areas: 10,709 Special Areas of Conservation: 4,422 Sites of Special Scientific Interest: 11,672 Ramsar Sites: 6,440		Data shown for East Suffolk.

Waveney SA Objective/ Indicator	Suffolk Coastal SA Objective/ Indicator	Equivalent Local Plan Indicator	Outcome		Notes
			Waveney	Suffolk Coastal	
		Areas, Special Areas of Conservation, Ramsar Sites.	County Wildlife Sites: 7,450		
-	Change in number & area of village greens and commons	No	No data	No data	n/a
-	Area of designated landscapes (AONB)	Hectares of designation s.e.g. Area of Outstanding Natural Beauty, Special Protection Areas, Special Areas of Conservation, Ramsar Sites.	Area of Outstanding Natural Beauty: 37,214 Special Protection Areas: 10,709 Special Areas of Conservation: 4,422 Sites of Special Scientific Interest: 11,672 Ramsar Sites: 6,440 County Wildlife Sites: 7,450		Data shown for East Suffolk.
-	Light pollution	No	No data	No data	n/a
-	To revitalise town centres	-	-	-	-
-	Vacant units in town centres	Number, amount and type of uses within town centres, district and local centres: number of vacant units	Percentage of vacant units (at ground floor) within town centres (as % of all units in commercial uses): 15% (135 of 898) (5 town centres ranging from 8% to 21%)	Percentage of vacant units (at ground floor) within town centres (as % of all units in commercial uses): 9.1% (72 of 790) (6 town centres ranging from 6.3% to 11.4%)	Retail surveys undertaken during September-October 2020
-	To maintain and where possible improve air quality	-	-		Significant negative effective identified in the SA reports for the Suffolk Coastal Core Strategy, the Site Allocations and Area Specific Policies document and the Area Action for the Felixstowe Peninsula
-	Air quality	Number of nitrogen dioxide (NO2) monitoring sites within the 10% of the annual	0	2 - Woodbridge AQMA (34 µg/m³) - Stratford St Andrew	Further detail available from: www.eastsuffolk.gov.uk/environmental-protection/air-quality/air-quality-monitoring-data/

Waveney SA Objective/ Indicator	Suffolk Coastal SA Objective/ Indicator	Equivalent Local Plan Indicator	Outcome		Notes
			Waveney	Suffolk Coastal	
		mean Air Quality Objective (sites above 36µg/m3)		AQMA (36 µg/m³)	
-	Number of Air Quality Management Areas (AQMA)	Number of locations at or above any of the national Air Quality Objectives for England.	0	0	n/a
-	To reduce waste	-	Figures are for East Suffolk (2019/20): Kg of waste per household: 459.33kg		Data not reported in previous AMRs, therefor comparison not available. Future AMRs will monitor change in this figure.
-	Household (and municipal) waste produced	No	No data available at the Local Authority level	No data available at the Local Authority level	n/a
-	Tonnage recycled, composted & landfilled	No	Figures are for East Suffolk (2019/20): Percentage of household waste sent for reuse, recycling and composting: 44.97%		Data not reported in previous AMRs, therefor comparison not available. Future AMRs will monitor change in these figures.
-	To reduce the effects of traffic on the environment	-	-	-	Significant negative effective identified in Suffolk Coastal Core Strategy SA report.
-	Traffic volumes at key locations	Traffic counts (motor vehicles and cyclists)	See maps in Section 7.	See maps in Section 7.	n/a
-	% new residential development taking place in major towns, other towns & elsewhere	Amount and type of new housing (including tenure, rural workers, caravans, houseboats, extra care / sheltered housing and number of care/nursing home beds), provided: i) in Waveney/Suffolk	Housing by settlement hierarchy: Lowestoft area: 48% Beccles & Worlingham: 6% Bungay: 5% Halesworth & Holton: 5% Southwold & Reydon: 4% Larger village: 24% Smaller Village: 0% Countryside: 7%	Housing by settlement hierarchy: Major centre 24% Town 52% Key service centre 9% Local service centre 11% Other village 0% Countryside 4% Housing outside settlement boundaries:	Full details of type of housing is set out in section 7.

