

# East Suffolk Shadow Authority

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

## Shadow Planning Committee (South)

### Members:

Councillor Chris Blundell  
Councillor Stephen Burroughes  
Councillor Tony Cooper  
Councillor Mike Deacon  
Councillor Deborah Dean  
Councillor Tony Fryatt  
Councillor Susan Harvey  
Councillor Colin Hedgley  
Councillor Geoff Holdcroft  
Councillor Maureen Jones  
Councillor Debbie McCallum  
Councillor Mark Newton  
Councillor Andy Smith

Members are invited to a **Meeting of the Shadow Planning Committee (South)** to be held in the Deben Conference Room, East Suffolk House, on **Thursday, 18 April 2019 at 9:15 am**

An Agenda is set out below.

### Part One – Open to the Public

Pages

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- |          |                                                                                               |  |
|----------|-----------------------------------------------------------------------------------------------|--|
| <b>1</b> | <b>Election of a Chairman</b><br>To elect a Chairman for the 2018/19 Municipal Year           |  |
| <b>2</b> | <b>Election of a Vice-Chairman</b><br>To elect a Vice-Chairman for the 2018/19 Municipal Year |  |
| <b>3</b> | <b>Apologies for Absence and Substitutions</b>                                                |  |

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- |          |                                                                                                                                                                                                                                                                                                                                                                                             |                |
|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| <b>4</b> | <b>Declarations of Interest</b><br>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. |                |
| <b>5</b> | <b>Appeals to the Ministry of Housing, Communities and Local Government REP52 (SH)</b><br>Report of the Head of Planning and Coastal Management                                                                                                                                                                                                                                             | <b>1 - 29</b>  |
| <b>6</b> | <b>East Suffolk Enforcement Action – Case Update REP53 (SH)</b><br>Report of the Head of Planning and Coastal Management                                                                                                                                                                                                                                                                    | <b>30 - 43</b> |
| <b>7</b> | <b>Applications for permission to carry out development or to display advertisements REP54 (SH)</b><br>Report of the Head of Planning and Coastal Management (separate document)                                                                                                                                                                                                            |                |

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**Part Two – Exempt/Confidential**

Pages

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There are no Exempt or Confidential items for this Agenda.

Close



Stephen Baker, Chief Executive

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# East Suffolk Shadow Authority

## SHADOW PLANNING COMMITTEE (SOUTH)

Thursday 18 April 2019

### APPEALS TO THE MINISTRY OF HOUSING, COMMUNITIES AND LOCAL GOVERNMENT (REP52 (SH))

Report of the Head of Planning and Coastal Management

#### EXECUTIVE SUMMARY

1. To provide information on appeals decided and received.

<b>Wards Affected:</b>	All
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Philip Ridley  
Head of Planning and Coastal Management

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#### BACKGROUND PAPERS:

None, other than published works.

For further information, please contact Mr Philip Ridley, Head of Planning and Coastal Management, on (01394) 444432

**Planning Appeals Received**  
**between 04/03/2019 to 31/03/2019**

**Appeal ref:** APP/021/2019

**Start date:** 11th March 2019

**Address:**

Animal Welfare Centre  
333 High Street  
Walton  
Felixstowe  
Suffolk  
IP11 9QL

**Description:**

Demolition of existing buildings and construction of 10no. new dwelling houses.

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**Appeal ref:** APP/022/2019

**Start date:** 12th March 2019

**Address:**

8 Birch Grove  
Martlesham Heath  
Martlesham  
Suffolk  
IP5 3TD

**Description:**

Proposed detached two-storey dwelling (revised scheme)

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**Appeal ref:** APP/023/2019

**Start date:** 13th March 2019

**Address:**

Bank House  
177 High Street  
Aldeburgh  
IP15 5AN

**Description:**

Demolition of existing outbuilding & garage. Erection of new dwelling (comprising basement and room-in-roof levels) with integral parking and widened vehicle access crossover to at land to rear of Barclays Bank, 177 High Street, Aldeburgh.

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**Appeal ref:** APP/029/2019  
**Start date:** 27th March 2019

**Address:**  
Cherry Trees  
Main Road  
Bucklesham  
Suffolk  
IP10 0DR

**Description:**  
Construct detached single garage to front of property  
Replace existing front flat roof with lean-to pitched roof

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**Appeal ref:** APP/030/2019  
**Start date:** 27th March 2019

**Address:**  
3 Hollowell Close  
Oulton  
Lowestoft  
Suffolk  
NR32 3RB

**Description:**  
Construction of rear and side extensions

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**Appeal ref:** APP/024/2019  
**Start date:** 28th March 2019

**Address:**  
Land To The North Of The Thatched Roadhouse  
The Street  
Martlesham  
Suffolk  
IP12 4RJ

**Description:**  
Car park associated with commercial use.

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**Appeal ref:** APP/025/2019  
**Start date:** 28th March 2019

**Address:**  
Land Bounded By Melton Hill And Old Maltings Approach  
Melton Hill  
Melton  
Suffolk

**Description:**  
Proposal for new parking court to allow for 12no. Garages

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**Appeal ref:** APP/026/2019  
**Start date:** 28th March 2019

**Address:**  
Land At Former Beach Station  
Beach Station Road  
Felixstowe

**Description:**  
Provision of container storage units and open caravan/boat open storage

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**Appeal ref:** APP/027/2019  
**Start date:** 28th March 2019

**Address:**  
33 Thurmans Lane  
Trimley St Mary  
Suffolk  
IP11 0SR

**Description:**  
Severance of part garden and erection of detached dwelling

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**Appeal ref:** APP/028/2019  
**Start date:** 28th March 2019

**Address:**  
33 Thurmans Lane  
Trimley St Mary  
Suffolk  
IP11 0SR

**Description:**  
Severance of side garden and erection of detached dwelling

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**Appeal ref:** APP/031/2019  
**Start date:** 28th March 2019

**Address:**  
Land North Of  
Saxtead Road  
Dennington  
Suffolk

**Description:**  
Retention of landscape features and equipment sheds forming part of the previously approved wildlife pond (DC/16/3554/FUL)

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## **ENFORCEMENT APPEAL**

**Appeal ref:** APP/032/2019 – High Hedge appeal

**Start date:** 13th March 2019

**Address:**

84 Victoria Road

Woodbridge

Suffolk

IP12 1EL

**Description:**

Appeal against High Hedge

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### **Planning Appeals Decided between 04/03/2019 to 31/03/2019**

**Appeal ref:** APP/055/2018

**Start date:** 4th September 2018

**Address:**

3 Saffron Square

Lowestoft

Suffolk

NR33 7DZ

**Description:**

Construction of a single storey two bedroom bungalow

**Decision:** Allowed with Conditions

**Decision date:** 4th March 2019

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**Appeal ref:** APP/062/2018

**Start date:** 25th October 2018

**Address:**

Crown Nursery

High Street

Ufford

IP13 6EL

**Description:**

Outline/Hybrid Planning Application (all matters reserved other than means of access, structural landscaping and business units (employment B1 (a) Use Classes Order 1987) for a care home (Class C2) (60 beds), up to 34 dwellings including 12 affordable.

**Decision:** Appeal Withdrawn

**Decision date:** 19th March 2019

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**Appeal ref:** APP/067/2018  
**Start date:** 21st November 2018  
**Address:**  
2 Lower Farm Cottages  
Nacton Road  
Levington  
Suffolk  
IP10 0EL  
**Description:**  
Erection of a new detached dwelling  
**Decision:** Appeal Dismissed  
**Decision date:** 6th March 2019

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**Appeal ref:** APP/068/2018  
**Start date:** 28th November 2018  
**Address:**  
Land Off  
Foxhall Road  
Rushmere St Andrew  
Ipswich  
IP3 8NF  
**Description:**  
Severance of rear gardens of 669 - 673 Foxhall Road. Erection of 2 bungalows with associated parking and external works.  
**Decision:** Appeal Dismissed  
**Decision date:** 4th March 2019

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**Appeal ref:** APP/077/2018  
**Start date:** 19th December 2018  
**Address:**  
The Pastures  
The Street  
North Cove  
Beccles  
Suffolk  
**Description:**  
Construction of a single self build detached dwelling  
**Decision:** Appeal Dismissed  
**Decision date:** 19th March 2019

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**Appeal ref:** APP/079/2018  
**Start date:** 31st December 2018  
**Address:**  
6 Ipswich Road  
Newbourne  
Suffolk  
IP12 4NS  
**Description:**  
New two bedroom, single storey dwelling.  
**Decision:** Appeal Dismissed  
**Decision date:** 18th March 2019

**Recommendation:**

That the Shadow Planning Committee notes the contents of the report.



