

Appendix A

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

Planning Appeals relating to 'Majors'

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| Application number | DC/20/1636/OUT |
| Appeal number | APP/X3540/W/21/3276418 |
| Site | Land west of PROW 21, Woods Lane, Melton, IP12 1PH |
| Description of development | Outline Application for up to 27no. Self Build and Custom dwellings. |
| Committee delegated | / Delegated |
| Appeal decision date | 8 March 2022 |
| Appeal decision | Dismissed |
| Main issues | <p>The main issues were:</p> <ul style="list-style-type: none">• whether the council has made adequate provision for self build dwellings, in accordance with the provisions of the Self Build and Custom Housing Act 2015;• whether the site represents an appropriate location for the proposed dwellings;• whether the proposal makes appropriate provision for affordable housing; and• the effect of the proposed development on the character and appearance of the area. |
| Summary of decision | <p>The Inspector was not convinced that the Council would meet its duty in regard to self-build provision up to October 2022 and therefore gave the provision of self-build dwellings significant weight.</p> <p>Although the site was in a good location in relation to access to services and facilities and adjacent to the defined Settlement Boundary, the principle of development on this site was not in accordance with the strategy set out in the Local Plan or in accordance with the Melton Neighbourhood Plan. This conflict was given significant weight.</p> <p>The Inspector was not convinced by the appellant's argument (referring to paragraph 65 of the NPPF) claiming that no affordable housing provision was required. The lack of affordable housing provision was also given significant weight.</p> <p>The proposed development would result in the loss of the undeveloped and open character of the site. While some gap would remain, the development would erode the importance of</p> |

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| | this gap which contributes positively to the open nature and rural character of the area. Significant weight was given to this consideration. |
| Learning point / actions | <p>It is of concern that the Inspector was not convinced that the Council are making adequate provision for self-build dwellings to meet the demand. This matter is being considered by the Planning Policy team.</p> <p>A good decision in relation to the principle of residential development contrary to the development plan, albeit in a 'good' location in relation to access to services and facilities. Also reinforces the importance of the rural character of gaps and separation between settlements and the position regarding the need to provide affordable dwellings on self-build developments.</p> |

Planning Appeals relating to 'Minors'

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| Application number | DC/20/0006/FUL |
| Appeal number | APP/X3540/W/21/3273550 |
| Site | The Red House, Red House Lane, Leiston IP16 4LR |
| Description of development | Erection of 3 houses and conversion of existing buildings to 4 houses, with new shared access off Red House Lane. |
| Committee delegated | Delegated |
| Appeal decision date | 14 February 2022 |
| Appeal decision | Allowed |
| Main issues | The effect of the development on the setting of the listed building (Red House). |
| Summary of decision | <p>Although the development would erode the setting of the listed building it has been sensitively designed in order to minimise harm to the setting. The majority of the former garden and orchard to the rear of the listed building would remain open in character. On this basis the harm to the setting of the listed building would be less than substantial.</p> <p>There would be social and economic benefits from the proposed additional dwellings. New housing would be provided in a sustainable location with good access to services and facilities. Employment would be provided during construction and the expenditure of future occupiers would benefit the local economy. These public benefits together attract significant weight.</p> |

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| | <p>The proposed conversion scheme would provide three dwellings within the listed building and a fourth in the adjoining outbuilding. It would make more efficient use of the listed building and would provide investment in the building. The proposal would in the opinion of the Inspector provide benefit in ensuring the long-term preservation of the building and great weight was given to this benefit.</p> <p>The significant weights that he gave to the public benefits outweigh the great weight that he gave to the harm. The proposal overall was considered to accord with policies SCLP11.3 and SCLP11.4.</p> |
| Learning point / actions | Decision was a judgement on benefit verses harm. No actions required. |

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| Application number | DC/20/4457/FUL |
| Appeal number | APP/X3540/W/21/3282178 |
| Site | Homeleigh Cottage, The Street, Little Bealings IP13 6LT |
| Description of development | Construction of 1 no. two storey dwelling |
| Committee delegated / | Delegated |
| Appeal decision date | 22 February 2022 |
| Appeal decision | Dismissed |
| Main issues | <p>1. Whether the appeal site is suitable for new housing;</p> <p>2. The effect of the proposal on the character and appearance of the surrounding area.</p> |
| Summary of decision | <p>The Inspector agreed that the proposal conflicted with policies for development in the countryside as adjacent dwellings fell within the settlement boundary and did not form part of a cluster.</p> <p>The Inspector also found that, while the appeal site would be within a reasonable walking distance of some services in the village and may be better related to them than some existing dwellings, such services would be insufficient to meet all the daily needs of a future occupier. As such, occupiers would need to regularly travel further afield to reach services and facilities such as shops and employment. Therefore, the proposal's contribution to the vitality of the wider rural community would be very limited.</p> |

