



STRATEGIC PLANNING COMMITTEE

Monday, 03 July 2023

Subject	Planning Performance Report – April 2022 to March 2023
Report of	Councillor Kay Yule Cabinet Member with responsibility for Planning and Coastal Management
Supporting Officers	Philip Ridley Head of Planning and Coastal Management 01394 444434 philip.ridley@eastsoffolk.gov.uk Ben Woolnough Planning Manager (Development Management) 01394 444681 ben.woolnough@eastsoffolk.gov.uk Katherine Scott Principal Planner (Technical Lead, Development Management) 01394 444503 katherine.scott@eastsoffolk.gov.uk

Is the report Open or Exempt?	OPEN
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Category of Exempt Information and reason why it is NOT in the public interest to disclose the exempt information.	Not applicable
Wards Affected:	All Wards

Purpose and high-level overview

Purpose of Report:

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

Options:

Not applicable.

Recommendation/s:

That the content of the report be noted.

Corporate Impact Assessment

Governance:

Not applicable.

ESC policies and strategies that directly apply to the proposal:

Not applicable.

Environmental:

Not applicable.

Equalities and Diversity:

Not applicable.

Financial:

Not applicable.

Human Resources:

Not applicable.

ICT:

Not applicable.

Legal:

Not applicable

Risk:

Not applicable.

External Consultees:	None
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Strategic Plan Priorities

Select the priorities of the Strategic Plan which are supported by this proposal: (Select only one primary and as many secondary as appropriate)		Primary priority	Secondary priorities
T01	Growing our Economy		
P01	Build the right environment for East Suffolk	<input checked="" type="checkbox"/>	<input type="checkbox"/>
P02	Attract and stimulate inward investment	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P03	Maximise and grow the unique selling points of East Suffolk	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P04	Business partnerships	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P05	Support and deliver infrastructure	<input type="checkbox"/>	<input checked="" type="checkbox"/>
T02	Enabling our Communities		
P06	Community Partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P07	Taking positive action on what matters most	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P08	Maximising health, well-being and safety in our District	<input type="checkbox"/>	<input type="checkbox"/>
P09	Community Pride	<input type="checkbox"/>	<input checked="" type="checkbox"/>
T03	Maintaining Financial Sustainability		
P10	Organisational design and streamlining services	<input type="checkbox"/>	<input type="checkbox"/>
P11	Making best use of and investing in our assets	<input type="checkbox"/>	<input type="checkbox"/>
P12	Being commercially astute	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P13	Optimising our financial investments and grant opportunities	<input type="checkbox"/>	<input type="checkbox"/>
P14	Review service delivery with partners	<input type="checkbox"/>	<input type="checkbox"/>
T04	Delivering Digital Transformation		
P15	Digital by default	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P16	Lean and efficient streamlined services	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P17	Effective use of data	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P18	Skills and training	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P19	District-wide digital infrastructure	<input type="checkbox"/>	<input checked="" type="checkbox"/>
T05	Caring for our Environment		
P20	Lead by example	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P21	Minimise waste, reuse materials, increase recycling	<input type="checkbox"/>	<input type="checkbox"/>
P22	Renewable energy	<input type="checkbox"/>	<input type="checkbox"/>
P23	Protection, education and influence	<input type="checkbox"/>	<input type="checkbox"/>
XXX	Governance		
XXX	How ESC governs itself as an authority	<input type="checkbox"/>	<input checked="" type="checkbox"/>
How does this proposal support the priorities selected?			
To provide information on the performance of the development management and enforcement section			

Background and Justification for Recommendation

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

2 Current position	
2.1	East Suffolk Council as Local Planning Authority determines applications that seek Planning Permission, Listed Building Consent, Advertisement Consent and Tree Works applications along with associated applications such as those seeking approval of matters reserved by conditions on consents.
2.2	This report focuses on the applications for Planning Permission (those seeking Approval of Reserved Matters, Change of Use, Full Planning Permission, Outline Planning Permission, Removal of Condition(s) and Variations of Condition(s)). They are herein referred to as Planning Applications.
2.3	However, some data is also included in relation to the other forms of formal applications determined by the Local Planning Authority during the period 1 April 2022 to 31 March 2023, and the preceding years.
2.4	Alongside dealing with these formal planning applications, the Development Management Team provide a pre-application advice service and are also responsible for monitoring and enforcing planning matters.
2.5	In terms of outlining the current position, this report covers the following: <ul style="list-style-type: none">• Overview of Determined Planning Applications,• Determination Route,• Timeliness of decisions,• Planning related decisions that are not 'Planning Applications',• Pre-application Advice,• Planning Appeals,• Planning Enforcement,• Freedom of Information requests (FOIs), and <ul style="list-style-type: none">• Formal Complaints regarding Planning Services.