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## Appeal Decision

Site visit made on 23 January 2019

**by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 04 March 2019**

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**Appeal Ref: APP/T3535/W/18/3195791**

**3 Saffron Square, Pakefield, Lowestoft, Suffolk, NR33 7DZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Anthony Udell against the decision of Waveney District Council.
  - The application Ref DC/17/4004/FUL, dated 29 August 2017, was refused by notice dated 1 December 2017.
  - The development proposed is described on the decision notice as "Construction of a single storey two bedroom bungalow".
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### Decision

1. The appeal is allowed and planning permission is granted for the construction of a single storey two bedroom bungalow at 3 Saffron Square, Pakefield, Lowestoft, Suffolk, NR33 7DZ in accordance with the terms of the application, Ref DC/17/4004/FUL, dated 29 August 2017, subject to the conditions set out in the attached schedule.

### Procedural matter

2. Since the appeal was submitted, two revised versions of the Framework have been published<sup>12</sup>. I have determined the appeal in light of the most recent version, which is a material consideration that should be taken into account.
3. The Government published the results of the 2018 Housing Delivery Test on 19 February 2019, which identified Waveney District Council as having delivered 72% of its housing requirement. In view of this, Paragraph 73 of the Framework states that the Council's 5-year housing land supply should incorporate a 20% buffer to take account of the significant under delivery of housing over the previous 3 years. I have determined the appeal in light of this information, which is a material consideration that should be taken into account.
4. The appellant has submitted a CAD drawing to replace the original plans submitted with the application, which were hand-drawn. This has not made any significant changes to the position, scale, form and design of the scheme, aside from the removal of an east-facing bathroom window (which faces the private garden). Taking into account the judgement given in *Bernard Wheatcroft Ltd v Secretary of State for the Environment and Harborough District Council* [1980], I am satisfied that the Council and third parties would not be prejudiced by this

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<sup>1</sup> National Planning Policy Framework, Ministry for Housing, Communities and Local Government, July 2018.

<sup>2</sup> National Planning Policy Framework, Ministry for Housing, Communities and Local Government, February 2019.

more accurate drawing and as a consequence I have considered the appeal on this basis.

### **Main issue**

5. Within the context of the Council's reason for refusal and the evidence in this case, the main issue is the effect of the development on the character and appearance of the area.

### **Reasons**

6. The appeal site contains a rectangular brick-built single storey building which has fallen into significant disrepair. The immediate surrounding area is characterised by post-WWII small detached bungalows with open plan front gardens and gaps between dwellings.
7. Although respect for context does not require pastiche solutions, it does require an integrity of design of spaces and buildings with a clear sense of place. In this respect, I consider the linear form and modest scale of the proposed bungalow to be consistent with neighbouring properties.
8. Although the scheme's fenestration details to its public-facing west elevation would differ from those on neighbouring bungalows, I am satisfied that there is scope for such variation as there exists a wide variety of window styles on the estate, many of which have a vertical and horizontal emphasis as per the appeal scheme windows. However, to ensure that the scheme satisfactorily integrates with the area, a condition has been imposed to ensure that it is constructed of materials to match those on the adjacent bungalows.
9. In view of the above, I conclude that the development would not be harmful to the character and appearance of the area. The proposal would therefore accord with Policies CS02 and DM02 of the Core Strategy<sup>3</sup>, which collectively seek, amongst other things, to ensure that new development is of a high quality design that reflects local character and distinctiveness.
10. A condition has been imposed to ensure the scheme is carried out in accordance with the submitted plans. I have attached a condition regarding hard landscaping to ensure that the appearance of the development is satisfactory and there is an appropriate surface for parking. This condition also requires the parking spaces to be retained to avoid on-road congestion. A condition has also been imposed to ensure a minimum 3-metre wide dropped kerb is constructed prior to occupation of the dwelling in the interests of highway and pedestrian safety.
11. In view of potential noise from the adjacent school plant room and the comments of the Council's Environment Protection Officer, I have imposed a condition requiring the submission of noise control measures to protect the living conditions of future occupiers. However, this does not make any reference to a 'Clover Acoustics Noise Assessment' as I could find no copy of this in the appeal submission.
12. In view of the small size of the rear garden area, a condition has been imposed restricting the construction of any extensions without the consent of the local planning authority.

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<sup>3</sup> The Approach to Future Development in Waveney to 2021, Core Strategy, Development Plan Document, Adopted January 2009, Waveney District Council.

## **Conclusion**

13. In view of the above, having had regard to all other matters raised, I conclude that the appeal should be allowed.

*Robert Fallon*

INSPECTOR

### **Schedule of conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plan:- Drawing no. 17/96/01 Rev A.
- 3) No development shall take place above damp proof course level until details of all external facing materials and finishes have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
- 4) The dwelling hereby permitted shall not be occupied until hard surfacing materials for all vehicle parking and circulation areas and pedestrian pathways and patio areas have been submitted to and approved in writing by the local planning authority and constructed in accordance with the approved details. The vehicle parking and circulation areas shall thereafter be retained for this use.
- 5) The dwelling hereby permitted shall not be occupied until a vehicular access with dropped kerb a minimum of 3 metres wide has been constructed. The access shall thereafter be retained.
- 6) No development shall take place above damp proof course level until details of the following noise control measures have been submitted to and approved in writing by the local planning authority:
  - a) glazing units which, as a minimum, have the following acoustic performance;
    - living areas: 22dB RTRA.
    - bedrooms: 20dB RTRA.
  - b) a solid fence around the rear garden that has a minimum superficial mass of 15kg/m<sup>2</sup> consisting of timber boards which are at least 20mm thick and are well overlapped;
  - c) an alternative form of ventilation which has suitable acoustic performance.Thereafter the development shall be constructed in accordance with the approved noise control measures.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), no extensions shall be carried out to any part of the dwelling hereby approved without the specific grant of planning permission.

### **End of Schedule**



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## Appeal Decision

Site visit made on 29 January 2019

**by Sarah Dyer BA BTP MRTPI MCMi**

**an Inspector appointed by the Secretary of State**

**Decision date: 6 March 2019**

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**Appeal Ref: APP/J3530/W/18/3202991**

**2 Lower Farm Cottages, Nacton Road, Levington IP10 0EL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Ben Hockley against the decision of Suffolk Coastal District Council.
  - The application Ref DC/18/0219/FUL, dated 16 January 2018, was refused by notice dated 12 March 2018.
  - The development proposed is erection of new detached dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The address of the appeal site is referred to as being on Nacton Road, Levington in the appeal submissions but is shown as off Levington Road on the submitted plans. On the basis of the postcode I have regarded the address as Levington Road, Nacton in my consideration of the appeal.
3. The Government published the revised National Planning Policy Framework (the 2018 Framework) on 24 July 2018. The appellant was notified of the publication and invited to make comments. The Council had the opportunity to make comments regarding the revised Framework in its statement of case. I have taken any comments made into consideration in my determination of the appeal.
4. Revisions have been made to the 2018 Framework which were published in February 2019 (the revised Framework) and at the same time the Government published the results of the 2018 Housing Delivery Test. In this case the parties are not agreed in respect of the Council's five year housing land supply (5YHLS) and paragraph 11(d) of the revised Framework is already engaged. Therefore, I consider that no prejudice would occur to any parties as a result of me taking the revised Framework into account in my assessment of the appeal.

### Main Issues

5. The main issues are:
  - Whether the appeal site is a suitable location for a new dwelling having regard to local services and associated infrastructure.

- The effect of the development on the safe movement of vehicles and pedestrians in the vicinity of the appeal site with particular regard to the use of the existing access onto Levington Road.

## **Reasons**

### *Location of development*

6. The main parties are agreed that for planning purposes the appeal site is located in the countryside. Policy DM3 of the Suffolk Coastal District Local Plan Core Strategy and Development Management Policies Development Plan Document (2013) (the Core Strategy and DPD) limits new housing development in the countryside to specific types including minor infilling within sustainable settlements or where it would accord with the special circumstances outlined in paragraph 55 of the National Planning Framework (2012). I have very limited evidence before me to demonstrate that the proposed development falls within any of the specified categories including those set out in the now revised Framework. Therefore the development is not supported by Policy DM3 of the Core Strategy and DPD.
7. There is no dispute between the main parties that the appeal site falls outside the settlement boundary for Nacton which is defined as a 'Local Service Centre' and Levington which is defined as an 'Other Village' by the Council's Development Strategy as set out in Policy SP19 of the Core Strategy and DPD. Policy SP19 outlines the Council's overall hierarchical development strategy which seeks to direct most new housing to larger more accessible settlements.
8. The Council's settlement strategy is broadly consistent with the aims of the revised Framework of promoting sustainable development in rural areas by requiring housing to be located where it will enhance or maintain the vitality of rural communities.
9. Levington Road links the villages of Nacton and Levington. There are no shops or services in the vicinity of the appeal site however Nacton accommodates a shop, a school and some services, therefore it would be a destination that could meet some of the day to day needs of the residents of the new dwelling. The appellant refers to only a village hall, public house and place of worship in Levington. This range of services is very limited and would be unlikely to meet day to day needs.
10. The appeal site would be accessed via an existing entrance off Levington Road which is subject to the national speed limit, is unlit and has no footpaths. Although the road is not straight and has some bends the speed of traffic past the appeal site is rapid. The restricted opportunities for pedestrian refuge on the elevated green verges and the constrained lines of site result in the road not being an attractive option for walkers. Its winding track and narrow form also reduce its desirability as a route for cyclists and I did not observe any bus stops near the site.
11. Given the inadequacy of access to Nacton and Levington, it is likely that future occupants of the development would be heavily reliant on motor vehicles to access local shops and services. It is therefore not a location where a new dwelling would be well served by sustainable modes of transport and this is a significant factor weighing against the scheme.