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| | <p>The inspector otherwise found that the proposed dwelling would be of an appropriate style for its location at the edge of the settlement where agricultural buildings are more typically found. The proposal's siting near existing dwellings and backed by a wooded area would not appear intrusive within the wider countryside or the village and would otherwise relate well to the nearby dwellings.</p> <p>The design and siting of the proposed dwelling was not therefore found to harm the character and appearance of the surrounding area.</p> |
| Learning point actions / | <p>Existing dwellings within settlement boundaries should not be considered as forming part of cluster when considering new housing development in the countryside.</p> <p>The location of the proposal outside of both a settlement and cluster would undermine the Council's plan-led approach to the delivery of housing. This matter attracts significant weight and outweighs the benefits associated with the proposed development.</p> |

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| Application number | DC/21/0933/FUL |
| Appeal number | APP/X3540/W/21/3282037 |
| Site | 26-28 Peddars Lane, Beccles NR34 9UE |
| Description of development | Demolition of existing workshop and replacement with 2 residential dwellings |
| Committee delegated / | Delegated |
| Appeal decision date | 25 February 2022 |
| Appeal decision | Allowed |
| Main issues | The impact of the development on the character and appearance of the street scene and the Conservation Area, and upon the amenity of neighbouring residents. In addition, the impact arising from the limited floorspace of the dwellings. |
| Summary of decision | The proposed dwelling would be similar in appearance to recently constructed dwellings in the area and would represent an improvement to the locality by removing the existing workshop. Therefore, the inspector concluded that no harm would arise to the heritage significance. The inspector also concluded that the harm caused by overlooking would be limited as several windows could be obscured and views into neighbouring properties private amenity spaces and windows |

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| | would be oblique. Finally, they noted that the council had no development plan policies which directly require space standards, and on balance, any minor harm arising from the compact size of the dwellings would be more than offset by the benefits of delivering additional homes on brownfield land in a very sustainable location. |
| Learning point / actions | The application was a matter of judgement on the degree of harm that the dwellings represented to the Conservation Area, and the benefits arising from the removal of the existing workshop. Additionally, with no development plan policies directly relating to space standards it is a matter of judgement on whether the limited impacts are outweighed by benefits. |

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| Application number | DC/20/4878/FUL |
| Appeal number | APP/X3540/W/21/3279326 |
| Site | Barns at Ringsfield Hall Farm, Hall Road, Ringsfield Suffolk NR34 8JR |
| Description of development | Full planning application for self build and conversion of barns, including interconnecting extension following successful approvals of DC/20/1541/FUL and DC/19/4532/PN3. |
| Committee delegated | Delegated |
| Appeal decision date | 28 February 2022 |
| Appeal decision | Dismissed |
| Main issues | <ul style="list-style-type: none"> • Whether Policy WLP8.11 is inconsistent with the NPPF and the weight that should be given to it. • Compliance with WLP8.11 “Conversion of Rural buildings to residential use” • Whether there is a hierarchy to the criteria of Policy WLP8.11. |
| Summary of decision | <p>The inspector concluded that Policy WLP8.11 is consistent with national policy and up to date. It was noted that the NPPF has been consistent on isolated dwellings in the countryside, including reuse of rural buildings since 2012.</p> <p>There has been no material change such that a recently examined development plan policy should now be deemed inconsistent with national policy.</p> <p>It was also noted that there is little purpose for development plan policies to slavishly repeat the broad parameters of national policy and not to include valid criteria that are grounded in local evidence and circumstances.</p> |

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| | <p>It was therefore found that Policy WLP8.11 is up-to-date and should be given full weight in decision making.</p> <p>The inspector agreed that the buildings were not locally distinctive or of architectural merit as required by WLP8.11.</p> <p>It was concluded that the buildings would require extensive alteration to create the accommodation proposed contrary to WLP8.11.</p> <p>The appellant's view was that there is no sequence or hierarchy to the criteria in Policy WLP8.11. The inspector agreed with the Council that for a proposal to accord with the policy it must, as a basic principle and starting point, involve buildings that are worth preserving and retaining in the countryside, as part of its intrinsic character. The appeal proposal would not satisfy the key criterion of Policy WLP8.11.</p> |
| Learning point / actions | Confirmed that Policy WLP8.11 is consistent with the NPPF and there is a hierarchy to the criteria of this policy. |