2.6

Overview of Determined Planning Applications

The breakdown for determined planning applications during Q4 (1 January 2023 to 31 March 2023) is reported as follows:

	Q4 Percentage	Q4 Total	Targets
Major Development	88%	14/16	60% national 65% ESC stretched
Minor Development	95.33%	102/107	75% ESC stretched
Other Development	77.94%	265/340	90% ESC stretched
Non-Major (Minor and Other)	82.10%	367/447	70% National Target

	Current Quarter		Previous Quarters						Targets
	Q4 %	Q4 Total	Q3 %	Q3 Total	Q2 %	Q2 Total	Q1 %	Q1 Total	
Major Development	88%	14/16	91.67%	11/12	91.6%	11/12	75%	6/8	60% national 65% stretched
Minor Development	95.33%	102/107	76.56%	98/128	85.7%	120/140	69.1%	85/123	65% national
Other Development	77.94%	265/340	78.57%	275/350	87.62%	354/404	68%	249/364	80% national
Non-Major (Minor and Other)	82.10%	367/447	78.03%	373/478	87.13%	474/544	68.58%	334/487	70% National Target

2.7

The end of year statistics for the reporting year are as follows:

	Q1 – Q4 Percentage	Q1 – Q4 Total	Targets
Major Development	87.5%	42/48	60% national 65% stretched
Minor Development	81%	405/498	75% stretched
Other Development	78%	1143/1458	90% stretched
Non – Major (Minor and Other)	79%	1548/1956	70% National

2.8	<p>The following table is a comparison with the end of Q4 in April 2021 to March 22</p> <table border="1" data-bbox="397 212 1342 647"> <thead> <tr> <th data-bbox="400 212 635 320"></th> <th data-bbox="635 212 874 320">Q1 – Q4 Combined Percentage</th> <th data-bbox="874 212 1106 320">Q1 – Q4 Combined Total</th> <th data-bbox="1106 212 1339 320">Targets</th> </tr> </thead> <tbody> <tr> <td data-bbox="400 320 635 394">Major Development</td> <td data-bbox="635 320 874 394">79%</td> <td data-bbox="874 320 1106 394">43/55</td> <td data-bbox="1106 320 1339 394">60% national 65% stretched</td> </tr> <tr> <td data-bbox="400 394 635 468">Minor Development</td> <td data-bbox="635 394 874 468">61%</td> <td data-bbox="874 394 1106 468">335/548</td> <td data-bbox="1106 394 1339 468">75% stretched</td> </tr> <tr> <td data-bbox="400 468 635 542">Other Development</td> <td data-bbox="635 468 874 542">67%</td> <td data-bbox="874 468 1106 542">1197/1778</td> <td data-bbox="1106 468 1339 542">90% stretched</td> </tr> <tr> <td data-bbox="400 542 635 647">Non-Major (Minor and Other)</td> <td data-bbox="635 542 874 647">66%</td> <td data-bbox="874 542 1106 647">1532/2326</td> <td data-bbox="1106 542 1339 647">70% National</td> </tr> </tbody> </table>		Q1 – Q4 Combined Percentage	Q1 – Q4 Combined Total	Targets	Major Development	79%	43/55	60% national 65% stretched	Minor Development	61%	335/548	75% stretched	Other Development	67%	1197/1778	90% stretched	Non-Major (Minor and Other)	66%	1532/2326	70% National
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2.9	<p>These figures show that there was a marked improvement in the proportions of Non-Majors being issued within time during the most recent financial year (2022-13), when compared with the previous financial year (2021-22), up from 66% to 79%.</p>																				
2.10	<p>However, the Local Planning Authority should not be complacent in assuming these figures indicate any future uplift because this success in uplifting the figures is do not only to the hard work and dedication of both cases officers and those reviewing/signing off, particularly during the first quarter (July – Sept) of the 2022-2023 year to ensure that the overall Government two-year monitoring period target was met. There was also a reduction in the overall number of planning applications determined between the two years. The percentages determined in time in the 2021-22 year may have part been lower as there was a significant period of change during that year. These issues are explored further in the ‘Timeliness of decisions’ section later in this report.</p>																				
2.11	<p>The proportions of applications approved or refused are shown in the figures within Appendix V of the “Review of Planning Committee and Referral Panel Report’.</p>																				
2.12	<p>Where applications are refused Officers seek to defend those refusals strongly. Members will note the separate appeals report on the agenda which demonstrates confidence that applications are being refused where justified in planning terms and those decisions are for the most part upheld at appeal. Members will note that in respect of the same quarter the Council successfully defended 71% of all planning appeals (up from 68% the previous year). Further details are provided in ‘Planning Appeals’ section later in this report.</p>																				

2.13

Determination Route

As stated in the National Government guidance on determining planning applications:

“Who in a local planning authority makes a planning decision?

Section 101 of the Local Government Act 1972 allows the local planning authority to arrange for the discharge any of its functions by a committee, sub-committee, or an officer or by any other local authority. An exception where this power may not apply is where the local authority’s own application for development could give rise to a conflict of interest, when regulation 10 of the Town and Country Planning General Regulations 1992 applies.