12. The appellant argues that the new dwelling would help to sustain the Ship Public House in Levington and the shops and services in Nacton. However I have very limited evidence regarding the viability of these facilities or information to substantiate that the limited support arising from the additional residents would be crucial to their on-going contribution to the vitality of the rural community. I have therefore given this argument limited weight in my determination of this appeal.
13. I conclude that the site is not a suitable location for a new dwelling having regard to local services and associated infrastructure and subsequent likelihood of car-based travel. The development is therefore contrary to Policies SP1, SP1a, SP2, SP3, SP19 and SP29 of the Core Strategy and DPD. These policies, jointly, amongst other things relate new housing to infrastructure, favour sustainable development, establish a spatial strategy which encompasses housing delivery and limit new development in the countryside.

*Safe movement of vehicles and pedestrians*

14. Number 2 Lower Farm Cottages and its neighbour have a shared access off Levington Road. Exclusive access to the new dwelling would be provided via an existing access further along the road. There is no dispute between the main parties that the visibility splay requested by the Highway Authority to secure safe passage when using this access has not been demonstrated to be capable of being achieved.
15. The appellant considers that in one direction the appropriate visibility could be provided by the cutting back of overgrown hedges on the highway verge. However I have very limited information before me to show how this could be accomplished. In relation to the opposite direction the appellant seeks to rely on the likely speed of traffic past the site given the bend on the road. However, I also have limited evidence to substantiate this argument.
16. My own observations during the site visit were that the amount and speed of traffic is such that it would be necessary for adequate sight lines to be provided. I also have limited information before me to justify a reduction in the size of the visibility splay requested by the Highway Authority. In the light of this I am not persuaded that the development would be adequately served by the proposed access arrangements.
17. The limitations of the visibility splays are such that the drivers of vehicles leaving the site would need to pull out into the carriageway to be able to fully assess the presence and speed of oncoming vehicles. This could lead to obstruction of the road which would endanger the occupants of vehicles leaving the site and other road users.
18. The Council has not referred to any relevant policies from the Development Plan in its second reason for refusal or in its appeal submissions in relation to that reason. Instead it relies only upon Paragraphs 32 and 35 of the National Planning Policy Framework (2012). This policy reference has been superseded by the revised Framework. However I find that the revised Framework makes no material change to national planning policy as it relates to the specifics of this case and it does not lead me to any other conclusion than that which I have reached in terms of the harm arising from the proposed development.

19. I conclude that the development would have a harmful effect on the safe movement of vehicles and pedestrians in the vicinity of the appeal site with particular regard to the use of the existing access onto Levington Road. Therefore, whilst no policies have been cited by the Council, taking account of all material considerations including the revised Framework, I find the development would not achieve a safe and suitable access to the site for all users as required by the revised Framework.

### **Other Matters**

20. The appellant argues that the Council is unable to demonstrate a 5YHLS and cites Appeal Ref. APP/J3530/W/15/3138710 in support of his position. The Council does not accept the arguments put forward by the appellant and also references two appeal decisions to support its arguments (Appeal Refs APP/J3530/W/16/3160194 and APP/J3530/W/17/3172629). The appeal decision referred to by the appellant significantly pre-dates those provided by the Council and on the basis of these decisions and the other evidence before me, I find that the Council does have a 5YHLS as stated.
21. Notwithstanding its position regarding the 5YHLS, the Council states that its' Policy SP2 which relates to housing numbers and distribution is out of date. This means that paragraph 11 (d) of the revised Framework falls to be considered. This requires that where relevant policies are out of date planning permission should be granted unless the application of policies that protect areas or assets of importance provide a clear reason for refusal or where the adverse impact of granting permission significantly or demonstrably outweigh the benefits.
22. I have received a representation from the occupiers of 2 Lower Farm Cottages who are the parents of the appellant. They explain that the new dwelling is to be constructed on their land and would be of benefit to their son who would not otherwise be able to afford his own house and to themselves in terms of on-going support from him. However, I have limited information before me to demonstrate how the occupation of the new dwelling would be restricted to the appellant.
23. In summary the benefits of the development would be the limited economic benefits of short-term construction work and support for local services and the limited social benefits arising from the potential for the appellant to live in close proximity to his parents. In this case the harm arising from the deviation from the Council's spatial strategy, which accords with the revised Framework, the lack of suitability of the site for a new dwelling having regard to local services and infrastructure and the effect of the development on the safe movement of vehicles and pedestrians in the vicinity of the site significantly and demonstrably outweighs those benefits.
24. The site is within an Area of Outstanding Natural Beauty (AONB) and Burnaville Hall, which is a Grade II listed building is sited adjacent to the existing entrance serving 2 Lower Farm Cottages. The Council has not cited harm to the AONB or the setting of Burnaville Hall in its reasons for refusal or provided substantive evidence of any harm in its appeal statement and I have little evidence before me to suggest otherwise.



25. My attention has been drawn to an approval of planning permission for a holiday home at Burnaville Hall. However, I have very limited information regarding this development and its relevance to the appeal proposals.
26. Overall the proposed development would be contrary to the development plan for the reasons stated and material considerations do not indicate a decision otherwise.

**Conclusion**

27. For the reasons set out above the appeal is dismissed.

*Sarah Dyer*

Inspector



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## Appeal Decision

Site visit made on 29 January 2019

**by Sarah Dyer BA BTP MRTPI MCMi**

**an Inspector appointed by the Secretary of State**

**Decision date: 4 March 2019**

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**Appeal Ref: APP/J3530/W/18/3203486**

**Land to rear of 669-673 Foxhall Road, Rushmere St Andrew,  
Ipswich IP3 8NF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr D Wright against the decision of Suffolk Coastal District Council.
  - The application Ref DC/18/0848/OUT, dated 23 August 2016, was refused by notice dated 9 April 2018.
  - The development proposed, is described as 'Severance of rear gardens of 669 - 673 Foxhall Road. Erection of 2 bungalows with associated parking and external works'.
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### Decision

1. The appeal is dismissed

### Procedural Matters

2. The planning application was in outline with all matters reserved with the exception of access, layout and scale. I have therefore regarded any reference to appearance and landscaping shown on the submitted plans as indicative only.
3. I have been provided with a copy of the Rushmere St Andrew Parish Plan 2010 (the Parish Plan). However, there is very limited evidence to suggest that this is a Neighbourhood Plan or that it forms part of the development plan as defined by Section 38 of the 2004 Act (as amended by the Localism Act 2011).
4. Following the Council's decision on the application that led to this appeal, a new version of the National Planning Policy Framework (the 2018 Framework) has been published. The appellant was notified of the publication and invited to make comments, and the Council was able to refer to it in its statement. Whilst there have been further revisions to the Framework contained in the new version published in February 2019 (the revised Framework), no changes have been made to the content directly relevant to the subject matter of this appeal. Consequently, I consider that no prejudice would occur to any parties as a result of me taking the revised Framework into account in my assessment of the appeal.

## **Main Issues**

5. The main issues are:

- The effect of the development on the character and appearance of the appeal site and the surrounding area.
- Whether or not the proposed development would provide acceptable living conditions for residents of 669, 671 and 673 Foxhall Road and future occupants, with regard to the provision of private amenity space.
- The effect of the development on the living conditions of the occupants of 669 and 671 Foxhall Road with particular reference to the potential for noise and disturbance arising from use of the proposed access driveway.

## **Reasons**

### *Character and Appearance*

6. Foxhall Road is a main road running through a predominantly residential area. Access to adjacent housing estates is facilitated by footpaths including those to Claverton Way which runs parallel to the main road behind the appeal site. Bungalows and houses set back from the street with large enclosed rear gardens are a consistent feature of Foxhall Road and also typical of the layout of Claverton Way albeit that the plot sizes are smaller. The overall character and appearance of the vicinity of the site is an established residential area that is defined by buildings with street frontages and a consistent pattern of large rear gardens which add to the distinctiveness of the setting.
7. The appeal site would be formed by the amalgamation of parts of the rear gardens of three bungalows which face Foxhall Road. Existing structures within these and adjoining rear gardens are limited to sheds and similar small-scale domestic buildings. The open character of the rear gardens is evident in the public views from the footpath which runs alongside one edge of the appeal site and they contribute to the pleasant open, natural appearance of this route.
8. The appeal scheme would introduce two bungalows facing each other across a shared vehicle turning area. Whilst their footprints would reflect the orientation of adjacent houses in Claverton Way, they would not read as part of that development because they would have no frontage to that street or the turning area which forms part of it. Neither would the new bungalows have a frontage to Foxhall Road. Thus, in terms of their layout the new buildings would not conform to the general pattern of development in the area and would be incongruous in the site context.
9. In view of the importance of the street-facing layout of development to the character and appearance of the area, the lack of street frontage to the new dwellings would result in them being at odds with the prevailing pattern of development. In this particular context that lack of conformity would be so significant as to amount to harm.
10. As a consequence of its layout and scale the bungalow on Plot 2, in particular, would be visible from both the public footpath and the turning area on Claverton Way. The proposed bungalow would be of a much greater mass than the existing garden buildings and in view of the size of the site and the

proximity of the building to the boundary it would appear cramped in these views.