Waveney SA Objective/ Indicator	Suffolk Coastal SA Objective/ Indicator	Equivalent Local Plan Indicator	Outcome		Notes
			Waveney	Suffolk Coastal	
		Coastal; ii) by settlement hierarchy. iii) on previously developed land. NB also outside of Settlement Boundaries	Housing outside settlement boundaries: 14% (22 of 159)	18% (120 of 660)	
-	Distance to key services	Percentage of population with access to key services and facilities	Comparable data not yet available	Comparable data not yet available	To develop a standard monitoring process across the district.
-	Journeys to work & school by sustainable transport	No	Sustainable modes: 21.6% Non-sustainable modes: 73.3% Working mainly at home: 5.1%	Sustainable modes: 19% Non-sustainable modes: 73% Working mainly at home: 8%	(Census 2011) No data available for school journeys.
-	To reduce emissions of greenhouse gasses from energy consumption	-	-	-	Significant negative effective identified in the SA reports for the Suffolk Coastal Core Strategy, the Site Allocations and Area Specific Policies document and the Area Action for the Felixstowe Peninsula
-	Domestic electricity & gas consumption	No	No data	No data	n/a
-	Energy efficiency of homes	New non-residential development of 1,000m ² or more gross floorspace achieving BREEAM 'Very Good' standard or equivalent (submission of post construction certificate)	No relevant schemes completed this monitoring year	No relevant schemes completed this monitoring year	
-	Installed electricity	Number of renewable	0	1 (150kw)	Number of renewable energy schemes permitted [commercial]

Waveney SA Objective/ Indicator	Suffolk Coastal SA Objective/ Indicator	Equivalent Local Plan Indicator	Outcome		Notes
			Waveney	Suffolk Coastal	
	capacity using renewable energy	energy schemes permitted.			
-	Proportion of CO ₂ emissions from domestic, industrial and transport sources now available.	Carbon Dioxide emissions (2018) (Total for all sectors).	Data is for East Suffolk: 1,058kt		Total greenhouse gas in kilotonnes of CO ₂ equivalent
-	To reduce vulnerability to flooding	-	<p>Planning permission was granted in January 2020 for works associated with the construction of tidal flood walls around the Outer Harbour in Lowestoft.</p> <p>The flood walls are part of the wider Lowestoft Flood Risk Management Project (LFRMP) which will also see construction of flood walls and a pumping station to reduce the risk of flooding from the river and from extreme rainfall along Kirkley Stream.</p>	-	further information available from: www.lowestoftfrmp.org.uk/index
-	Planning applications approved against EA flood risk advice	Applications permitted in flood zones.	Planning applications approved against EA flood risk advice: 0	Planning applications approved against EA flood risk advice: 0	n/a

Waveney SA Objective/ Indicator	Suffolk Coastal SA Objective/ Indicator	Equivalent Local Plan Indicator	Outcome		Notes
			Waveney	Suffolk Coastal	
	Properties at risk of flooding from rivers or sea	Number of properties at risk - from erosion / from flooding.	No data	No data	Will work with the Environment Agency to try to develop a standard approach to how best to monitor them (given the ever-changing baseline and different sources of flood risk)
-	Incidence of coastal and fluvial flooding (properties affected)	No	No data	No data	n/a
-	Flood warnings issued.	No	Flood warning information, can be obtained from the Environment Agency website	Flood warning information, can be obtained from the Environment Agency website	n/a
-	To conserve and enhance biodiversity and geodiversity	-	-	-	-
-	Change in number, area and condition of designated ecological sites	No	<p>Area of Outstanding Natural Beauty: 37,214 Special Protection Areas: 10,709 Special Areas of Conservation: 4,422 Sites of Special Scientific Interest: 11,672 Ramsar Sites: 6,440 County Wildlife Sites: 7,450</p> <p>Condition of Sites of Special Scientific Interest: Favourable: 5.6% Unfavourable Recovering: 38.0% Unfavourable No change: 4% Unfavourable Declining: 1% Partially destroyed: 0.20% Destroyed: 0.24%</p>	<p>Condition of Sites of Special Scientific Interest: Favourable: 40% Unfavourable Recovering: 46% Unfavourable No change: 5% Unfavourable Declining: 9% Partially destroyed: 0.02% Destroyed: 0.07%</p>	Data shown for East Suffolk re area of designations. No data available for change in area. Condition information only collected for SSSIs.