The exercise of the power to delegate planning functions is generally a matter for individual local planning authorities, having regard to practical considerations including the need for efficient decision-taking and local transparency. It is in the public interest for the local planning authority to have effective delegation arrangements in place to ensure that decisions on planning applications that raise no significant planning issues are made quickly and that resources are appropriately concentrated on the applications of greatest significance to the local area.

Local planning authority delegation arrangements may include conditions or limitations as to the extent of the delegation, or the circumstances in which it may be exercised.”

Paragraph: 015 Reference ID: 21b-015-20140306

Revision date: 06 03 2014

From [Determing a planning application - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

2.14

In accordance with the scheme of delegation, as set out in the Council’s Constitution, all applications received by East Suffolk Council as Local Planning Authority are taken through one of three process determination routes. A copy of the scheme of delegation is included in Appendix A to the ‘Review of Planning Committee and Referral Panel Report’, which is also on the agenda for this meeting.

2.15

In simplified terms, Planning Applications at East Suffolk Council are either:

- delegated to the Head of Planning and Coastal Management, to be determined by officers
- triggered and referred to the Referral Panel, which then either:
 - refer the determination of application to Planning Committee for determination
 - or
 - delegate the determination of the application to the Head of Planning Services, to be determined by officers
- taken directly to Planning Committee for determination at the discretion of the Head of Planning and Coastal Management and/or the Chairman of the Planning Committees

2.16	The potential routes for the determination of applications and the potential trigger points for the Planning Referral Panel are illustrated in the figures in Appendix B to the 'Review of Planning Committee and Referral Panel Report', which is also on the agenda for this meeting.
2.17	There is a separate report on this agenda which explains the Referral Process and Planning Committee process in detail including the referral triggers, and sets out detailed data in relation to the numbers of applications going through that process, decision outcomes and implications upon timeliness of decisions. The appendices to that report also provide more detail on data relating to the Referral Process for the period 1 April 2019 to 31 March 2022.
2.18	<p><u>Timeliness of decisions</u></p> <p>Paragraph 34 (2) of Part 6 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) defines the timeframes for the determination of applications by Local Planning Authorities. In terms of Major applications this is set at 13 weeks, with non-major planning applications set at 8 weeks. These are the timeframes in which Planning Applications should be determined.</p>
2.19	<p>As stated in the National Government Guidance, if a planning authority fails repeatedly to decide applications on time:</p> <p>“Section 62B of the Town and Country Planning Act 1990 (as amended) allows the Secretary of State to designate local planning authorities that “are not adequately performing their function of determining applications”, when assessed against published criteria.</p> <p>Those criteria relate to:</p> <ul style="list-style-type: none"> • the speed of decisions made by local planning authorities for applications for major and non-major development, measured by the percentage of applications that have been determined within the statutory period or such extended time as has been agreed between the local planning authority and the applicant • the quality of decisions made by local planning authorities for applications for major and non-major development, measured by the proportion of decisions on applications that are subsequently overturned at appeal (including those arising from a ‘deemed refusal’ where an application has not been determined within the statutory period) <p>If a local planning authority falls below the performance thresholds set out in the criteria it may be designated for its performance in relation to applications for major development, non-major development, or both.</p> <p>In this case, section 62A of the Town and Country Planning Act 1990 (as amended) allows applications for the category of development for which the authority has been designated (i.e. major development, non-major development or both) to be submitted directly to the Secretary of State (if</p>

	<p>the applicant wishes) as long as the designation remains in place. This excludes householder and retrospective applications, which must still be made directly to the local planning authority.</p> <p>Paragraph: 005 Reference ID: 21b-005-20170728</p> <p>Revision date: 28 07 2017”</p> <p>From Determining a planning application - GOV.UK (www.gov.uk)</p>
2.20	<p>Therefore, a balance has to be struck between the speed at which decisions are made and the quality of those decisions. However, nationally performance is only measured on the basis of the speed of decisions i.e. the numbers issued within Government Targets. The current performance thresholds set by Government are 60% for Majors, and 70% for Non-Majors. It is measured over a 2- year period, the last period of which finished 30 September 2022.</p>
2.21	<p>East Suffolk was below the threshold at 68.5% for Non-Majors in the 7th Quarter (April – June 2022) of 8 in the 2-year period (October 2020 – September 2022). Due to considerable officer hard work and determination between July and September 2022, the team managed to raise the two-year eventual total 73.8%, so the threshold was met.</p>
2.22	<p>However, officers and members should not be complacent, as this uplift was only achieved through the hard work and determination officers to maximise the numbers being determined, with the aim of ensuring ESC would not fall below the threshold, because of their concerns of the consequences that could arise if that happened.</p>
2.23	<p>This figure is also not significantly above the threshold, and as the paragraphs below explain ESC is heavily reliant upon the delegated decisions and Extensions of Time are being used significantly to pull up the overall average. Therefore, any increase in the proportion of applications going via the Planning Referral Panel process or being determined at Planning Committee process could result in ESC falling below the threshold, the significant consequences of which are detailed later in this report.</p>
2.24	<p>It is recognised that the Referral Panel process and the Planning Committee Process are important to the democratic process of determining planning applications, but the potential implications for the timeliness of decision making also needs to be acknowledged.</p>