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| Application number | DC/20/4991/FUL |
| Appeal number | APP/X3540/W/21/3278933 |
| Site | 37 and 39 Field Lane, Kessingland, Lowestoft, NR33 7QA |
| Description of development | Construction of 2 No. Dwellings and Garaging with Associated Works, Including; Alterations to Existing Dwellings, Creation of Vehicular Access and Provision of Landscaping. |
| Committee delegated | / Delegated |
| Appeal decision date | 1 March 2022 |
| Appeal decision | Dismissed |
| Main issues | The main issue is the effect of the proposed development on the living conditions of occupiers of No.37 and No.39 Field Lane having regard to noise and disturbance. |
| Summary of decision | <p>The proposed access road had a width of 5.1 metres at its entrance narrowing to 4.5 metres where it passed between No.37 and No.39 Field Lane.</p> <p>The Inspector concluded that, <i>"due to its limited width, vehicles accessing the proposed dwellings would pass in very close proximity to the flank walls of the two existing dwellings. Whilst the proposal also seeks to remove a window in the side elevation"</i></p> |

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| | <p><i>of No.39 so that vehicles would pass a blank wall, there would remain windows in the side elevation of No.37 and there would be no buffer or screening between the access road and the existing dwellings. As such, vehicles passing in between would result in noise and disturbance to occupiers of the existing dwellings."</i></p> <p>The Inspector concluded the scheme was contrary to the Development Plan (including Policy H2 of the Kessingland Neighbourhood Plan).</p> |
| Learning point actions / | It can be a defendable refusal reason to cite concerns regarding the narrowness of a vehicle access passing between two domestic properties to serve a new backland form of development, due to the resulting noise and disturbance harming the living conditions of adjacent properties. From experience, this is a matter that can go either way at appeal, but this decision is a helpful conclusion to re-affirm that the proximity of a new access drive to existing dwellings warrants careful consideration. |

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| Application number | DC/21/2130/FUL |
| Appeal number | APP/X3540/W/21/3279845 |
| Site | Land Rear of 55, The Street, Carlton Colville, Suffolk, NR33 8JP |
| Description of development | Erection of residential bungalow and all associated works |
| Committee delegated / | Delegated |
| Appeal decision date | 1 March 2022 |
| Appeal decision | Dismissed |
| Main issues | The impact of adjacent Public House and site layout on the future occupiers of the dwelling. |
| Summary of decision | The site is situated adjacent to the beer garden of the Old Red House Public House. The inspector noted that whilst the Pub may currently be closed, it could reopen at any time, and the proximity of the beer garden would generate noise and disturbance to the future occupiers of the dwelling. This could put future pressure on restricting the outside area for the Pub which could impact on vitality and viability as a community facility. No evidence was supplied that identifies that the introduction of an acoustic fence along the boundary would limit the impacts from noise. Finally, the inspector concluded that the headlights entering the site and using the shared parking area, would be harmful to the living conditions of future occupiers. |

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| Learning point / actions | It's a defendable position to consider the impact of outside drinking areas on the amenity of future occupiers and on the vitality and viability of the public house. |
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| Application number | DC/20/3314/FUL |
| Appeal number | APP/X3540/W/21/3267880 |
| Site | Land and barn known as Buttons Meadow, Charsfield, IP13 7QE |
| Description of development | Provision of a Dwelling (Temporary), and the Change of Use of Land, Alteration/Improvement of Existing Barn to Stabling, Manage and Equine Working School, Erection of Additional Stables, Siting of Ancillary Equipment and Associated Hard and Soft Landscaping. |
| Committee delegated | / Delegated Decision |
| Appeal decision date | 2 March 2022 |
| Appeal decision | Split Decision |
| Main issues | The main issue identified by the Inspector was whether there is an essential need for a dwelling to accommodate a rural worker. |
| Summary of decision | <p>The appeal decision was split:</p> <ul style="list-style-type: none"> - The provision of a dwelling (temporary for 3 years) was dismissed, and - the Change of Use of Land, Alteration/Improvement of Existing Barn to Stabling, Manage and Equine Working School, Erection of Additional Stables, Siting of Ancillary Equipment and Associated Hard and Soft Landscaping, was allowed. <p>The proposal was retrospective in nature, as the mobile home had been sited on the land since March 2021, although was not occupied at the time of the appeal.</p> <p>The Inspector concurred with the LPA that Policy SCLP5.6 was applicable to the consideration of this element of the scheme. The Inspector explains that although the policy refers to permanent dwellings for rural workers could be read as relating to those sited on a permanent basis, and the dwelling is described as being sought for a temporary period, in their view permanently within the local plan policy and NPPF refers to a need to be present on the site at all times, rather than for example seasonally, or at times of livestock giving birth.</p> |

The inspector therefore considered Policy SCLP5.6 to be relevant and of considerable weight in the determination of the scheme.