Waveney SA Objective/ Indicator	Suffolk Coastal SA Objective/ Indicator	Equivalent Local Plan Indicator	Outcome		Notes
			Waveney	Suffolk Coastal	
-	Achievement of BAP targets	No	No data	No data	n/a
-	Bird survey results	No	No data	No data	n/a
-	Change in number, area & condition of designated geological SSSIs or RIGS.	No	Condition of Sites of Special Scientific Interest: Favourable:5 5.6% Unfavourable Recovering: 38.0% Unfavourable No change: 4% Unfavourable Declining: 1% Partially destroyed: 0.20% Destroyed: 0.24%	Condition of Sites of Special Scientific Interest: Favourable: 40% Unfavourable Recovering: 46% Unfavourable No change: 5% Unfavourable Declining: 9% Partially destroyed: 0.02% Destroyed: 0.07%	Condition information only collected for SSSIs.
-	Numbers of visitors to Natura 2000 sites included in the monitoring plan associated with new housing development.	No	No data	No data	Further visitor information data will be collected as part of the RAMS project. Where available, this will be reported in future AMRs.

Appendix 4 – Glossary

Adoption

The final confirmation of a Local Plan/Development Plan or Local Development Document status by a Local Planning Authority (LPA).

Affordable housing

Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. The full definition of affordable housing is contained in the National Planning Policy Framework www.gov.uk/guidance/national-planning-policy-framework/annex-2-glossary.

Affordable Rent

A tenancy offered at up to 80% of market rent levels within the local area.

Air Quality Management Areas

Areas designated by local authorities because they are not likely to achieve national air quality objectives by the relevant deadlines.

Allocation

Designation of land in the Plan for a particular use, i.e. industrial land.

Area Action Plan (AAP)

A type of Development Plan Document focused upon a specific location or an area subject to conversation or significant change (for example major regeneration).

Area of Outstanding Natural Beauty (AONB)

An area designated at a national level because of its outstanding landscape quality.

Authority Monitoring Report

Local planning authorities must publish information at least annually that shows progress with Local Plan preparation, reports any activity relating to the duty to cooperate and shows how the implementation of policies in the Local Plan are progressing.

Biodiversity

The variety of plant and animal species, plus the groups of species which make up particular habitats. These help maintain a balanced environment at all levels, from local to global.

BREEAM

BRE Environmental Assessment Method' is a sustainability assessment method for new buildings and infrastructure, designed to help use natural resources more efficiently. www.breeam.com/.

(The) Broads Authority Area

The Norfolk and Suffolk Broads is Britain's largest protected wetland and third largest inland waterway. This area is equivalent in status to a National Park. Under the Norfolk and Suffolk Broads Act 1998 the Broads Authority is the Local Planning Authority for the area. Its remit is to protect the natural beauty and promote public enjoyment of the area, as well as protecting navigation interests.

Brownfield Site

See previously developed land.

Building for Life 12

Building for Life 12 is a set of design criteria which can be used to assess the quality of design of a development proposal. Developed by the Design Council.

www.designcouncil.org.uk/resources/guide/building-life-12-third-edition.