2.25	<p>Whilst all planning applications have to go through public consultation and other legislative processes, by their very nature the different determination process routes affect how quickly the application can be processed, considered, and determined. For example, if an application triggers the referral process this adds at least a week to 10 days to the determination process, and then if that item is referred to committee realistically there is the potential for up to four weeks be added to the process if the relevant committee meeting has just occurred. However, often the timeframe can be shorter, depending upon where in the committee cycle the application falls.</p>
2.26	<p>As explained in the “Review of Planning Committee and Referral Panel Report’ on this agenda, the referral panel and committee processes can add significant time to the determination process of applications, which is reflected in the figures relating to the timeliness of decision making. Figure 8 of Appendix W of the “Review of Planning Committee and Referral Panel Report’ report shows the proportions of applications determined within government target, within an agreed extension of time or out of time, for each determination route.</p>
2.27	<p>For the period 1 April 2022 – 31 March 2022, 39% of delegated decisions that did not trigger the referral process were determined within government targets. This fell to 11% for cases that triggered the Planning Referral Process and were then delegated back to officers for determination. There were zero applications determined within government targets through the Planning Committee Process (Figures 1 – 8 of Appendix W of the “Review of Planning Committee and Referral Panel Report’).</p>
2.28	<p>This pattern of significantly less decisions being made within Government Targets via the Planning Committee determination route, is not just a one off for the last financial year. In the preceding year (1 April 2021 – 31 March 2022), 56.23% of delegated decisions on ‘Planning Applications’ were in time compared to just 4.17% of applications that were determined via the planning committee route.</p>
2.29	<p>From these figures and an understanding of the various procedural steps and the time taken to complete those for each process, it is clear that decisions going via the Planning Committee route significantly reduce the ability for decisions to be issued within Government Targets.</p>
2.30	<p>It also shows that as a Local Planning Authority ESC is heavily reliant upon the number of delegated decisions that are issued within Government Targets, and agents agreeing Extensions of Time (which they do not have to), in order to meet the required minimum Government Target of 70% for Non-Major Decisions being issued in time.</p>
2.31	<p>The importance of the Planning Committee to the democratic process is recognised, and therefore some impact upon the overall Local Planning Authority statistical returns is accepted. However, a balance between the democratic process and timeliness of decision much be maintained.</p>

2.32	There are similar implications in terms of timeliness arising from the Referral Panel Process. Whilst the figures for applications triggering the referral process are better than those for applications determined via Planning Committee, a significantly higher proportion of applications delegated by the referral panel are beyond the government target date than those that do not trigger the referral or committee process.
2.33	As with planning committee, the importance of the Planning Referral Panel to the democratic process is recognised, and therefore some impact upon the overall Local Planning Authority statistical returns is accepted. However, a balance between the democratic process and timeliness of decision much be achieved.
2.34	It is considered that the current Scheme of Delegation with the proportions of applications going to the Planning Referral Panel and/or Planning Committee is appropriate in terms of the potential impacts upon the proportions of applications that go beyond government targets, as a result of those processes.
2.35	Any amendments to the scheme of delegation that would result in any increase in the potential numbers of 'Planning Applications' going via either process, could significantly decrease the number of applications the Local Planning Authority is able to determine within Government Targets or agreed extensions of time.
2.36	If the Government targets outlined earlier in this report are not achieved, the Local Planning Authority can be placed in special measures.
2.37	When a Local Planning Authority is placed into special measures, applicants can send their applications directly to the Planning Inspectorate for determination, rather than to the Local Planning Authority. This means that such decisions are not made locally by the officers or elected members of the Local Planning Authority.
2.38	In May 2023, the Secretary of State for Levelling Up, Housing and Communities, wrote to the nine district/borough councils and one national park authority whose planning performance is below the threshold for special measures designation Letter from the DLUHC Secretary of State to local planning authorities at risk of designation - GOV.UK (www.gov.uk) . These letters set out his concerns regarding their performance and that they fell below the required threshold, highlighting the consequences of formal designation, and that whilst they would be given until June to demonstrate improved performance, the Planning Inspectorate have been asked to prepare for designations over the summer period.