The Inspector concluded that there is not an essential need for someone to reside on site, on the basis that the horses are currently able to reside on site and this has not lead to any significant problems. It is explained that the Equine Assisted Psychotherapy (ESP), has not started and the horses, although on site have not yet been used for therapy. The horses are not stabled behind closed doors but are free to come and go into the paddock as they wish. They currently live on site and have done so for the past two years, during which the appellant has visited them daily in order to meet their needs, and at the hearing it was confirmed that during this time there had been no incidents of colic and horse's welfare had been adequately met. It is not uncommon for horses to be stabled and grazed in locations which do not have a residential occupant within site and sound.

It was suggested that the proposed business enterprise (ESP) would place special demands on the horses and that is what justifies the need for a dwelling on site. It is suggested by the appellant that she needs to be on site for form sufficient bond for the horses to see her as part of their herd. However, the Inspector was not persuaded that leaving the site at the end of the day would limit the bond she shares with the animals as their primary care giver. Even if the appellant were to live on site there would be times when she would not be present as she would need to leave the site in order to access for example shopping, healthcare and leisure activities. Furthermore, the horses would not be able to see her at times when she was within the mobile home.

It was also suggested by the appellant that being on site would minimise stress from fireworks or aeroplane noise. However, the Inspector concluded there was nothing before them to demonstrate how living on site would minimise stress and impacts. Although the appellant would know why the horse became stressed but it would not prevent the situation.

Other options for monitoring the horses, such as CCTV or other equine technology had not been fully explored and discounted by the appellant.

The Inspector makes it clear that "*Whilst a temporary permission can be appropriate for new enterprises, this is so that*

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| | <i>confidence can be gained as to whether a viable business can be built, before allowing for a permanent dwelling. This does not remove the need to demonstrate a functional need for someone to live on the site in connection with the proposed rural enterprise.”</i> |
| Learning point / actions | <p>This appeal decision confirms the need for applicants to demonstrate a functional need when seeking a rural workers dwelling.</p> <p>The decision also confirms the LPA's interpretation of Policy SCLP5.6 and the resistance of schemes for rural worker dwellings related to horse related businesses of such a modest scale and/or yet not operational, where a function need has not been demonstrated.</p> |

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| Application number | DC/20/4990/FUL & DC/20/4739/FUL |
| Appeal number | APP/X3540/W/21/3278799 & : APP/X3540/W/21/3278816 |
| Site | 3 Ivy Cottages, The Street, Darsham IP17 3QA |
| Description of development | Proposed New Build Dwelling |
| Committee delegated | Delegated |
| Appeal decision date | 15 March 2022 |
| Appeal decision | Both Dismissed |
| Main issues | <p>Appeal A:</p> <ul style="list-style-type: none"> •The effect of the proposed development on the character and appearance of the area. <p>Appeal B:</p> <ul style="list-style-type: none"> •The effect of the proposed development on the living conditions of the occupiers of the neighbouring property, 'Two Hoots', with particular regard to noise and disturbance. <p>Both appeals:</p> <ul style="list-style-type: none"> •The effect of the proposed development on highway safety with particular regard to the proposed vehicular access; and •The effect of the proposed development on Special Protection Areas (SPA), Ramsar Sites and Special Areas of Conservation (SAC). |
| Summary of decision | The Inspector found both schemes to be acceptable but dismissed the appeals solely on the grounds that RAMS payment for each scheme had not been received (nor had any |

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| | alternative mitigation been formally proposed to offset recreational impacts on designated Habitats Sites). |
| Learning point / actions | No significant learning points, but another decision to reinforce the importance of habitats mitigation being secured prior to decision. |