11. In conclusion the development would have a harmful effect on the character and appearance of the appeal site and the surrounding area. The development is therefore contrary to Policies DM7 and DM21 of the Suffolk Coastal District Local Plan Core Strategy and Development Management Policies Development Plan Document (2013) (the Core Strategy and DMP) which amongst other things require that proposals for the sub-division of plots to provide additional dwellings do not result in a cramped form of development out of character with the area or street scene and that the siting of new development relates well to the scale and character of its surroundings.

*Living Conditions (Provision of private amenity space)*

12. The layout of the bungalows would include modest rear gardens of a scale which would be compatible with the size of gardens in Claverton Way but much smaller than those serving the bungalows fronting Foxhall Road. The development would also result in the gardens serving the existing bungalows being significantly reduced in size.
13. Despite the lack of conformity between the new and retained gardens and the existing rear gardens serving dwellings on Foxhall Road, the amounts of private amenity space to be provided, in combination with other external space, would be adequate to meet the needs of the existing and new residents, given the likely level of occupancy of the development and the existing bungalows. Policy DM7(d) of the Core Strategy and DMP requires that an appropriate provision is made for a reasonable size curtilage for the existing buildings and proposed dwellings in relation to proposals for the sub-division of plots to provide additional dwellings. Therefore, the development accords with Policy DM7(d).
14. Turning to the quality of the proposed rear gardens, given the larger footprint of the existing bungalow at No. 673 and its position relative to the road frontage, the rear walls of this building will be closer to the appeal site than would be the case at No. 671 and 669. There are windows in the ground floor and first floor of No. 673 which face towards the appeal site. Boundary treatment in the form of a fence or wall could restrict overlooking of the site from the ground floor windows. However, such a structure would have a limited impact upon the view from a large clear glazed window in the first-floor gable of No. 673.
15. The proposed layout of Plot 2 indicates that there could be an enclosed rear garden between the bungalow and the fence adjacent to the public footpath. This would provide private outdoor space to the rear of the dwelling which would be compatible with similar amenity spaces in the vicinity of the site. Whilst those other private spaces are exposed to some overlooking from nearby houses, as a result of the proximity of the first-floor window in No. 673 the users of an amenity space serving Plot 2 in this position would experience a significantly higher degree of overlooking and consequent loss of privacy.
16. The appellant refers to the layout of the houses in Claverton Way which allows for some mutual overlooking of private amenity spaces. By contrast the overlooking and loss of privacy arising in the appeal scheme would be in one direction only from No. 673 towards Plot 2. Thus, I do not find the

circumstances of the two cases directly comparable and I have given this reference limited weight in my determination of the appeal.

17. I conclude that the quantity of external amenity space to be provided for the residents of the existing bungalows and future residents would be acceptable. However, by reason of the potential for the exposure of the rear garden serving Plot 2 to significant levels of overlooking, the proposed development would not provide acceptable living conditions for the future residents of Plot 2 with regard to the quality of the provision of private amenity space. The development is therefore contrary to Policy DM23 of the Core Strategy and DMP which amongst other things requires new development to have regard to privacy and overlooking and not result in an unacceptable loss of amenity for future residents.

*Living Conditions (Proposed access driveway)*

18. As a result of the characteristic road frontage development most of the surrounding dwellings benefit from independent access points which serve garages and hard standings. Given this arrangement, there is very limited scope for the use of such points of access to disturb neighbours.
19. The appeal scheme would introduce a shared access between No. 669 and No. 671. The width of the new driveway would be such that vehicles using it would be required to wait close to Foxhall Road, within a passing space or in the turning area between the new bungalows. There are clear glazed windows in the side elevations of No. 669 and No. 671 which would face the proposed access. Space for planting is shown on the plans along the edge of the new driveway; however, this would be very limited by virtue of the constraints of the space between Nos. 669 and 671.
20. The proposed access arrangements would be likely to result in a significant level of noise arising from the vehicles manoeuvring on the driveway and idling in the passing spaces. Given the close proximity of the windows in the sides of No. 669 and No. 671 and the limited mitigation that would be provided by the planting, this noise would be likely to disturb the occupiers of those dwellings to an unreasonable degree. Consequently, this would lead to a significant deterioration in the living conditions which they currently enjoy.
21. The appellant considers that the noise associated with the use of the driveway would be insignificant given the existing background noise from traffic on Foxhall Road. However, I have very limited evidence to substantiate this argument.
22. I conclude that the development would have a harmful effect on the living conditions of the occupants of 669 and 671 Foxhall Road with particular reference to the potential for noise and disturbance arising from the use of the proposed access driveway. The development is therefore contrary to Policies DM7 and DM23 of the Core Strategy and DMP which jointly, amongst other things, require that proposals for the sub-division of plots to provide additional dwellings do not significantly reduce residential amenity, mainly as a result of increased noise and that new development has regard for noise and disturbance and would not result in an unacceptable loss of amenity for future residents.

## **Other Matters**

23. The main parties have identified a contribution to housing supply in a sustainable location and support for the local economy as benefits of the development. However, these benefits would be limited by the number of new dwellings.
24. The appellants point to the Council's inability to demonstrate a Five Year Housing Land Supply (5YHLS) at the point when it determined the application and that on this basis the relevant policies for the supply of housing should not be considered up-to-date. The Council has indicated that it can now demonstrate its 5YHLS and has provided evidence in the form of its Housing Land Supply Assessment which was published in June 2018. This has not been challenged by the appellant and, from the evidence before me, I find that the Council does have a 5YHLS as stated.
25. Even if I were to conclude to the contrary and accept the appellant's assertion, the adverse impacts of the development which I have identified would significantly and demonstrably outweigh the benefits of the new bungalows
26. My attention has been drawn to an appeal decision relating to land to the rear of 696 and 698 Foxhall Road (Appeal Ref: APP/J3530/A/12/2176733) and an approval of planning permission for two dwellings on land to the rear of 683-685 Foxhall Road.
27. 696 and 698 Foxhall Road are commercial premises with flats on their upper floors. The new development which has been carried out behind them is accessed by what was an established route serving car parking, thereby it had a reduced additional impact on the living conditions enjoyed by neighbours. The site context is thus significantly different to that of the appeal site. The bungalows which have been erected behind 683-685 Foxhall Road, both have a frontage towards a turning area on Claverton Way and are accessed from that point. Therefore, unlike the appeal scheme, this development reflects the established character of the residential area that is defined by buildings with street frontages.
28. I do not consider either of the developments referenced to be directly comparable to the appeal scheme; consequently, they have attracted limited weight in my determination of this appeal.
29. I acknowledge the concerns raised by local residents, in addition to those relating to matters of design, including highway safety. Given that I find the proposal to be unacceptable for other reasons, and any such concerns would have no bearing on my overall planning balance, it is not necessary for me to address these matters any further as part of this decision.
30. I also note the contents of the Parish Plan and that Rushmere St Andrew Parish Council recommended approval of the planning application. However, this document and the support of the parish council do not outweigh the harm that I have identified in terms of the main issues.
31. Overall the proposed development would be contrary to the development plan for the reasons stated and material considerations do not indicate a decision otherwise.

**Conclusion**

32. For the reasons set out above, the appeal is dismissed.

*Sarah Dyer*

Inspector



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## Appeal Decision

Site visit made on 20 February 2019

**by E. Brownless, BA (Hons) Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 19<sup>th</sup> March 2019

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**Appeal Ref: APP/T3535/W/18/3215946**

**The Pastures, The Street, North Cove, Beccles**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Dennis Roberts against the decision of Waveney District Council.
  - The application Ref: DC/18/3766/FUL dated 10 September 2018, was refused by notice dated 1 November 2018.
  - The development proposed is a single self-build detached property.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The emerging Waveney Local Plan is due to be adopted by Council imminently. Accordingly, I attach significant weight to the policies within the emerging Local Plan and have detailed within this appeal decision where I consider these to apply.
3. The revised National Planning Policy Framework (Framework) was published on the 19 February 2019 together with the Housing Delivery Test (HDT). I have had regard to the revised Framework and the HDT in reaching my decision.