2.39	<p>The Authorities in question and their performance levels were:</p> <ul style="list-style-type: none"> • Calderdale Council at 53.7%, • Cotswold District Council at 69.6%, • Epsom & Ewell Borough Council at 52.5%, • Guildford Borough Council at 50.1%, • Hinckley & Bosworth Borough Council at 46.5%, • Peak District National Park Authority at 61.2%, • Pendle Borough Council at 68.3%, • Portsmouth City Council at 63.2%, • The Vale of White Horse District Council at 66.6%, and • Waverley District Council at 61.7%
2.40	<p>As explained earlier in this report, and in the ‘Planning Performance Report’ to the Strategic Planning Committee in October 2022, at the end of the last monitoring period/start of the current period, ESC as Local Planning Authority dipped below the 70% threshold for ‘non-major’ decisions during a number of quarters during the 2 year monitoring period, and was at 68.7% in the seventh quarter of the two year period.</p>
2.41	<p>ESC only achieved the overall 2-year figure of 73.6% through conscious efforts across all Development Management Officers to pull the final quarters figures upwards, to ensure the threshold was achieved. These figures were only achieved by all the hard work and determination of both case officers and those officers who review and sign off reports and recommendations.</p>
2.42	<p>This included officers securing a significant number of extensions of time, with some officers working significantly above their contracted hours, and signing off/authorising officers prioritising those cases that are due imminently. This was at the expense of other elements of their roles, such as the quality and speed of pre-application enquiries and potentially affected the ability to seek to optimum improvement the quality of some schemes.</p>
2.43	<p>Therefore, whilst it is good that the 70% target has been achieved, it should also be recognised that the role of Development Management Officers is not only about timeliness of decisions, but they should also be able to seek to improve the quality of the world around us, by seeking to improve development proposals, beyond that which is purely on balance acceptable or not refusable. Extensions of time to the determination period are highly beneficial to meeting targets, and where they are agreed it is hoped that they also reflect a degree of customer satisfaction with the progression of decisions. However, the timeliness of decisions must not be solely relied upon as an indicator of customer satisfaction or the quality of decision making.</p>
2.44	<p>In the view of officers the 70% threshold could also not be achieved if there were a significant increase in the proportions of applications going via the Planning Referral Panel and/or Planning Committee.</p>

2.45	<p><u>Planning related decisions that are not 'Planning Applications'</u></p> <p>Alongside Planning Applications, the Development Management Team also determine a significant number of other types of planning related applications, including those for Listed Building Consent, Advertisement Consent, Prior Notification Approval, Certificate of Lawfulness, Discharge of Conditions and Non-Material Amendments.</p>
2.46	<p>Between 1 April 2022 – 31 March 2023, 1,345 other types of Planning related Applications were determined and 1,244 Pre-application enquiries were responded to. Figure 2 of Appendix A shows the proportions of applications that were Planning Applications and the other general forms of application determined per quarter. It clearly shows that the combined number of Pre-application enquiries, Prior Approval/Notification Applications, Consultations from other organisations, tree/hedgerow works and other types of non-planning application exceed the number of Planning Applications in each quarter.</p>
2.47	<p>The graphs in Figures 1 – 6 and 12 – 15 of Appendix C, show a number of key types of planning related applications determined per quarter. Figures 7, shows the numbers of various types of Prior Notifications, with Figures 8 and 9 showing the 2 stages of Agricultural Prior Notification applications, and Figures 10 and 11 showing two types of Prior Notifications for change of use to dwellings.</p>
2.48	<p><u>Pre-application Advice</u></p> <p>In additional to formal applications, officers continue to work proactively with agents to promote the pre-application service to seek to provide appropriate advice on the suitability or otherwise of schemes and to ensure that where applications are submitted they have the right level of information accompanying them to enable swift decisions on applications to be made.</p>
2.49	<p>Between 1 April 2022 and 31 March 2022, 1,244 written pre-application submissions were responded to. This is a significant increase on the previous year (2021 – 2022 had 956 cases).</p>
2.50	<p>Although no formal consultation process takes place as part of the pre-application process, such submissions can require a significant amount of officer time not only from the DM case officer, but also from the support team logging the case and issuing the final written response letter, specialist services officers providing input and from senior officers who review the written feedback reports provided before issue.</p>
2.51	<p>However, officers recognise the importance of the pre-application process in terms of adding value to improve schemes early in the process before a formal application is submitted.</p>
2.52	<p>It is also recognised providing advice on the potential need for consent, which means those that utilise this service can avoid undertaking works that require planning, advertisement or listed building consent, and thus at least in theory reduce the number of breaches of planning control.</p>