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| Application number | DC/21/0113/OUT |
| Appeal number | APP/X3540/W/21/3281480 |
| Site | Grange Nurseries, Jackson Road, Newbourne IP12 4NR |
| Description of development | Outline Application - Proposed Dwelling (all matters reserved) |
| Committee delegated | Delegated |
| Appeal decision date | 28 March 2022 |
| Appeal decision | Dismissed |
| Main issues | <p>The main issues in this case are:</p> <ul style="list-style-type: none"> (i) whether the appeal site is suitable for new housing; and, (ii) the effect of the development on the designated sites. |
| Summary of decision | <p>The Inspector concluded that policies relating to development in the countryside were applicable in Newbourne. The proposed development was therefore considered against SCLP5.3 and SCLP5.4, in addition to SCLP11.9 which is a Newbourne specific policy relating to the former land settlement association holdings area. The Inspector concluded that the proposal would accord with these policies, although also considered the proposal to accord with SCLP5.5 (conversions of buildings in the countryside for housing), SCLP5.6 (rural workers dwellings) and SCLP5.11 (affordable housing on exemption site) none of which are applicable to the proposed development. Officers disagree that the proposal would meet any of the exemptions outlined by SCLP5.3, including SCLP5.4 (housing in clusters in the countryside) and have contacted the Planning Inspectorate in this regard.</p> <p>The appeal was dismissed on the grounds that the applicant had not made the relevant contribution or mitigation in respect of designated sites (RAMS), noting that there would be an unacceptable impact on the designated sites without such contribution or mitigation. The development would therefore be contrary to SCLP10.1 of the Local Plan and Chapter 15 of the NPPF.</p> |

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| Learning point / actions | Countryside policies are applicable to development proposals in Newbourne despite the site being classified as a 'small village' within the settlement hierarchy, it has no settlement boundary. Policy SCLP5.3 should therefore be the starting point for establishing the principle of development, with further considerations given to the built and historic environment of Newbourne's former land settlement association holdings unique character (SCLP11.9). |
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Planning Appeals relating to 'Others' (including householders)

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| Application number | DC/21/2517/FUL |
| Appeal number | APP/X3540/W/21/3281932 |
| Site | Willowcroft Chapel Road, Otley, IPSWICH, IP6 9NU |
| Description of development | Increase height of double garage by 900mm to accommodate a gym at first floor |
| Committee delegated | Delegated |
| Appeal decision date | 16 February 2022 |
| Appeal decision | Dismissed |
| Main issues | The main issue is the effect of the proposed development on the character and appearance of the area. |
| Summary of decision | The inspector considered the effect of the increased eaves and ridge height of the garage to accommodate a first floor. The garage would protrude significantly above the front boundary hedge screening and due to this increased height and massing of the development, it would increase the prominence of the garage within the street scene which in turn would be harmful to the overall character of the area. |
| Learning point / actions | None, the inspector agreed with the officer's assessment. |

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| Application number | DC/21/2137/FUL |
| Appeal number | APP/X3540/W/21/3281334 |
| Site | 19 Upper Grange Road, Beccles NR34 9NU |
| Description of development | Replacement front door |
| Committee delegated | Delegated |
| Appeal decision date | 28 February 2022 |
| Appeal decision | Dismissed |

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| Main issues | The main issue in this case is the effect of the proposed replacement door upon the character and appearance of the property, which is identified as a Non-Designated Heritage Asset (NDHA), and more widely whether the proposal would enhance the appearance of the Beccles Conservation Area. |
| Summary of decision | <p>The Inspector acknowledges that No 19 forms part of a small collection of houses in the ‘Arts and Crafts’ style of architecture, and that these dwellings represent a distinctive form and aesthetic of the later nineteenth and early twentieth century, preserving a noteworthy phase in the history of the built environment of Beccles. It is noted that a key characteristic of this style of architecture (including no 19) is the clarity of the form of the buildings; the materials used; and the quality of construction and craftsmanship. The Inspector also noted that these attributes remain intact at no 19, giving the building its heritage value.</p> <p>It is explained that the centrally positioned front door in no 19 is in contrast to the other nearby ‘arts and crafts’ dwellings, in that the front door faces onto the highway. The Inspector highlights the qualities of the front roof stating:</p> <p><i>“The characteristic craftsmanship of the ‘Arts and Crafts’ style is reinforced by the particular quality and detailing of the wooden front door including sophisticated mouldings, particularly to the elliptical eight-paned glazing at the top of the door, the stained glasswork more generally and detailed panelling. The door is set within a proportioned brickwork portico surround, emphasising the door as a key feature of the front elevation. Accordingly, the quality, detailing and traditional materials of the front door to No.19 make an integral contribution to the character and appearance of the building and a positive contribution to the wider appearance of the BCA.”</i></p> <p>The proposal was to replace the existing door with a modern composite door comprising two solid bottom panels and two glazed panels, which would be of a generally simpler appearance that would not reflect the quality of craftsmanship and materials of the existing door, attributes which are integral to preserving and enhancing the character and appearance of the building and its appearance in the Conservation Area.</p> <p>In the view of the Inspector the harm would be less than substantial harm, noting that the various buildings in the vicinity have replacement front doors. It is noted that an Article 4</p> |