### Main Issues

4. The main issues are:
  - i) whether the appeal site is a suitable location for a dwelling with particular regard to the accessibility of services;
  - ii) the effect of the proposal on the character and appearance of the area; and
  - iii) highways safety.

### Reasons

#### *Accessibility to services*

5. Adopted Policy CS01 of the Waveney District Council Core Strategy (January 2009)(CS), Policy DM01 of the Waveney District Council Development Management Policies (January 2011)(LP) and emerging Policy WLP7.1 of the emerging Local Plan generally prohibit development within the countryside where there are limited or no services and facilities or access to public transport. It is common ground that the appeal site falls outside of the



settlement boundary for Barnby and North Cove and consequently the appeal site is considered to be within the countryside.

6. CS Policies CS01 and CS11 together with LP Policy DM01 set out categories of development that are considered to be exceptional. In addition, emerging Policy WLP 7.1 identifies that development in other rural settlements within the countryside will come forward through Neighbourhood Plans and windfall sites that will be determined in accordance with other policies with the emerging LP. However, it has not been put to me that any of these exist.
7. Paragraph 79 of the revised Framework makes it clear that new isolated homes within the countryside should be avoided, unless one or more exceptions are met. Whilst the appeal site is surrounded by open countryside to almost all of its boundaries, I observed there were other residential dwellings on the opposite side of the A146. Consequently, I find that the appeal site would not be 'isolated' for the purposes of paragraph 79, since it cannot be said that it would be far away from other places, buildings or people, albeit the location is rural.
8. However, it does not necessarily follow that a site that is not 'isolated' will be reasonably accessible to services when considered in the context of other requirements of the revised Framework. In this case, the settlement of Barnby and North Cove is situated on the opposite side of the road. The Council advises it is classed as a 'larger village' albeit with limited local services. There is little evidence before me regarding the nature of those services available at Barnby and North Cove and the availability of public transport in the vicinity. Albeit in close proximity, the appeal site is separated from Barnby and North Cove by the A146, a single carriageway road with a 50mph speed limit without any footways and lighting. To my mind, whilst the distance is reasonably walkable, the nature of the route would discourage most journeys on foot or by cycle to access local services.
9. While I am mindful of the advice in paragraph 103 of the revised Framework that opportunities to maximise sustainable transport solutions will not be the same in rural areas as in urban locations, there is no substantive evidence before me regarding the opportunities for travel upon public transport to access services further afield. I therefore consider that it is likely that the majority of journeys would be made by private motor vehicle.
10. In light of the above, I find that the appeal site would not be a suitable location for a dwelling with particular regard to the accessibility of services. The proposal would therefore be contrary to CS Policies CS01 and CS11 and LP Policies DM01 and DM22, in so far as these policies prohibit development within the countryside where there are limited or no services and facilities or access to public transport.

#### *Character and appearance*

11. The appeal site is a relatively large rectangular area of land to the side of the A146. Whilst it is positioned relatively close to the rear gardens of dwellings within the settlement of Barnby and North Cove, it is separated from these dwellings by the highway and mature vegetation and trees. Agricultural land lays to the rear and sides of the appeal site and despite the presence of some buildings within the appeal site together with partial screening provided by the existing vegetation, this side of the A146 including the appeal site, has a

pleasant open, spacious and countryside feel and makes a positive contribution to the surrounding area. In contrast, the opposite side of the A146 has a built-up character and, consequently, the appeal site provides a positive separation and visual relief between the relatively dense dwellings of Barnby and North Cove and the wider countryside.

12. Given the absence of development along this part of the A146, the introduction of a substantially sized dwelling would appear at odds with the prevailing open character. I have noted the comments of the appellant that a number of existing buildings would be removed from the site to accommodate the proposal, however, I consider that these are of a materially different scale to the proposal. Furthermore, despite the appeal site being partially screened from public view, given the significant scale and height of the roof the proposal would be readily visible from long distance views from the countryside and short distance views from a number of nearby dwellings. As such, the proposal would be seen as an unwelcome intrusion or a harmful encroachment into the countryside.
13. Accordingly, I conclude that the proposal would be materially harmful to the character and appearance of the surrounding area. Therefore, the proposal would conflict with LP Policy DM27 in so far as it requires development to protect or enhance the special qualities and local distinctiveness of the area. Furthermore, it would conflict with the aims of the revised Framework which recognise the intrinsic character and beauty of the countryside.
14. In addition, the proposal would be contrary to emerging LP Policy WLP8.7 in so far as this policy is permissive of small-scale development within the countryside that does not extend further into the undeveloped countryside than the existing extent of the built-up area surrounding the site.

#### *Highways safety*

15. Entrance to the appeal site would continue to be taken via the existing pull in from the A146, which has a 50mph speed limit, as advised by the Highway Authority. At the time of my site visit, the A146 received a constant and relatively heavy flow of traffic. I appreciate that my visit provided only a snap shot of highway conditions, but I have seen nothing to suggest that what I saw was untypical.
16. Westward visibility from the access point along the A146 is largely unobstructed, however, eastward visibility is limited given that the highway bends out of view. By reason of its 50mph speed limit, vehicles are generally travelling at significant speed as they approach the appeal site and thus vehicles slowing down to turn into the site and those exiting the site would pose a significant hazard to the free flow of traffic.
17. Albeit, the appellant suggests there would be no or very little intensification of use, the proposed dwelling with four bedrooms is materially different to the existing use of the appeal site by one person, whether a lawful use or not. Whilst I have taken into account the absence of recorded road traffic accidents at this existing junction, a more intensive use of the access would prejudice highway safety.
18. I have had regard to the appellant's comments that sufficient land is in the ownership of the appellant to achieve visibility splays that would achieve the

guidance of the Design Manual for Roads and Bridges. However, I have considered the comments of the Highways Authority and I conclude that there is no substantive evidence before me that safe and suitable access to the site would be achieved as is required by paragraph 108 and 109 of the revised Framework.

### **Other Matters**

19. There is some dispute regarding the status of the site, which the appellant asserts is in established residential use. I have had regard to the document titled 'Legal Opinion' regarding immunity from enforcement for a change of use to residential in general terms. However, on the limited evidence provided and in the absence of a certificate of lawful use, I cannot determine within the scope of this appeal whether there is an existing lawful residential use. I therefore attribute very limited weight to the appellant's purported fall back, which does not outweigh the conflict with the development plan I have identified above.
20. The appellant has drawn my attention to a number of appeal decisions<sup>1</sup>. However, I have little information relating to the particular circumstances of these developments and whether the circumstances are therefore comparable to the appeal proposal. As such, a comparison is of little relevance in this instance and I have considered the appeal before me on its individual planning merits.
21. Even if the Council was unable to demonstrate a five-year supply of land for housing, as the appellant alleges, then the weight to be given to the proposal's benefits in respect of the provision of the additional dwellings would increase. However, bearing in mind the modest scale of the proposal this would not be sufficient to overcome the substantial harm that has been identified above in respect of conflict with the development plan, which would significantly and demonstrably outweigh the scheme's benefits.
22. Whilst the revised Framework seeks to significantly boost the supply of housing and promotes housing development in rural areas where it will enhance or maintain the vitality of rural communities, I do not find that the proposal achieves this by the provision of one dwelling. Consequently, I attach little weight to the proposal boosting housing supply and enhancing or maintaining the vitality of the rural community.
23. The site is within the zone of influence of the Little Tern Colony Special Protection Area (SPA). The proximity of this European site means that determination of the application should be undertaken with regard to the requirements of the Habitat Regulations 2010. The appellant has indicated their desire to make an upfront Section 111 contribution which would make a financial contribution to a Recreational Avoidance and Mitigations Strategy. However, there is no substantive evidence before me that this payment has been made nor that a unilateral undertaking has been completed. As such, I do not find that the harm to the SPA has been mitigated. However, as the appeal is failing because of the harm which has been identified in relation to the main issues, the development is not going ahead and therefore any harm to the SPA would not occur. Therefore, I do not need to give any further consideration to these matters in this appeal.

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<sup>1</sup> APP/W0530/W/17/3184497; APP/K2610/W/18/3196121; APP/L2630/W/18/3197272; APP/F2605/W/18/3198911

24. Albeit the government is very supportive of self-build schemes and the proposal would lead to a tidier site, I attach moderate weight to this aspect of the proposal however, this would not outweigh the harm I have identified above.