2.53	Alongside this service, the Development Management and Enforcement Team provide a duty officer system, on all working weekdays. It is operated on a rota system by those within the team, who provide informal advice to simple planning enquiries of a nature which can be responded to without significant research or review of significant amounts of submitted information.
2.54	<p>Planning Appeals</p> <p>The outcomes of appeals are reported on a quarterly basis to the Strategic Planning Committee, and the latest of these reports is also on this meeting’s agenda. These reports include summaries of the outcomes and key issues raised in all appeal decisions along with an analysis of the percentage of cases dismissed or allowed on appeal for Major, Minor and Other application types. They relate to all appeal decisions received since the previous report, so do not fully align with the financial year that this report is covering, and therefore the numbers outline are not identical to those reported in those quarterly reports.</p>
2.55	Applicants have a right to appeal certain decisions made by ESC as the Local Planning Authority. Most appeals are generally against a refusal of Planning Permission, or less frequently a refusal of Listed Building Consent and occasionally a refusal of Certificate of Lawfulness applications or Advertisement Consent. There is also a right of appeal against conditions imposed on a consent.
2.56	During the period 1 April 2022 – 31 March 2023, there were 29 appeals related to Full Planning Permission, ten appeals related to Outline Planning Permission, two appeals related to Variations of Conditions, two appeals related to advertisement consent, one appeal related to a Certificate of Lawfulness and one appeal related to a Prior Notification application. This was 9% decisions relating to Major Applications, 25% related to Minor applications, and 34% related to other Applications (Appendix F, Figure 4).
2.57	During the same period, there were 45 Planning related Appeal Decisions received, with 32 (71%) dismissed (i.e. upholding the ESC’s decision), and 13 (29%) were allowed (i.e. overturning ESC’s decision) (Appendix F, Figure 3).
2.58	Within its there were four appeals for Major Applications, with one dismissed (25%) and three allowed (75%). There were 24 appeals for Minor Applications, with 16 dismissed (64%) and 9 allowed (36%), and there were 15 appeals for Other (Householders and Changes of Use) Applications with 14 dismissed (93%) and one allowed (7%) (Appendix F, Figures 5 -7).
2.59	The National Average is 42% appellant success rate for major applications, 27% success rate for minor applications and 39% success rate for householder applications (figures from Planning Inspectorate statistical release 20 January 2022 - GOV.UK (www.gov.uk)).

2.60	It is unfortunate that the percentage of allowed appeals related to Major applications was significantly higher than the most recent national figures. However, it is important to note ESC only had four Major decisions during the period so one or two decisions would have significantly affected the overall percentage, and the national figures do not cover the same time period, so they are not directly comparable.
2.61	The appeals were against applications that were determined both by Planning Committee and those delegated to officers (Appendix F, Figure 1), with 84% being against schemes that were refused at officer level in accordance with the scheme of delegation, 11% against Committee Refusals (including 7% overturn of officer recommendation) and 5% against non-determination.
2.62	The proportions dismissed/allowed and their ESC determination route are detailed in Appendix F, Figure 2 , which shows that 72% of Appeals were dismissed as per the delegated decision to refuse, 22% allowed contrary to delegated decision to refuse, 2% were allowed contrary to officer recommendation and Planning Committee decision to refuse, 2% were allowed contrary to Planning Committee refusal which was an overturn of the officer recommendation of approval, and 2% were allowed as non-determination appeals. There were no appeals dismissed as per Planning Committee decision to refuse as per officer recommendation.
2.63	The appeals were spread geographically across the district, although there were eight wards without any appeals, and the Orwell and Villages Ward had the most appeal decisions with seven received (Appendix F, Figure 8). There is no apparent pattern to the geographical distribution of appeal decisions and they do not correlate with the numbers of planning applications determined per ward (Figure 2 of Appendix G of the Review of Planning Committee and Referral Panel Report ’, which is also on the agenda for this meeting). It is considered likely that these variations in the number of appeal decisions per ward are a result of a natural variation in the scale, type and complexity of applications submitted across the district.
2.64	<p><u>Planning Enforcement</u></p> <p>In considering the role and activities of Planning Enforcement at East Suffolk Council, key consideration should be given to paragraph 59 of the NPPF which states:</p> <p><i>“Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.”</i></p>
2.65	Between 1 April 2022 – 31 March 2023, 481 Planning Enforcement cases were logged (Figure 1 of Appendix G), with 674 being closed (Figures 1 and 5 of Appendix I), and 14 Notices were served (Figure 1 of Appendix K). The longer

	term picture of cases logged and closed per quarter and per month from July 2019 – March 2023, are detailed in Figures 6 and 8 of Appendix I .
2.66	As illustrated in Appendix H , in terms of the number of Planning Enforcement cases logged there is variation geographically across the district. Since April 2019, there are some wards that have consistently had more cases than others and other wards that have consistently had low numbers (Figure 2). In terms of numbers per Parish, it was the larger towns of Felixstowe and Lowestoft that had the highest number of cases in 2022-23, with 33 and 67 cases respectively.
2.67	ESC takes Planning Enforcement seriously and if there is found to be a breach, officers will then assess if it is expedient to pursue enforcement action, based upon a number of factors including the level of breach and the material planning harm arising and if planning permission would likely be granted or not were consent to be sought.
2.68	Many cases reported to ESC as breaches of Planning Control are in fact not Planning Breaches. Between 1 April 2022 and 31 March 2023, 305 of the 674 cases closed were not breaches of control, that is a significant proportion at 45%.
2.69	However, all cases have to be logged and investigated, in order for officers to determine if a breach has occurred or not. This takes significant officer time, not only to log the case on the system and acknowledge receipt to the complainant, but also various investigation steps such as visiting the site, checking the planning history checking planning regulations, internet searches, checking with other ESC teams, land registry checks etc (as appropriate) and in a limited number of cases serving Planning Contravention Notices to obtain information.
2.70	The remaining 55% of cases were closed because there was either compliance with planning controls or the unauthorised use ceased (potentially after the serving of a formal notice), planning permission was granted, the works/use were 'Permitted Development', the works/use were immune or lawful, they were duplicate cases, the complaint was withdrawn or it was not expedient to take formal enforcement action.
2.71	In accordance with National Policy Guidance, officers seek to resolve breaches without formal action, which has enabled the closure of most of the above cases. The national guidance states: <i>“Addressing breaches of planning control without formal enforcement action can often be the quickest and most cost effective way of achieving a satisfactory and lasting remedy. For example, a breach of control may be the result of a genuine mistake where, once the breach is identified, the owner or occupier takes immediate action to remedy it.”</i> Source https://www.gov.uk/guidance/ensuring-effective-enforcement