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| | <p>direction has been enacted to manage the effects of minor changes upon the Conservation Area.</p> <p>The Inspector acknowledges the claims made by the appellant that the existing front door is in poor condition, inefficient in excluding drafts and a security risk but concludes there is little to substantiate this. The inspector examined the door externally and concluded it appears to be in reasonable condition, and as such there is not the clear and convincing justification for the harm to the Conservation Area.</p> <p>The Inspector concludes the proposal would not preserve or enhance the character or appearance of No 19 as an NDHA or the appearance of the Conservation Area, and therefore is contrary to the objectives of the imposition of the Article 5 Direction, Policies WLP8.37, WLP8.38 of the Waveney Local Plan, BECC5 of the Beccles Neighbourhood Plan, and paragraphs 200, 201 and 203 of the NPPF.</p> |
| Learning point actions / | The Inspector concurs with the LPA that preserving appropriate historic features, even if they are only one element of a building is required on NDHA's and buildings within Conservation Areas as key elements of preserving their character, in accordance with local planning policy and the NPPF. |

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| Application number | DC/21/3858/FUL |
| Appeal number | APP/X3540/D/21/3287303 |
| Site | 8, Lowry Way, Lowestoft, NR32 4LW |
| Description of development | "To relocate fence to the boundary of our property and in line with the front of the house. Fence will be 1.8m high." |
| Committee delegated / | Delegated |
| Appeal decision date | 1 March 2022 |
| Appeal decision | Dismissed |
| Main issues | The effect of the proposed development on the character and appearance of the area. |
| Summary of decision | <p>The property is located on the corner of Lowry Way and Turner Close, Lowestoft. The area is characterised amongst other things by properties with front gardens without hard boundary walls or fences, which gives the area an open feel.</p> <p>The proposal was for a 1.8m high close-boarded fence along the side boundary of the property for approximately 20m in length adjoining Turner Close.</p> |

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| | <p>The Inspector concluded due to its height and length the fence would appear in stark contrast to the open frontages of properties in the streetscene, resulting in a greater sense of enclosure due to the absence of any similar boundary treatments in the area. It is also stated that the proposed fencing would result in a dominant feature on what is a prominent corner position. It is therefore an incongruous feature.</p> <p>The Inspector acknowledged other examples of fencing in nearby streets, explaining they did not have full details of the permissions that allowed for these examples, but the streets in which they are located all have a less open character than this part of Lowry Way and Turner Close, and as such these examples are sufficiently different from the proposal within the appeal.</p> |
| Learning point actions / | The inspector concurred with the LPA's assessment that the scheme was contrary to policy WLP8.29, and highlighted paragraph 130 of the NPPF which is also relevant to the consideration of the visual impact of proposals upon their locality. |

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| Application number | DC/21/3772/FUL |
| Appeal number | APP/X3540/D/21/3288836 |
| Site | The Barn Mill Lane, Alderton, Woodbridge, IP12 3DB |
| Description of development | The erection of timber double garage, timber garden shed and associated driveway & fencing alterations. |
| Committee delegated / | Delegated |
| Appeal decision date | 3 March 2022 |
| Appeal decision | Dismissed |
| Main issues | The effect of the proposed development on the character and appearance of the area. |
| Summary of decision | The Inspector considered that the proposed garage would be sited significantly closer to the road than that of Manor Fields, and would erode the openness of the site. The proposed front boundary treatments were not considered to adequately screen the proposed development sufficiently to reduce its effect on the open character of this part of The Street. |

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| | The Inspector concludes that the proposed development would result in harm to the character and appearance of the area. The proposed development was considered to Policy SCLP11.1 and Paragraph 130 of the NPPF. |
| Learning point / actions | None, the Inspector agreed with the Officers assessment. |

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| Application number | DC/21/0429/FUL |
| Appeal number | APP/X3540/D/21/3275831 |
| Site | Orchard Piece, Lodge Road, Walberswick, IP18 6UP |
| Description of development | Rear side and front extension and erection of a detached garage and store. |
| Committee delegated | Delegated |
| Appeal decision date | 28 March 2022 |
| Appeal decision | Allowed with conditions |
| Main issues | <p>The main issues were identified as:</p> <ul style="list-style-type: none"> • The effect of the proposed development on the character and appearance of the appeal site and surrounding area. • The effect of the proposed development on the living conditions of the neighbouring property directly to the east of the site, with particular regard to outlook. |
| Summary of decision | <p>The Inspector acknowledged that the proposed development would result in the dwelling filling more of the plot, but in their view the side extension would have a relatively modest width in comparison to the width of the existing property, and although its ridge height would match that of the existing property, it would not be out of keeping with surrounding properties.</p> <p>The inspector also considered that the setback of the property and the existing boundary planting along with the position of the proposed garage would mean the side extension would not be particularly prominent.</p> <p>The Inspector also acknowledged the side extension would bring the dwelling closer to the neighbouring property, but on the basis of the existing separation distance between that property and the shared boundary, the established planting on the boundary and the position of a detached garage between the dwellings, concluded that the side extension would have no harmful overbearing impact.</p> |