Coastal Change Management Area (CCMA)

An area defined where coastal change is likely to occur over the next 100 years (physical change to the shoreline through erosion, coastal landslip, permanent inundation or coastal accretion).

Community Facilities

Facilities and uses generally available to and used by the local community at large for the purposes of leisure, social interaction, health and well-being or learning. This will include, but not be confined to, community centres, public houses, sports venues, cultural buildings, places of worship, medical facilities, shops, post offices, libraries, schools and other training and educational facilities.

Community Infrastructure Levy (CIL)

This is a standard fee that is applied to new development to pay for infrastructure that supports new development within the District. www.eastsuffolk.gov.uk/planning/community-infrastructure-levy/ for more information.

Conservation Area

An area that is considered worthy of protection because of its architectural and historic interest.

Conservation Area Appraisal

A detailed study of the streets and buildings in a conservation area.

Core Strategy

A Development Plan Document setting out the spatial vision and strategic objectives of the planning framework for an area, having regard to the Community Strategy.

County Wildlife Site

A site designated at the county level, which does not have statutory protection but is identified for its wildlife value.

Development Plan

The Development Plan for an area is a suite of Local Plan and Neighbourhood Plan documents for a local planning authority area, setting out the policies and proposals for the development and use of land and buildings. It includes Minerals and Waste Local Plan documents prepared by the County Council. It is the starting point for the determination of planning applications.

Development Plan Document (DPD)

A Local Development Document that has development plan status and is subject to community involvement and independent examination. It outlines the key development goals of a Local Plan or Neighbourhood Plan.

Evidence Base

The information and data gathered by local authorities to justify the “soundness” of the policy approach set out in Local Development Documents, including physical, economic, and social characteristics of an area.

Functional Economic Area

A spatial area which functions on its own as an economic entity.

Green Infrastructure

A network of multi-functional green space, urban and rural, which is capable of delivering a wide range of environmental and quality of life benefits for local communities.

Green Space

A natural or manmade space containing plants or grassland. This can include parks, woodlands, playing fields, areas of grassland and areas of biodiversity value.

Heritage Assets

An overarching term that refers to buildings, parks and gardens, monuments and archaeological remains that are of historic or archaeological value.

Historic Environment

All aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged, and landscaped and planted or managed flora.

Housing Market Area

A geographical area defined by household demand and preferences for all types of housing, reflecting the key functional linkages between places where people live and work.

Gypsies and Travellers

Gypsies are defined in national planning policy as ‘persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependents’ educational or health needs or old age have ceased to travel temporarily, but excluding

members of an organised group of travelling showpeople or circus people travelling together as such’.

Listed Building

A building that is recognised and statutorily protected for its historic and architectural value.
www.historicengland.org.uk/listing.

Local Development Scheme

Sets out a programme for the preparation of a Local Plan. It is a project management document which identifies which documents are to be prepared, the stages that have to be achieved and a detailed timetable.

Masterplan

A detailed plan which provides a template for the development of a site or area.

National Planning Policy Framework

Most national planning policy is contained within the National Planning Policy Framework. Some policy is also contained within ministerial statements. National planning policy is supported by the National Planning Practice Guidance which gives further detail on how national policy should be implemented and interpreted.

Neighbourhood Plans

Neighbourhood planning is a right for communities introduced through the [Localism Act 2011](#). Communities can shape development in their areas through the production of Neighbourhood Plans. The local parish or town council lead on neighbourhood planning in their areas. Where one does not exist then a community group known as a neighbourhood forum needs to be established to lead. Neighbourhood Plans become part of the Development Plan for the area and the policies contained within them are then used in the determination of planning applications.

Non-designated Heritage Assets

A heritage asset that has not been included on any national list.

Objectively Assessed Need

An assessment of the amount of new housing, jobs, employment land, retail floorspace and other uses that are likely to be needed within the District.