2.72	<p>In deciding to pursue formal Planning Enforcement Action, the authority has to have regard to the considerations set out in the National Planning Policy Guidance, which states:</p> <p><i>“Nothing in this guidance should be taken as condoning a wilful breach of planning law. Enforcement action should, however, be proportionate to the breach of planning control to which it relates and taken when it is expedient to do so. Where the balance of public interest lies will vary from case to case.</i></p> <p><i>In deciding, in each case, what is the most appropriate way forward, local planning authorities should usually avoid taking formal enforcement action where:</i></p> <ul style="list-style-type: none"> • <i>there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;</i> • <i>development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;</i> • <i>in their assessment, the local planning authority consider that an application is the appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed”</i> <p>Paragraph: 011 Reference ID: 17b-011-20140306, Revision date: 06 03 2014, source: https://www.gov.uk/guidance/ensuring-effective-enforcement</p>
2.73	<p>In order to take action, it therefore has to be appropriate to take such action i.e. where there is a clear breach of planning control and it is expedient to issue a notice/take action, taking into account the development plan and any other material planning considerations..</p>
2.74	<p>Between 1 April 2022 and 31 March 2023, ESC served 14 Enforcement Notices, which were a mix of Enforcement Notice types, with Enforcement Notice – Material Change of Use, Enforcement Notice – Operational Development, Enforcement Notice – breach of Conditions and Listed Building Enforcement Notices (Figure 2 of Appendix I).</p>
2.75	<p>Any formal action also takes significant time Prior to taking formal action, the Local Planning Authority has to have sufficient evidence of an ongoing breach of Planning Control. Evidence has to be gathered in a certain way, which takes time and sometimes we have to gather evidence over several weeks or months due to the nature of the breach.</p>
2.76	<p>Retrospective applications can be submitted which generally have to be determined before any potential formal action, and if consent is refused there is a right of appeal, which can further extend the process.</p>

2.77	When serving notices a reasonable time has to be given for them to come into effect, along with a reasonable compliance period for the breach to be rectified. The time periods for a notice to come into effect and compliance, are very case dependant, as they have to be reasonable in terms of enabling the breach to be rectified, so a large breach where significant building works have to be undertaken and/or large volumes of materials removed from the site would be given longer than a significantly smaller scheme such as an unauthorised fence.
2.78	Those who have had an enforcement notice served, have the right to appeal to the Planning Inspectorate . These appeals generally take significantly longer than planning decision appeals. In 2020-21, they took an average of 46 weeks (Figures from Planning Inspectorate statistical release 20 January 2022 - GOV.UK (www.gov.uk)).
2.79	If the site owners and/or those with an interest in the land do not comply with the requirements of the notice (either without an appeal, or following a dismissal on appeal), then legal processes start, which are very dependent upon court dates etc, If the breaches continue, and they are in breach of any requirements set by the court then the legal process continues.
2.80	A report summarising and providing updates on all live cases on which a notice has been served is included on the agenda to every North and South Planning Committee.
2.81	The Enforcement Performance Report also on this agenda includes details of enforcement cases received, enforcement cases closed, reasons for closure, time taken to close cases and the Enforcement Notices Served between 1 January 2023 and 31 March 2023.
2.82	<u>Freedom of Information requests (FOIs)</u> As shown in Figure 1 of Appendix M , there were 67 FOI requests received by Planning and Building Control between 1 April 2022 and 31 March 2023. There was variation in the number of requests received each month but no obvious particular peak times. The quietest month was May and the most were received per month in June and August, but those peaks were not significantly higher than April, November, January and March.
2.83	Typically, FOI request take at least 3 days of officer time per month, with additional time often required for file retrieval and resulting impacts across the service area.
2.84	East Suffolk Council already publishes a lot of its live and historic Planning Application data online including most planning decision notices from 1948 onwards for the former Suffolk Coastal District area, and from the 1970's onwards for the former Waveney area, with the plans and associated documents also online via Public Access for most of the applications received during the past 10 years. The Public Access system also enables customers to undertake 'advanced searches' to retrieve data on numbers of/ details of specific application or development types.