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| Learning point / actions | The key matters for consideration were matters of judgement by those determining the application/appeal, but the decision suggests that a greater harm than that resulting from the proposed extension is required to sustain a refusal on grounds of visual amenity and residential amenity. |
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Appeals relating to Part 3 Prior Notifications

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| Application number | DC/20/4032/PN3 |
| Appeal number | APP/X3540/W/21/3274988 |
| Site | Barn A, Land adjacent Former Woodbarn Cottages, Seckford Hall Road, Great Bealings, Suffolk, IP13 6NX |
| Description of development | Prior Notification - Conversion of an agricultural building to a dwelling house pursuant to Class Q of Part 3 of Schedule 2 of the Town and Country Planning |
| Committee delegated | Delegated |
| Appeal decision date | 3 March 2022 |
| Appeal decision | <p>Dismissed</p> <p>An application for costs was also made by the appellant and refused (appeal reference APP/X3540/W/21/3274988). A summary of that decision can be found costs decisions section of this report.</p> |
| Main issues | <p>The key issue was whether the proposal was 'Permitted Development' under Class Q of Part 3 of the General Permitted Development Order, in terms of the change of use of the building and any land within its curtilage and any building operations necessary to convert the building, specifically in relation to:</p> <ul style="list-style-type: none"> - Whether the building was in agricultural use on 20 March 2013, - Whether other development had been undertaken in the agricultural holding using agricultural permitted development rights since 20 March 2013, - Either the extent of the building operations were those reasonably required as defined in paragraph Q.1 (i). <p>The scheme was also refused by ESC due to lack of RAMS payment and thus impact upon European Protected Sites.</p> |
| Summary of decision | There have been five refused applications on this particular building since 2012, two planning applications and three Prior |

Notifications, the third of which was the subject of this appeal. The two previous appeals relating to Prior Notification for the change of use of this building and associated works were also dismissed (references DC/14/1941/PN3, APP/J3530/A/14/2229019 and DC/16/3427/PN3, APP/J3530/W/17/3166437).

In terms of the agricultural use, the Inspector on the second prior notification appeal raised doubts regarding the use of the building on 20 March 2013. Therefore, as part of determining the most recent application, officers reinvestigated the use of building, including looking through documentation on the 23 applications on this building and across the wider site received since 2012 (13 Full applications, 6 Prior Notifications, 4 Variations of Condition), finding evidence that in the view of officers cast significant doubt regarding the claimed agricultural use on the required date in 2013. As part of the appeal documentation was submitted by the appellants to demonstrate an agricultural holding. The Inspector noted the building was clearly constructed for agricultural purposes and retains large openings. They also noted at the time of their visit the building was being used for the storage of building materials, concluding that whilst the lawfulness of the current use is in doubt, based upon the agricultural holdings information the building appeared to have been in used for agricultural purposes in 2013.

The Inspector noted that the letter provided within the appellants statement as evidence to the agricultural tenancy indicated that if they were to vacate the premises there would be a need for storage capacities to be increased or the upgrading of other buildings, and a further letter from 2013 refers to applying for planning permission for a new grain store, implying that works have taken place within the agricultural unit. The Inspector states the appellants submissions are therefore contradictory and imprecise. They therefore concluded that there is insufficient evidence to confirm the extent of the agricultural unit in 2013 and whether any development has taken place which would preclude the permitted development.

In terms of the physical works, the Inspector highlights the PPG and that it is only where the existing building is already suitable for conversion that the building would be considered to have the permitted development right. The submitted structural report confirming the building is structurally sound and the frame would be retained providing the main load bearing

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| | <p>element are acknowledged. However, the structural report notes that in order to achieve conversion, replacement infill panels with both insulation and structural qualities would be affixed to the frame. It was also noted that the existing roof would also be replaced.</p> <p>Taken as a whole, the Inspector considered the existing building would not be able to function as a dwelling. The works required would be significant, as they result in the construction of external walls and are necessary to alter the original appearance and purpose of the building. The Inspector considers that the works outlined result in the substantial re-building of the pre-existing structure and cumulatively, the extent of the works required would extend beyond the building operations reasonably necessary to convert the building to residential use under Class Q. This is also the conclusion that previous Inspectors have come to when considering the conversion of this building to a residential dwelling.</p> |
| Learning point / actions | <p>This decision confirms the importance of research into the history of the site and understanding the extent of the agricultural unit, so its planning history and any implications in terms of Permitted Development Rights can be fully understood.</p> <p>Whilst each site and scheme must be judged individually, this appeal decision is clear that when only the steel frame of the building is to be retained and panels providing structural and insulation properties are to be installed, the works are beyond those which are considered reasonably necessary and such a scheme does not constitute a conversion under Class Q.</p> |

Enforcement Decisions

There were no Appeal decisions relating to Enforcement Notices received during this reporting period.