**Conclusion**

25. Accordingly, for the reasons given above, the appeal is dismissed.

*E Brownless*

INSPECTOR



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## Appeal Decision

Site visit made on 26 February 2019

**by Sarah Dyer BA BTP MRTPI MCMi**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 March 2019**

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**Appeal Ref: APP/J3530/W/18/3203563**

**6 Ipswich Road, Newbourne, Suffolk IP12 4BU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs D Jones against the decision of Suffolk Coastal District Council.
  - The application Ref DC/18/0741/FUL, dated 16 February 2018, was refused by notice dated 13 April 2018.
  - The development proposed is a new two bedroom, single storey dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The postcode is given as 'IP12 4BU' on the planning application form. The Post Office has the postcode listed as 'IP12 4NS' which on the basis of the site address and submitted plans appears to be the correct postcode. Therefore, I have used this as the postcode for the site in my determination of the appeal.
3. Following the Council's decision on the application that led to this appeal, a new version of the National Planning Policy Framework (the 2018 Framework) has been published. The appellants were notified of the publication and invited to make comments, and the Council was able to refer to it in its statement.
4. Further revisions have been made to the 2018 Framework during the course of my consideration of the appeal and a revised version was published in February 2019 (the revised Framework). At the same time the Government published its 2018 Housing Delivery Test (HDT) results and its response to the technical consultation on updates to national planning policy and guidance. I have invited the main parties to comment on the revised Framework and the other publications and I have taken account of any responses from them in my determination of the appeal.

### Main Issue

5. The main issue is whether the site is a suitable location for a new dwelling having regard to access to local services and associated infrastructure.

### Reasons

6. There is no dispute between the main parties that the site is located in Newbourne which is identified as an 'Other Village' in the Council's Settlement

Policy as set out in Strategic Policy SP19 of the Suffolk Coastal District Local Plan Core Strategy and Development Plan Policies Development Plan Document (2013) (the Core Strategy and DPD). The Council's overall hierarchical development strategy is broadly consistent with the aims of the revised Framework of promoting sustainable development in rural areas by requiring housing to be located where it will enhance or maintain the vitality of rural communities.

7. Newbourne is a loose knit settlement and that part of Ipswich Road which runs past the site is characterised by detached houses surrounded by open land which has been enclosed to form small fields and amenity spaces. Large scale glasshouses are a common feature of the area including on the adjacent site which accommodates Katies Garden; a garden centre open to the public. However, these buildings do not detract from the overriding sense of the site being within the countryside.
8. In the vicinity of the site, Ipswich Road has no footpaths or street lighting, but it is subject to a 30mph speed limit. The road outside the appeal site would be appealing to cyclists as a consequence of the comparatively low speed of traffic. However, the lack of footpaths and street lighting make walking more challenging. In the winter months and during periods of inclement weather neither cycling or walking would be attractive options for anything other than short journeys.
9. The appellants refer to the services and facilities in Newbourne, however I have limited information about whether those facilities are of a type that would meet the day-to-day needs of new residents. On the basis of my observations and the evidence provided, it is likely that residents would have to travel significant distances along narrow, country roads where the national speed limit applies.
10. Given the inadequacy of access to settlements which have a sufficiently wide range of shops and services to meet day-to-day needs, it is likely that future occupants of the development would be heavily reliant on motor vehicles. It is therefore not a location where a new dwelling would be acceptable and is a significant factor weighing against the scheme.
11. I conclude that the appeal site would not be a suitable location for a new dwelling having regard to access to local services and associated infrastructure. The proposal would therefore fail to enhance or maintain the vitality of rural communities and would conflict with the development plans objectives of directing most new housing to larger more accessible settlements. The development is therefore contrary to Policies DM3, SP1, SP19 and SP29 of the Core Strategy and DPD. These policies jointly, amongst other things, direct new housing towards settlements in accordance with the Council's hierarchical development strategy and control development in the countryside and Other Villages.

### **Other matters**

12. There are three structures on the site including a part timber pitched roof structure which has been the subject of a successful application under Part Q (a) of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013 –Schedule 2, Part 3. I have very limited information to suggest that this consent will be implemented. The other two structures on the site are a storage container and the remains of a blockwork

building. I have very limited evidence to suggest that these buildings benefit from any form of consent for conversion or change of use to residential use. The use of the existing buildings on the site as a dwellinghouse does not constitute a realistic fall-back position in this case.

13. The appellants also refer to an appeal decision (APP/J3530/A/13/2207355) relating to land at 52 Woodbridge Road Newbourne. Although the address of this site suggests that it is near the appeal site, I have limited information before me of the its location. I also note that at the time when the decision was made there was no dispute between the parties that the Council could not demonstrate a five-year housing land supply (5YHLS); a situation which has now changed. In the light of this I am unable to conclude that this appeal decision is directly relevant to the current appeal.
14. Policy SP28 of the Core Strategy and DPD, amongst other things, allows for new housing to address local needs in Other Villages where there is demonstrated community support e.g. through a community plan. The appellants cite support from local residents and the occupation of the development by family members pending one of the appellants retirement from a local business as amounting to such community support. However, there is very limited reference to a community plan or similar document and I have limited information before me to explain how the occupation of the development could be controlled to fulfil identified local needs.
15. The thrust of Government Policy to significantly boost the supply of housing has not changed with the publication of the revised Framework and the Council has indicated that it is able to demonstrate a 5YHLS. However, the appellants have questioned this. Even if there is not a 5YHLS, one dwelling would make a minimal contribution to housing supply. Any economic benefits arising from the re-use of previously developed land or construction activities on the site would be also be limited by the scale of the development. Similarly, the social benefits of meeting a local housing need have not been fully substantiated. On the other hand, I have found that there would be moderate environmental harm arising from the unsuitability of the location of the appeal site for a new dwelling.
16. I therefore conclude that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. Consequently, the presumption in favour of sustainable development does not apply in this case.

### **Conclusion**

17. For the reasons set out above, the appeal is dismissed.

*Sarah Dyer*

Inspector

# East Suffolk

## Shadow Authority

### SHADOW PLANNING COMMITTEE (NORTH)

Title of Report:

East Suffolk Enforcement Action– Case Update (REP53 (SH))

Meeting Date

18 April 2019

Report Author and Tel No

Mia Glass  
01502 523081

Is the report Open or Exempt?

Open

### REPORT

The attached is a summary of the status of all outstanding enforcement cases for East Suffolk Council where enforcement action has either been sanctioned under delegated powers or through the Committee up until 5th April 2019. At present there are 18 such cases.

Information on all cases has been updated at the time of preparing the report such that the last bullet point in the status column shows the position at that time. Officers will provide a further verbal update should the situation have changed for any of the cases.

Members will note that where Enforcement action has been authorised the Councils Solicitor shall be instructed accordingly, but the speed of delivery of response may be affected by factors which are outside of the control of the Enforcement Service.

### RECOMMENDATION

That the report concerning Outstanding Enforcement matters up to 5th April 2019 be received.



LPA Reference	Date of Authorisation (Panel/Delegated)	Location	Breach	Status	Date by which Compliance Expected (or Prosecution Date)
2008/0193	17 September 2008	25 Kessingland Cottages, Rider Haggard Lane, Kessingland	Breach of Condition  Unauthorised use of chalet as main or sole residence	<ul style="list-style-type: none"> <li>• Breach of Condition Notice</li> <li>• Compliance expired following extension of time</li> <li>• Further consideration by Service Manager and Legal</li> <li>• See Enforcement Notice ref 2008/004 for further information – committee aware of personal circumstances of occupants</li> <li>• Officers, seniors and legal held meeting, 23/01/2019 to discuss the options available to move forward with the case.</li> <li>• Contact made with occupants on 6 February 2019 and legal advice been sought on progressing the case.</li> <li>• <b>Further information being gathered from other bodies.</b></li> </ul>	ONGOING – under review.
ENF/2009/0004	8 July 2009	73 High Street, Lowestoft	Unauthorised replacement of shop front	<ul style="list-style-type: none"> <li>• Enforcement Notice served 08/07/2009</li> <li>• No compliance</li> <li>• Pled guilty to removing shop front – fined around £1700</li> <li>• Application received 20/03/2012 (DC/12/0313/FUL)</li> <li>• Approved 04/05/2012 with 3 month time limit – not implemented.</li> <li>• Property known to have changed ownership so enforcement action chased up with new owner – new 330 Notice required.</li> </ul>	16/01/2012

LPA Reference	Date of Authorisation (Panel/Delegated)	Location	Breach	Status	Date by which Compliance Expected (or Prosecution Date)
				<ul style="list-style-type: none"> <li>• Letter sent following the erection of new signage, 23<sup>rd</sup> January 2014, explaining revised design required</li> <li>• Further site meetings in June 2014 – application still needed Application from new owner for works including new shopfront granted CONSENT 08/02/2017 Keep case open until complied. No works have commenced and it is believed that there are some financial issues preventing development – officers to discuss with Regen to ascertain if there would be any help available. Further letter sent to registered owner April 2018 – officers awaiting reply</li> <li>• No response received – letter sent to shop 09/05/2018 <ul style="list-style-type: none"> <li>• Contact with tenant and ongoing discussions taking place</li> <li>• Owner not keen to engage with council and has put the onus on his tenant</li> </ul> </li> <li>• Shop now within HAZ area but no funding available until April 2019 when match funding may be an option – further discussions to take place</li> <li>• Further discussions with tenant who has now secured funding and is ready to proceed with replacement shop front but needs help finding specialists to do the work – this is in progress and officers are talking to Historic England for further help with this.</li> </ul>	