2.85	Therefore, some of these FOI requests can be responded to explaining how the customers can access the data themselves, but based upon officer experience it appears many are requesting copies of officer correspondence or similar information not published online in relation to recent applications. It may be that the requesters disagree with the decision to approve or refuse such schemes. Such requests cannot reasonable be avoided because it would be inappropriate to publish all correspondence and other certain information online.
2.86	<p><u>Formal Complaints to Planning Services</u></p> <p>All formal complaints related to Planning Services are investigated and responded to in accordance with East Suffolk Council’s adopted complaints procedure (as summarised on Customer feedback » East Suffolk Council) . Initial complaints are logged as Stage 1, and investigated by a team leader or manager, who provides a response to the customer, usually within 15 working days. A further complaint relating to the same issue by the same customer received within 1 month of the date of the Stage 1 reply, is logged as a Stage 2 compliant, which is investigated and responded to by a Senior Manager, Head of Service or Director, usually with 20 working days. If the customer is still not satisfied with the response they can then complain to the Local Government and Social Care Ombudsman (LGSCO). In the case of planning application decisions, the LGSCO cannot overturn the Planning decision to approve or refuse consent, but if they find fault can potentially require the Local Planning Authority to provide an apology and/or make a payment to the customer.</p>
2.87	As set out in Figure 2 of Appendix M , there was a significant variation in the number of Stage 1 formal complaints regarding Planning Services between 1 April 2022 and 31 March 2023, with June and November being the peak months for Stage 1 complaints (7 & 8 respectively) with most other months having between 1 & 3 complaints received. There is no obvious reason behind such a variation across the year.
2.88	The numbers of Stage 1 complaints not upheld, partially upheld or upheld are shown in Figure 3 of Appendix M . In terms of proportions, 58% of complaints were not upheld. 26% were partially upheld and 16% were upheld. This shows that in almost 60% of the complaint cases, no fault has been found with the processes and procedures undertaken by officers.
2.89	With the exception of the ‘not at fault’ complaints, the most common finding was a need to improve staff awareness/skill level as a result of upheld complaints.
2.90	The nature of complaints made that were partially or fully upheld are shown in Figures 4 and 5 of Appendix M . In terms of partially upheld decisions, there were four related to clarity or fairness of decision, three related to customer journey, and one in relation to adherence to policy or procedure. In terms of the fully upheld decisions, there were two related to timeliness, and one each in relation to clarify or fairness of decision, customer journey and fulfilment of promised actions.

2.91	A summary of the key findings of complaints is included in Figure 6 of Appendix M . When these findings are considered cumulatively there is an indication of additional staff awareness/skill level being need to be improved in some cases, but by far the largest finding is that the Council was not at fault, with 16 complaints having this finding. This could be because many formal complaints received in relation to Planning Services appear to be as a result of a customer not agreeing with the outcome of a Planning Application (usually a decision to grant consent when they have objected to the application).
2.92	The timeliness of complaint decisions is shown in Figure 8 of Appendix M , which shows that 48% (15) of responses were received within Council timescales, and 52% of responses breached Council timescales for various reasons with the majority just being classified as a late response from the investigating officer (with one response being late due to the Customer Experience Team). There is clearly a need to seek to improve the timeliness of Planning Services complaint responses, but these figures must also be consisted in the context of the other demands upon officer time, including the day job of determining applications, which as detailed earlier in this report results in a very busy team of officers.

3 How to address current situation

3.1	Quarterly monitoring and reporting to Strategic Planning Committee, subject to the consideration and outcome of the 'Response to Scrutiny Committee Report'. which is also on this agenda.
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4 Reason/s for recommendation

4.1	That the report concerning the performance of the Development Management Team in terms of the speed of determining planning applications and in terms of the number of Enforcement cases logged/closed is noted.
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Appendices

Appendices:	
Appendix A	Numbers of different types of planning related applications determined by quarter between 1 April 2022 and 31 March 2023
Appendix B	Numbers of each type of 'Planning Application' determined per quarter between 1 April 2022 and 31 March 2023
Appendix C	Numbers of various types of non-planning applications (but planning related) and Prior Notification/Approval applications, determined by quarter between 1 April 2022 and 31 March 2023
Appendix D	The determination outcomes of 'Planning Applications' determined by quarter between 1 April 2022 and 31 March 2023
Appendix E	The timeliness of 'Planning Decisions'
Appendix F	Outcomes of Appeals between 1 April 2022 and 31 March 2023
Appendix G	Numbers of Planning Enforcement Cases received/Logged
Appendix H	Geographical Distribution of logged Enforcement Cases
Appendix I	Numbers of Enforcement Cases closed
Appendix J	The Reasons Enforcement Cases were closed between 1 April 2019 and 31 March 2023 shown per month
Appendix K	Numbers of Enforcement Notices Served
Appendix L	Timeframes for the closure of enforcement cases
Appendix M	The number of Freedom of Information Requests and Formal Complaints related to Development Management and Planning Enforcement for the period 1 April 2022 – 31 March 2023

Background reference papers:

None.