Costs Decisions

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| Application number | DC/20/4032/PN3 |
| Appeal number | APP/X3540/W/21/3274988 |
| Site | Barn A, Land adjacent Former Woodbarn Cottages, Seckford Hall Road, Great Bealings, Suffolk, IP13 6NX |
| Description of development | Prior Notification - Conversion of an agricultural building to a dwelling house pursuant to Class Q of Part 3 of Schedule 2 of the Town and Country Planning |

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| Committee / delegated | Delegated |
| Appeal decision date | 3 March 2022 |
| Appeal decision | <p>Dismissed</p> <p>The associated Planning Appeal (reference APP/X3540/W/21/3274988) was also dismissed and is summarised earlier in this report.</p> |
| Main issues | <p>The key considerations of an application for an award of costs against the Local Planning Authority are whether they have acted unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.</p> <p>The PPG explains examples of unreasonable behaviour by Local Planning Authorities as including (i) preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; (ii) persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable and (iii) vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis and (iv) not determining similar cases in a consistent manner.</p> |
| Summary of decision | <p>This application for costs was dismissed on the grounds that the Inspector considered that the Council acted reasonably. The Inspector did not consider that the Council failed to evaluate the application or consider the merits of the scheme of give sufficient weight to the previous appeal decisions. The Inspector acknowledged that they did not agree with the LPA in aspects of the requirements of Class Q, but that the LPA's points were supported by objective analysis and sufficient evidence has been provided to substantiate the points raised.</p> <p>In the view of the Inspector they do not agree with the appellants view that the appeal or costs associated with it could have been avoided.</p> |
| Learning point actions | <p>This costs decision reconfirms the importance of supporting planning decisions with clear objective analysis and evidence, to demonstrate how and why a particular decision has been reached by the LPA.</p> |

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| Application number | DC/20/4990/FUL & DC/20/4739/FUL |
| Appeal number | APP/X3540/W/21/3278799 & APP/X3540/W/21/3278816 |
| Site | 3 Ivy Cottages, The Street, Darsham IP17 3QA |
| Description of development | Proposed New Build Dwelling |
| Committee delegated / | Delegated |
| Appeal decision date | 15 March 2022 |
| Appeal decision | Both Dismissed |
| Main issues | The appellant's costs claim alleged unreasonable behaviour by the Council. The appellant's claim was that the Council had previously approved similar forms of development at the site, and therefore the applications being refused was unreasonable. |
| Summary of decision | <p>The appellant's claim was heavily reliant on previous approvals to try and argue that the Council was unreasonable in refusing the newer applications. However, the Inspector fully acknowledged that the applications the Council refused were materially different from past approvals and that to consider those on merit was appropriate; see extracts as follows:</p> <p><i>"Indeed, for the reasons outlined above, the Council did not act unreasonably in this regard given the material differences between the schemes that had previously been granted planning permission and the Appeal A proposals."</i></p> <p><i>"Based on the approved plan, the development approved under application reference DC/20/1731/FUL is materially different to the Appeal B proposals in terms of the location of the access. As such, the Council did not act unreasonably in coming to a different view on the Appeal B proposal."</i></p> |
| Learning point actions / | <p>A challenging aspect of the applications/appeals was that the applicant/appellant elected to submit two tandem applications for individual dwellings. Cumulatively, these applications proposed a two-dwelling development across the whole site at Ivy Cottages. The applicant/appellant was of the view that each application should be assessed entirely independently. Officers disagreed with that conclusion, as the two proposals were fundamentally linked and clearly needed to be read as a whole. Therefore, part of the refusal reasoning looked at the combined outcome of the two applications; the Inspector did not find that to be unreasonable, noting the following in his Cost's decision:</p> <p><i>"Furthermore, given that the applications were refused for other reasons, it was not necessary for the Council to reach a conclusion</i></p> |

on the acceptability of one scheme in favour of the other (in terms of highway safety). Therefore, the cumulative approach to the consideration of the applications was not unreasonable and the basis for this approach is made clear in the reasons for refusal.”