Open Space

A range of different sites and areas, including wildlife areas, natural greenspace, parks and gardens, amenity greenspace, play space, allotments, cemeteries and churchyards and green corridors.

Outline Planning Permission

A permission granted at the early stage of a development to state that a proposal is acceptable in principle before any detailed design issues are considered.

Planning Obligations and Agreements

A legal agreement between a planning authority and a developer ensuring that certain extra works related to a development are undertaken or contributions made to the provision of infrastructure or facilities. Sometimes called a Section 106 (S106) Agreement.

Previously Developed Land

Land which has been previously developed but is now largely vacant or disused. Previously developed land is defined in the National Planning Policy Framework.

www.gov.uk/government/publications/national-planning-policy-framework--2.

Ramsar Sites

A term adopted following an international conference, held in 1971 in Ramsar in Iran, to identify wetland sites of international importance.

Renewable Energy

This includes energy for heating and cooling as well as generating electricity. Renewable energy covers those energy flows that occur naturally and repeatedly in the environment – from the wind, the fall of water, the movement of the oceans, from the sun and also from biomass and deep geothermal heat. Low carbon technologies are those that can help reduce emissions (compared to conventional use of fossil fuels).

Second Homes

A residential property which is not used as a main residence. These are often used as holiday homes.

Section 106 Agreement

See Planning Obligations and Agreements.

Self Build / Custom Build

This refers to where someone organises the design and build of their own home.

Settlement Boundaries

Lines around settlements which dictate in principle where some types of development can take place.

Sites of Special Scientific Interest

Have statutory protection as the best examples of the UK's flora, fauna, or geological or physiographical features. They may have other national and international nature conservation designations. Most SSSIs are privately owned or managed, while others are owned or managed by public bodies or non-government organisations.

Social Rent

Social rented housing is owned by local authorities and private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided

under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency.

Special Area of Conservation (SAC)

This is an area designated under the European Habitats Directive to give special protection to plants, animals and habitats.

Special Protection Area (SPA)

This is an area identified as being of value for the feeding, breeding, migrating and wintering of threatened bird species. These sites are identified under the European Wild Birds Directive and receive enhanced protection.

Strategic Housing Market Assessment

An assessment of housing need and demand within the District.

Supplementary Planning Documents

A planning document that provides practical guidance to assist in the implementation of Local Plan policies.

Town Centre Uses

These are use classes that are located within or adjacent to town centres. They include: retail (A1); financial and professional (A2); restaurants and cafés (A3); drinking establishments (A4); hot food takeaway (A5); assembly and leisure (D2).

Transport Assessment

A comprehensive and systematic process that sets out various transport issues relating to a proposed development. It identifies what measures will be taken to deal with the anticipated transport impacts of the scheme in relation to all forms of travel.

Transport Statement

A simplified Transport Assessment, used in some cases where transport issues arising out of development proposals may not require a full Transport Assessment i.e. smaller scale developments where the traffic impact is limited in both volume and area impact.

Travel Plan

A long term management strategy document for a development that seeks to provide sustainable transport and is subject to regular review.

Use Classes Order

Different categories of uses identified in the planning system by the Use Class Order (1987 as amended) www.planningportal.co.uk/info/200130/common_projects/9/change_of_use.

Windfall Sites

Sites which have not been specifically identified for development through the Local Plan process. They often comprise previously-developed sites that have unexpectedly become available.



Email us 

Planning Policy and Delivery Team (Local Plans)
planningpolicy@eastsoffolk.gov.uk

Development Management (Planning Applications)
planning@eastsoffolk.gov.uk

Call us 

Planning Policy & Delivery Team
01394 444557 / 01502 523029

Customer Services
03330 162 000

Write to us 

East Suffolk District Council
Planning Policy and Delivery Team
Riverside, 4 Canning Road, Lowestoft
Suffolk NR33 0EQ

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www.eastsuffolk.gov.uk/planningpolicy