LPA Reference	Date of Authorisation (Panel/Delegated)	Location	Breach	Status	Date by which Compliance Expected (or Prosecution Date)
				<ul style="list-style-type: none"> <li>• Economic Development and Regeneration also keen to talk to tenant</li> <li>• Meeting arranged, 07/02/19, with officers and senior to discuss how to progress the case.</li> <li>• Meeting rearranged and held on 11/02/19, further advice required and being sought relating to the notice.</li> <li>• <b>Notice to be withdrawn, due to it being agreed that legal action can not be taken under the enforcement notice on file.</b></li> </ul>	
EN08/0264 & ENF/2013/0191	15/01/2010	Pine Lodge Caravan Park, Hazels Lane, Hinton	Erection of a building and new vehicular access; Change of use of the land to a touring caravan site (Exemption Certificate revoked) and use of land for the site of a mobile home for gypsy/traveller use. Various unauthorised utility buildings for use on caravan site.	<ul style="list-style-type: none"> <li>• 15/10/2010 - EN served</li> <li>• 08/02/2010 - Appeal received</li> <li>• 10/11/2010 - Appeal dismissed</li> <li>• 25/06/2013 - Three Planning applications received</li> <li>• 06/11/2013 – The three applications refused at Planning Committee.</li> <li>• 13/12/2013 - Appeal Lodged</li> <li>• 21/03/2014 – EN's served and become effective on 24/04/2014/ 04/07/2014 - Appeal Start date - Appeal to be dealt with by Hearing</li> <li>• 31/01/2015 – New planning appeal received for refusal of Application DC/13/3708</li> <li>• 03/02/2015 – Appeal Decision – Two notices quashed for the avoidance of doubt, two notices upheld. Compliance time on notice relating to mobile home has been extended from 12 months to 18 months.</li> <li>• 10/11/2015 – Informal hearing held</li> </ul>	01/04/2019

LPA Reference	Date of Authorisation (Panel/Delegated)	Location	Breach	Status	Date by which Compliance Expected (or Prosecution Date)
				<ul style="list-style-type: none"> <li>• 01/03/2016 – Planning Appeal dismissed</li> <li>• 04/08/2016 – Site re-visited three of four Notices have not been complied with.</li> <li>• Trial date set for 21/04/2017</li> <li>• Two charges relating to the mobile home, steps and hardstanding, the owner pleaded guilty to these to charges and was fined £1000 for failing to comply with the Enforcement Notice plus £600 in costs.</li> <li>• The Council has requested that the mobile home along with steps, hardstanding and access be removed by 16/06/2017.</li> <li>• 19/06/2017 – Site re-visited, no compliance with the Enforcement Notice.</li> <li>• 14/11/2017 – Full Injunction granted for the removal of the mobile home and steps.</li> <li>• 21/11/2017 – Mobile home and steps removed from site.</li> <li>• Review site regarding day block and access after decision notice released for enforcement notice served in connection with unauthorised occupancy /use of barn.</li> <li>• 27/06/2018 – Compliance visit conducted to check on whether the 2010.</li> <li>• 06/07/2018 – Legal advice being sought.</li> <li>• 10/09/2018 – Site revisited to check for compliance with Notices.</li> <li>• 11/09/2018 – Case referred back to Legal Department for further action to be considered.</li> <li>• 11/10/2018 – Court hearing at the High Court in</li> </ul>	

LPA Reference	Date of Authorisation (Panel/Delegated)	Location	Breach	Status	Date by which Compliance Expected (or Prosecution Date)
				<p>relation to the steps remain on the 2014 Enforcement Notice/ Injunction granted. Two months for compliance (11/12/2018).</p> <ul style="list-style-type: none"> <li>• 01/11/2018 – Court Hearing at the High Court in relation to the 2010 Enforcement Notice. Injunctive remedy sought. Verbal update to be given.</li> <li>• Injunction granted. Three months given for compliance with Enforcement Notices served in 2010.</li> <li>• 13/12/2018 – Site visit undertaken in regards to Injunction served for 2014 Notice. No compliance. Passed back to Legal for further action.</li> <li>• 04/02/2019 –Site visit undertaken to check on compliance with Injunction served on 01/11/2018</li> <li>• 26/02/2019 – case passed to Legal for further action to be considered. Update to be given at Planning Committee</li> <li>• High Court hearing 27/03/2019, the case was adjourned until the 03/04/2019</li> <li>• <b>03/04/2019 - Officers attended the High Court, a warrant was issued due to non-attendance and failure to provide medical evidence explaining the non-attendance as was required in the Order of 27/03/2019.</b></li> </ul>	

LPA Reference	Date of Authorisation (Panel/Delegated)	Location	Breach	Status	Date by which Compliance Expected (or Prosecution Date)
EN/09/0305	18/07/2013	Park Farm, Chapel Road, Bucklesham	Storage of caravans	<ul style="list-style-type: none"> <li>• Authorisation granted to serve Enforcement Notice.</li> <li>• 13/09/2013 -Enforcement Notice served.</li> <li>• 11/03/2014 – Appeal determined - EN upheld Compliance period extended to 4 months</li> <li>• 11/07/2014 - Final compliance date</li> <li>• 05/09/2014 - Planning application for change of use received</li> <li>• 21/07/2015 – Application to be reported to Planning Committee for determination</li> <li>• 14/09/2015 – site visited, caravans still in situ, letter sent to owner requesting their removal by 30/10/2015</li> <li>• 11/02/2016 – Site visited, caravans still in situ. Legal advice sought as to further action.</li> <li>• 09/08/2016 – Site re-visited, some caravans removed but 20 still in situ. Advice to be sought.</li> <li>• Further enforcement action to be put on hold and site to be monitored</li> <li>• Review in January 2019</li> <li>• 29/01/2019 - Legal advice sought; letter sent to site owner.</li> <li>• <b>18/02/2019 – contact received from site owner.</b></li> </ul>	31.03.2019
EN13/005	13/12/2013	High Grove Wood, Low Road, Great Glemham	Unauthorised siting of a caravan and installation of a portaloo	<ul style="list-style-type: none"> <li>• 13/12/2013 – PCN served</li> <li>• 19/09/2014 – Enforcement Notice served - takes affect 24/10/2014</li> <li>• 24/02/2015 - Compliance due date 07/07/2015 – Case heard at Ipswich Magistrates Court and referred to Ipswich Crown Court as not guilty plea</li> </ul>	01/05/2019

LPA Reference	Date of Authorisation (Panel/Delegated)	Location	Breach	Status	Date by which Compliance Expected (or Prosecution Date)
				<ul style="list-style-type: none"> <li>• entered.</li> <li>• 16/07/2015 – Preliminary hearing at Crown Court, next appearance has been set for 18/09/2015.</li> <li>• 02/09/2015 – Enforcement Notice withdrawn on legal advice</li> <li>• 04/03/2016 – New PCN served.</li> <li>• 05/04/2016 – PCN re-served</li> <li>• 27/04/2016 – Completed PCN not returned.</li> <li>• Case is due to be heard at Ipswich Magistrates Court on 01/11/2016 for the offence of failing to return a Planning Contravention Notice.</li> <li>• Case has been adjourned until 06/12/2016</li> <li>• Trial date set for 03/02/2017</li> <li>• Trial has been discontinued for further Enforcement Notice to be served.</li> <li>• 27/06/2017 – Enforcement Notice served, Notice effective on 28/07/2017, compliance by 28/11/2017.</li> <li>• 23/01/2018 – site visit undertaken</li> <li>• 08/05/2018 – Site visited on pre-arranged visit, access denied. Another visit arranged for 31/05/2018.</li> <li>• 21/06/2018 – Site visited.</li> <li>• 06/07/2018 – Legal advice being sought as to further action.</li> <li>• 11/09/2018 – Site revisited to check for compliance with Notices.</li> <li>• 12/09/2018 – Case referred back to Legal</li> </ul>	

LPA Reference	Date of Authorisation (Panel/Delegated)	Location	Breach	Status	Date by which Compliance Expected (or Prosecution Date)
				<p>Department for further action to be considered</p> <ul style="list-style-type: none"> <li>• 01/11/2018 – Court Hearing at the High Court in relation to the 2017 Enforcement Notice. Injunctive remedy sought. Verbal update to be given.</li> <li>• Injunction granted. Four months given for compliance with Enforcement Notice.</li> <li>• 07/03/2019 – Site visit undertaken to check on compliance with Injunction.</li> <li>• <b>01/04/2019- File has been passed back to Legal Department for further action.</b></li> </ul>	
ENF/2014/0104	16/08/2016	Top Street, Martlesham	Storage of vehicles	<ul style="list-style-type: none"> <li>• 23/11/2016 – Authorisation granted to serve an Enforcement Notice</li> <li>• 22/03/2017 – Enforcement Notice served. Notice takes effect on 26/04/2017. Compliance period is 4 months.</li> <li>• 17/07/2017 – Enforcement Notice withdrawn and to be re-served</li> <li>• 11/10/2017 – Notice re-served, effective on 13/11/2017 – 3 months for compliance</li> <li>• 23/02/2018 – Site visited. No compliance with Enforcement Notice. Case to be referred to Legal Department for further action.</li> <li>• Notice withdrawn</li> <li>• 09/07/2018 – Notice reserved, compliance date 3 months from 06/08/2018 (expires 06/11/2018)</li> <li>• 01/10/2018 - PINS has refused to accept Appeal as received after the time limit.</li> <li>• Time for compliance is by 06/12/2018</li> <li>• Site visit to be completed after the 06/12/2018 to</li> </ul>	31/03/2019



LPA Reference	Date of Authorisation (Panel/Delegated)	Location	Breach	Status	Date by which Compliance Expected (or Prosecution Date)
				<p>check for compliance with the Notice</p> <ul style="list-style-type: none"> <li>• 07/12/2018 – Site visit completed, no compliance, case passed to Legal for further action.</li> <li>• 17/01/2019 – Committee updated that Enforcement Notice has been withdrawn and will be re-served following advice from Counsel.</li> <li>• <b>21/02/2019 – Authorisation granted by Committee to serve an Enforcement Notice. Counsel has advised that the Council give 30 days for the site to be cleared before the Notice is served.</b></li> </ul>	
ENF/2016/0292	11/08/2016	Houseboat Friendship, New Quay Lane, Melton	Change of use of land	<ul style="list-style-type: none"> <li>• 11/08/2016 – Authorisation granted to serve Enforcement Notice with an 8 year compliance period.</li> <li>• Enforcement Notice to be drafted</li> <li>• Enforcement Notice served on 20/10/2016, Notice effective on 24/11/ 2016 – 8 year compliance period (expires 24/11/2024).</li> </ul>	24/11/2024
ENF/2016/0425	21/12/2016	Barn at Pine Lodge, Hazels Lane, Hinton	Breach of Condition 2 of PP C/09/1287	<ul style="list-style-type: none"> <li>• EN served on 21/12/2016</li> <li>• Notice becomes effective on 25/01/2017</li> <li>• Start date has been received. Public Inquiry to be held on 08/11/2017</li> <li>• Enforcement Appeal to be re-opened Public Inquiry set for 15/05/2018.</li> <li>• 06/06/2018 – Appeal dismissed. Three months for compliance from 06/06/2018 (expires 06/09/2018).</li> <li>• Site visit to be conducted once compliance period</li> </ul>	06/04/2019

LPA Reference	Date of Authorisation (Panel/Delegated)	Location	Breach	Status	Date by which Compliance Expected (or Prosecution Date)
				<p>has finished.</p> <ul style="list-style-type: none"> <li>• 09/10/2018 – Site visit conducted, no compliance with Enforcement Notice. Case to be referred to Legal Services for further action.</li> <li>• Site visit due on 07/01/2019.</li> <li>• 07/01/2019 – Site visit undertaken, no compliance with Notice. Case referred back to Legal Services for further action.</li> <li>• 26/02/2019 – Update to be given at Committee.</li> <li>• <b>Awaiting update from Legal.</b></li> </ul>	
ENF/2017/0170	21/07/2017	Land Adj to Oak Spring, The Street, Darsham	Installation on land of residential mobile home, erection of a structure, stationing of containers and portacabins	<ul style="list-style-type: none"> <li>• 16/11/2017 – Authorisation given to serve EN.</li> <li>• 22/02/2018 – EN issued. Notice comes into effect on 30/03/2018 and has a 4 month compliance period</li> <li>• Appeal submitted. Awaiting Start date</li> <li>• Appeal started, final comments due by 08/02/2019.</li> <li>• <b>Waiting for decision from Planning Inspectorate.</b></li> </ul>	31/05/2019
ENF/2016/0300	07/03/2018	Cowpasture Farm, Gulpher Road, Felixstowe	Use of Golf Driving Range for storage of caravans	<ul style="list-style-type: none"> <li>• 07/03/2018 – EN served</li> <li>• Notice effective on the 09/04/2018 – 3 months for compliance</li> <li>• Conjoined appeal for planning application and enforcement notice received</li> <li>• Awaiting Start date</li> <li>• 11/12/2018 - Appeals have now been withdrawn, new compliance date agreed for caravans to be removed by 31<sup>st</sup> May 2019.</li> </ul>	31/05/2019

LPA Reference	Date of Authorisation (Panel/Delegated)	Location	Breach	Status	Date by which Compliance Expected (or Prosecution Date)
ENF/2018/0035	26/04/2018	9 Hillcrest Knodishall	Untidy Site	<ul style="list-style-type: none"> <li>• 26/04/2018 – S215 Notice served</li> <li>• 3 months for compliance from 28/05/2018 29/08/2018 – Further action passed to Public Sector Housing Team to take forward.</li> <li>• <b>09/01/2019 – Site visited, some work has been done to comply with Notice, site to be monitored.</b></li> </ul>	31/03/2019
ENF/2017/0387	14/08/2018	64 Grange Road Felixstowe	Untidy Site	<ul style="list-style-type: none"> <li>• 14/08/2018 – S215 Notice served</li> <li>• 3 months for compliance from 13/09/2018</li> <li>• 12/11/18 - Site in the process of being cleared.</li> <li>• 24/12/2018 - Site has been predominantly cleared.</li> <li>• <b>26/02/2019 – Property has recently been sold, final works expected to be done imminently.</b></li> </ul>	01/04/2019
ENF/2015/0279/DEV	05/09/2018	Land at Dam Lane Kessingland	Erection of outbuildings and wooden jetties, fencing and gates over 1 metre adjacent to highway and engineering operations amounting to the formation of a lake and soil bunds.	<ul style="list-style-type: none"> <li>• Initial complaint logged by parish on 22/09/2015</li> <li>• Case was reopened following further information on the 08/12/2016/</li> <li>• Retrospective app received 01/03/2017.</li> <li>• Following delays in information requested, on 20/06/2018, Cate Buck, Senior Planning and Enforcement Officer, took over the case, she communicated and met with the owner on several occasions.</li> <li>• Notice sever by recorded delivery 05/09/2018.</li> <li>• <b>Appeal has been submitted. Awaiting Start date.</b></li> </ul>	06/04/2019

LPA Reference	Date of Authorisation (Panel/Delegated)	Location	Breach	Status	Date by which Compliance Expected (or Prosecution Date)
ENF/2017/0238/ COND	02/10/2018	Land at unit 1, 2 and 3 Low Farm, New Road, Rumburgh	Holiday let used for residential accommodation.	<ul style="list-style-type: none"> <li>Initial complaint logged by officer, on 27/06/2017, following internal information regarding request to create the address.</li> <li>29/06/2017 letter sent to owner.</li> <li>07/03/2018 letter sent to owner at alternative address.</li> <li>06/04/2018 certificate of lawfulness application received.</li> <li>Application refused 30/05/2018.</li> <li>S16 notice sent 07/09/2018 to gain names of tenants.</li> <li>S16 notice returned 20/09/2018.</li> <li>Notice served by hand on owner and occupants on 02/10/18.</li> <li>Site visit required to check compliance.</li> <li><b>Site visited 29/03/2019 and confirmed units are empty, therefore the notice has been complied with- case closed.</b></li> </ul>	02/02/2019
ENF/2018/0057/	15/11/2018	The Stone House, Low Road, Bramfield	Change of use of land for the stationing of chiller/refrigeration units and the installation of bunds and hardstanding	<ul style="list-style-type: none"> <li>Enforcement Notices served on 10/12/2018</li> <li>Notice effective on 24/01/2019</li> <li>3 months given for compliance</li> <li><b>Appeal submitted awaiting Start Date.</b></li> </ul>	30/06/2019
ENF/2018/0276	23/11/2018	Bramfield Meats, Low Road, Bramfield	Breach of Condition 3 of planning permission DC/15/1606.	<ul style="list-style-type: none"> <li>Breach of Condition Notice served</li> <li>Application received to Discharge Conditions</li> <li><b>Application pending decision</b></li> </ul>	31/03/2019

LPA Reference	Date of Authorisation (Panel/Delegated)	Location	Breach	Status	Date by which Compliance Expected (or Prosecution Date)
ENF/2018/0319/ COND	19/12/2018	Windy Acres Mutfordwood Lane Mutford	Change of use of 'Day Room' to permanent residential accommodation.	<ul style="list-style-type: none"> <li>Retrospective planning application submitted 26/10/2018</li> <li>Planning application refused 29/11/2018</li> <li><b>Enforcement Notice served to rectify breach relating to the change of use of 'day room to residential dwelling' on 19/12/2018.</b></li> </ul>	19/07/2019
ENF/2014/0102/ STORE	01/04/2019	Land at Bridge Farm, Top Street, Martlesham	Change of use of land	<ul style="list-style-type: none"> <li><b>Noticed Served 01/04/2019.</b></li> </ul>	01/05/2019